



**2007 Higher Education Conference
October 10-11, 2007**

**2007 IERC Conference
October 12, 2007**

**2007 EMAI Conference
October 13-14, 2007**

QUESTION & ANSWER/ INFORMATION BRIEFING

This document is to be used as a resource for easy access to conference follow-up questions. For further clarification of answers, please contact the point-of-contacts referenced at the end of each answer.

Q. What are the statutes that provide legal authority for the establishment of DPCs?

A.

Under IC 10-19-3-3, the Executive Director of the Indiana Department of Homeland Security is required to administer the application for, and disbursement of, federal and state homeland security money for all Indiana state and local governments. This statute also requires that he develop a single strategic plan for preparing and responding to Indiana homeland security emergencies in consultation with the Counter Terrorism Security Counsel. The District Planning Council program is an essential component of how the Executive Director has elected to proceed to discharge these two statutory duties. The decision to proceed in that fashion was not made by a single individual, but was the result of a careful deliberative process that involved seeking input from the Governor, the Commissioner of the Department of Health and the Counter-Terrorism and Security Counsel (CTASC).

The Indiana Strategy for Homeland Security was developed by IDHS and approved by CTASC and the Governor. It creates 10 Homeland Security Districts to improve emergency management and to involve local elected officials and first responders more effectively in the grant application and administration process. The Indiana Department of Homeland Security will look to District Planning Councils (DPC) to help it sort out local needs, wants and priorities. DPCs are merely a formalized method of giving local government units a governing structure to assist them in working together across governmental jurisdictional lines in planning, exercising, preparing and responding to emergencies that are beyond the resources of a particular unit of government. In most cases, these same events can be effectively planned for and managed by local government units working together.

IC 10-14-3-7 declares the purposes of the state's principal laws addressing emergency management and disaster response. In that statute, the Indiana General Assembly declared it to be necessary to provide a system of emergency management under the Indiana Department of Homeland Security. Subsection (a) (4) provides for the rendering of mutual aid among the political subdivisions of the state. Subsection (a) (5) authorizes the establishment of organizations and the implementation of steps that are necessary and appropriate to carry out this chapter. The Executive Director of the Indiana Department of Homeland Security has determined that it is necessary to establish District Planning Councils to accomplish these ends.

IC 10-14-3-9 directs IDHS to prepare and maintain a current state emergency operations plan which may provide for assistance to local officials in designing local emergency action plans and the coordination of federal, state and local disaster activities. District Planning Councils and District Emergency Response Task Forces are the method that the Executive Director has chosen, in coordination with the Indiana Department of Health, to bring local officials together to address their common need to acquire needed

funds, to apply those funds most effectively, to plan and prepare together to respond to various threats and emergency events. These officials are from townships, cities, towns and counties representing all sides of the political spectrum. The stakeholders in these decisions are not only elected officials but also the various emergency management and first responder disciplines within each of these political units of government. Each of these individuals has a different level of skill, training, talents and interest. DPCs will enable these individuals to reason and work together more effectively. It will promote the use of mutual aid. It will require local units of government to address reimbursement expectations and requirements that have previously been ignored or glossed over. The regional DPC structure will greatly simplify the task of providing federal grant funds to the units of government most in need, rather to those who are best able to articulate their wants and intentions. **(George Thompson)**

Q: Are members of a District Planning Oversight Committee or District Planning Council at risk of personal liability for the actions they take in those roles? What about the employees of emergency responder agencies who participate in District exercise or response actions?

A. This is not intended as legal advice and anyone with a question or concern about the scope of their liability resulting from their service as a member of a District Planning Oversight Committee or District Planning Council should consult their attorney to obtain legal advice.

The Indiana Department of Homeland Security, working in cooperation with the Indiana State Department of Health and the Counterterrorism and Security Council established 10 Homeland Security Districts in Indiana. The framework and guidance for the establishment of a District Planning Oversight Committee was initially set forth in the October 2005, Indiana District Planning Council Guidance. Although the concept of District Planning Councils and District Planning Oversight Committees has evolved since this document was published, much of the content of this document is still valid.

The purpose of establishing the homeland security districts, district planning oversight councils and district planning committees is to improve the ability of local jurisdictions and the state to prepare for and respond to disasters and emergencies. The impact of a disaster or emergency is often not limited by political boundaries. In addition, when a disaster or emergency occurs which exceeds the response capabilities of an affected jurisdiction, the local jurisdiction relies on the assistance from other local jurisdictions to aid in its response and recovery. Therefore, the participation of a local jurisdiction

The District Planning Oversight Committees and District Planning Councils are not legal entities and any decisions made are not binding on any political subdivisions or the State. Before any decisions of the District Planning Oversight Committees and District Planning Councils can be enacted, a legal entity, such as a county or city, must take action to implement the decision.

All elected officials and government employees (as well as volunteer fire departments and their employees) are provided legal protection under Indiana law through the Indiana Tort Claims Act (IC 34-13-3). In general, this law provides that unless a government employee's act or omissions are criminal, early outside the scope of the employee's employment, malicious, willful or wanton, or calculated to personally benefit the employee, a government employee cannot be sued personally. Further, the Indiana Tort Claims Act provides that a governmental entity shall provide counsel for and pay all costs and fees incurred by or on behalf of an employee and pay any judgment of a claim or suit against an employee when the act or omission causing the loss is within the scope of the employee's employment, regardless of whether the employee can or cannot be held personally liable for the loss.

In addition, there are other liability protections provided under Indiana's emergency management and disaster laws. IC 10-14-3 contains Indiana's emergency management and disaster laws. IC 10-14-3-15 provides that any function under IC 10-14-3 and any other activity relating to emergency management is a governmental function. The state, its political subdivisions are not liable for the death of or injury to persons or for damage to property as a result of any such activity; therefore, the state and its political subdivisions have complete immunity for their actions taken under IC 10-14-3 or any other activity relating to emergency management.

Also, IC 10-14-3-15 provides that emergency management workers (full-time or part time paid, volunteer, or auxiliary employees of the state, other states, the federal government, neighboring countries, political subdivisions of any of the proceeding entities, and any agency or organization performing emergency management services at any place in Indiana subject to the order or control of, or under a request of, the state government or any political subdivision of the state) are not liable for the death of or injury to persons or for damage to property as a result of any actions taken under IC 10-14-3 or any other activity relating to emergency management except in cases of willful misconduct, gross negligence, or bad faith.

Under IC 10-14-3-17, Indiana political subdivisions and the elected officials who govern them may appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management and disaster purposes. Furthermore, they may appoint, employ, remove, or provide rescue teams, fire and police personnel and other emergency management and disaster workers during an emergency. As long as the political subdivision is not operating contrary to directives of the governor, the political subdivision may assign and make available for duty the employees, property, or equipment of the political subdivision for emergency management and disaster purposes within or outside the physical limits of the political subdivision.

Under IC 10-14-3-18, employees of a political subdivision who render aid outside the political subdivision under IC 10-14-3-17 have the same powers, duties, rights, privileges and immunities as if they were performing their duties in the political subdivisions in which they are normally employed. **(Brad Gavin)**

Q. What is the future of NIMS requirements, especially in regards to training?

A. 2008 NIMS requirements were discussed in depth during the National NIMS Conference on Oct 21-25. The NIMS Information Center (NIC) will publish this guidance out to the field in writing in approximately two to three weeks. (**Dave Barrabee**)

Request for information: Several EMA Directors requested copies of presentations provided by the response division.

- See attached appendix A (**Greg Dhaene**)
- See attached appendix B (**Joe Romero**)

Q. What do I have to do to get money from the Public Safety Interoperable Communications (PSIC) grant?

A. At this time, the state is finalizing its required Statewide Interoperable Communications Plan (SCIP) and investment justifications which are due to US DHS on December 3, 2007. US DHS will then take 30-60 days to review those documents and approve the proposed projects for funding. Once that happens, IDHS will work to identify potential sub-grantees based on the high level approved projects.

To ensure your needs are met, please coordinate with your county Emergency Management Agency (EMA) Director to ensure you interoperable communications needs are included as part of the assessment being conducted. (**Caitlin Intermill**)

Q. When will the next round of HMEP be available?

A. We hope to have the solicitation out by November 10, 2007. (**Caitlin Intermill**)

Q. How do I get involved in the 2008 application?

A. Currently, we do not know what the timeline for the 2008 application submission will be. We are working to finalize the process details and will reach out to the communities when we have more information on the timelines and guidance documents. Think about the projects that are important to you and your district and we will let you know as soon as the guidance is released. (**Caitlin Intermill**)

Q. The 2007 SHSGP funding was awarded on a district level; does that mean that the district fiscal agent gets all of the money?

A. No. The district fiscal agent has agreed to partner with IDHS to distribute the funding in a manner that is consistent with national and state strategic priorities. The fiscal agent will be responsible for ensuring the funding gets to the appropriate entity within the district. There is a large amount work associated with being the recipient of federal grant funds and the district fiscal agent volunteered to shoulder that burden. **(Caitlin Intermill)**