United States Senate

WASHINGTON, DC 20510

January 14, 2009

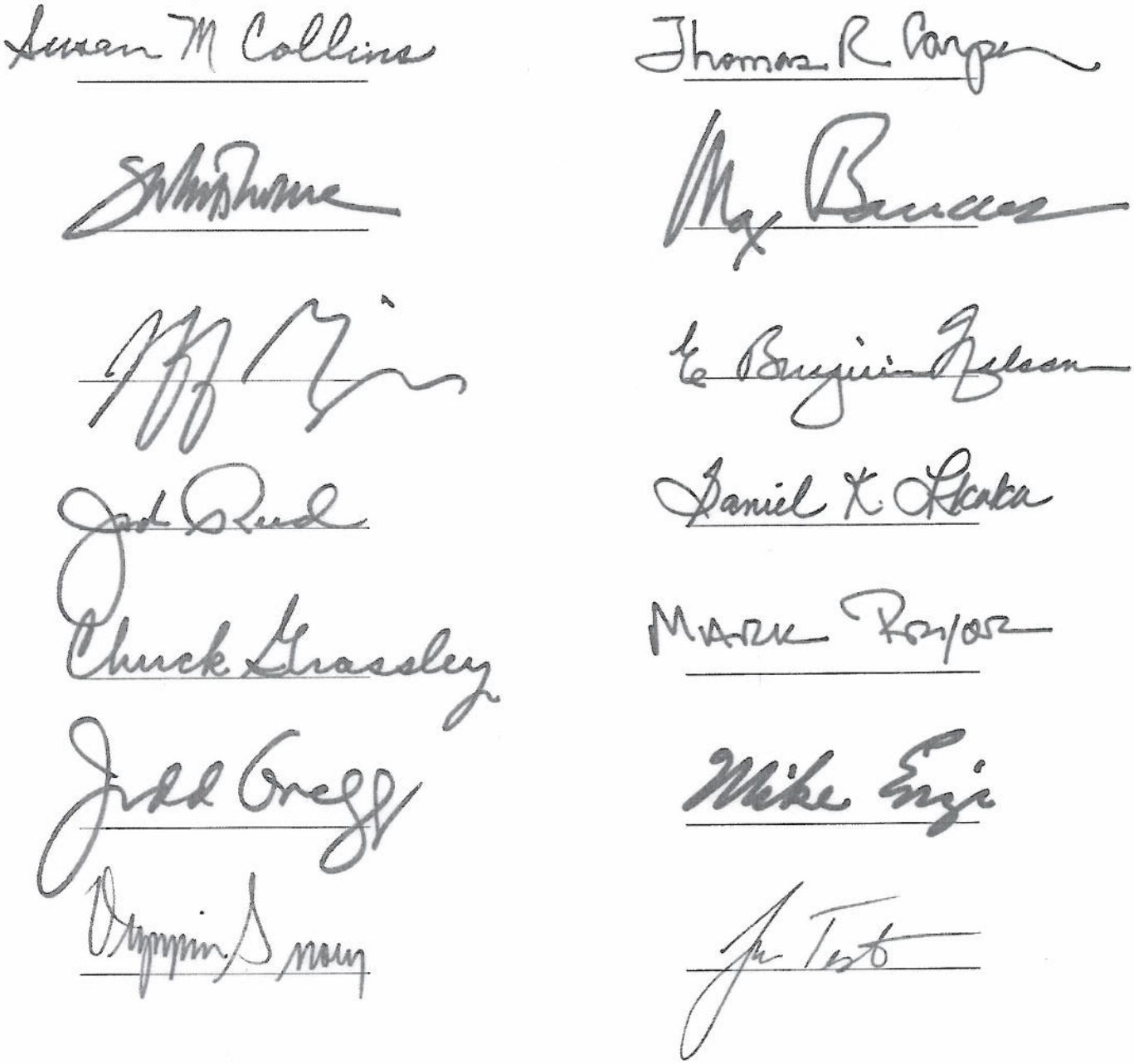
The Honorable Michael Chertoff
Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Dear Secretary Chertoff:

In 2007, Congress passed homeland security legislation (P.L. 110-53) that contained several provisions designed to improve the allocation of Federal homeland security assistance to State, local, and tribal governments. One of these provisions established a formula for determining the minimum allocation to States under the State Homeland Security Grant Program (SHSGP). Specifically, for Fiscal Year (FY) 2009, the law requires that the Department of Homeland Security allocate to each State a guaranteed minimum of SHSGP funding equal to 0.365 percent "of the total funds appropriated for grants" under SHSGP and the Urban Area Security Initiative (UASI).

The FY 2009 homeland security appropriations law provides $950 million for SHSGP and $837.5 million for UASI. Thus, based on these appropriated amounts, each State should receive a minimum allocation of $6,524,375 under SHSGP for FY 2009. When the Department announced targeted funding allocations on November 5, 2008, however, the minimum amount guaranteed to each State was only $6,060,000 – a significant difference of $464,375.

This considerable difference is due to the Department's decision to exclude the funding for several programs from the overall total appropriation prior to calculating the minimum. These excluded programs include funding for Operation Stonegarden, SHSGP tribal grants, and UASI non-profit grants, as well as management and administration (M&A) costs for FEMA's Grant Programs Directorate. These excluded programs and M&A costs, however, are funded as carve-outs under SHSGP and UASI, not as separate programs. The plain language of the 2007 homeland security law is unambiguous. The Department had no authority to exclude the funding for these three grant programs and M&A prior to calculating the minimum. And, no subsequent law, including the homeland security appropriations acts for FYs 2008 and 2009, have changed the law. Indeed, those acts make clear that the programs and costs are part of SHSGP and UASI.

We urge you to reconsider the Department's decision to remove the funding for these programs and activities prior to calculating the State minimum, and to provide each State the actual minimum allocation it is required to receive under the law when final allocations are released for FY 2009 and in future years.

Thank you for your attention to this important matter.