

U.S. Department of Homeland Security

Office of SAFETY Act Implementation

ISA EXPO
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Overview

- The Support Anti-terrorism by Fostering Effective Technologies Act of 2002 (SAFETY Act) was enacted as part of the Homeland Security Act of 2002, Public Law 107-296.
- The SAFETY Act is intended to facilitate the development and deployment of anti-terrorism technologies by creating systems of “risk management” and “litigation management.”
- Protections apply only to claims arising out of, relating to, or resulting from an Act of Terrorism.



Definition: Technology

Technologies that qualify for SAFETY Act protections include:

- Products,
- Equipment,
- Services (including support services),
- Devices, and
- Information technologies.

Each must be “designed, developed, modified, or procured for the specific purpose of preventing, detecting, identifying, or deterring Acts of Terrorism or limiting the harm such acts might otherwise cause.”



SAFETY Act Protections

Protections that may be granted to Sellers of Anti-terrorism Technologies:

- [Designation](#) as a Qualified Anti-Terrorism Technology (QATT).
- [Certification](#) of a QATT for the purpose of establishing the “Government Contractor Defense,” and placement on the “Approved Product List for Homeland Security.”



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Criteria for Designation

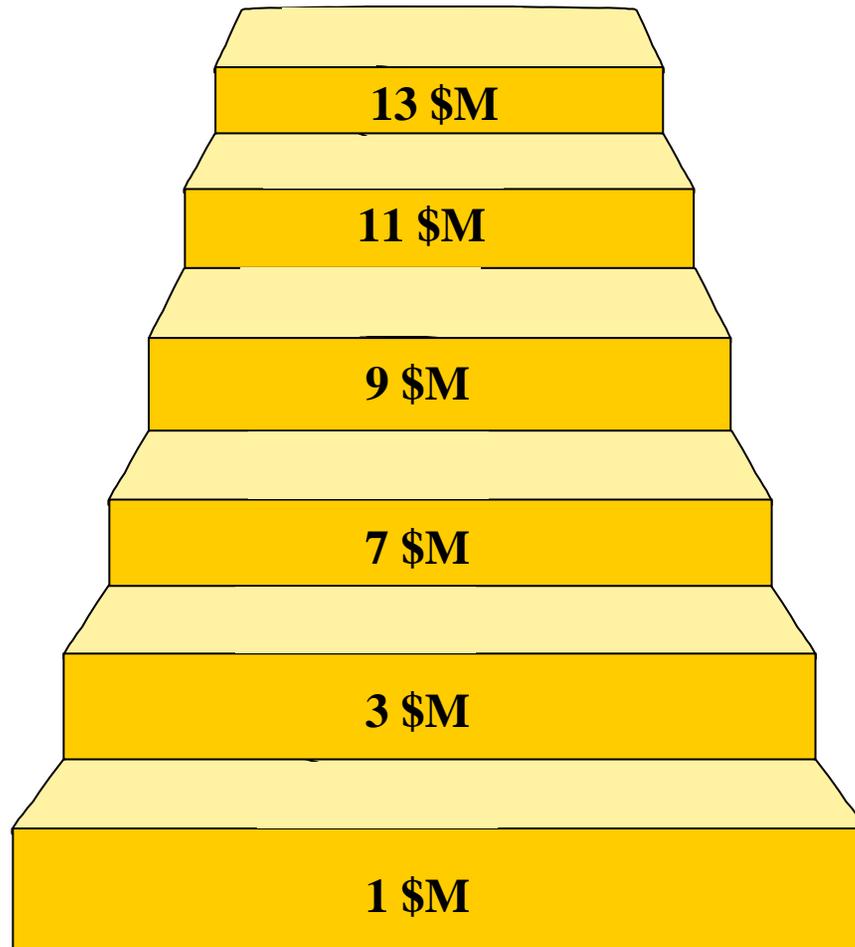
- Prior United States Government use or demonstrated substantial utility and effectiveness.
- Availability of the Technology for immediate deployment in public and private settings.
- Existence of extraordinarily large or unquantifiable potential third party liability risk exposure to the Seller or other provider of the technology.
- Substantial likelihood that the Technology will not be deployed unless SAFETY Act risk management protections are extended.
- Magnitude of risk exposure to the public if the Technology is not deployed.
- Evaluation of scientific studies that can be feasibly conducted in order to assess the capability of the Technology to substantially reduce risks of harm.
- Whether the Technology is effective in facilitating the defense against Acts of Terrorism.



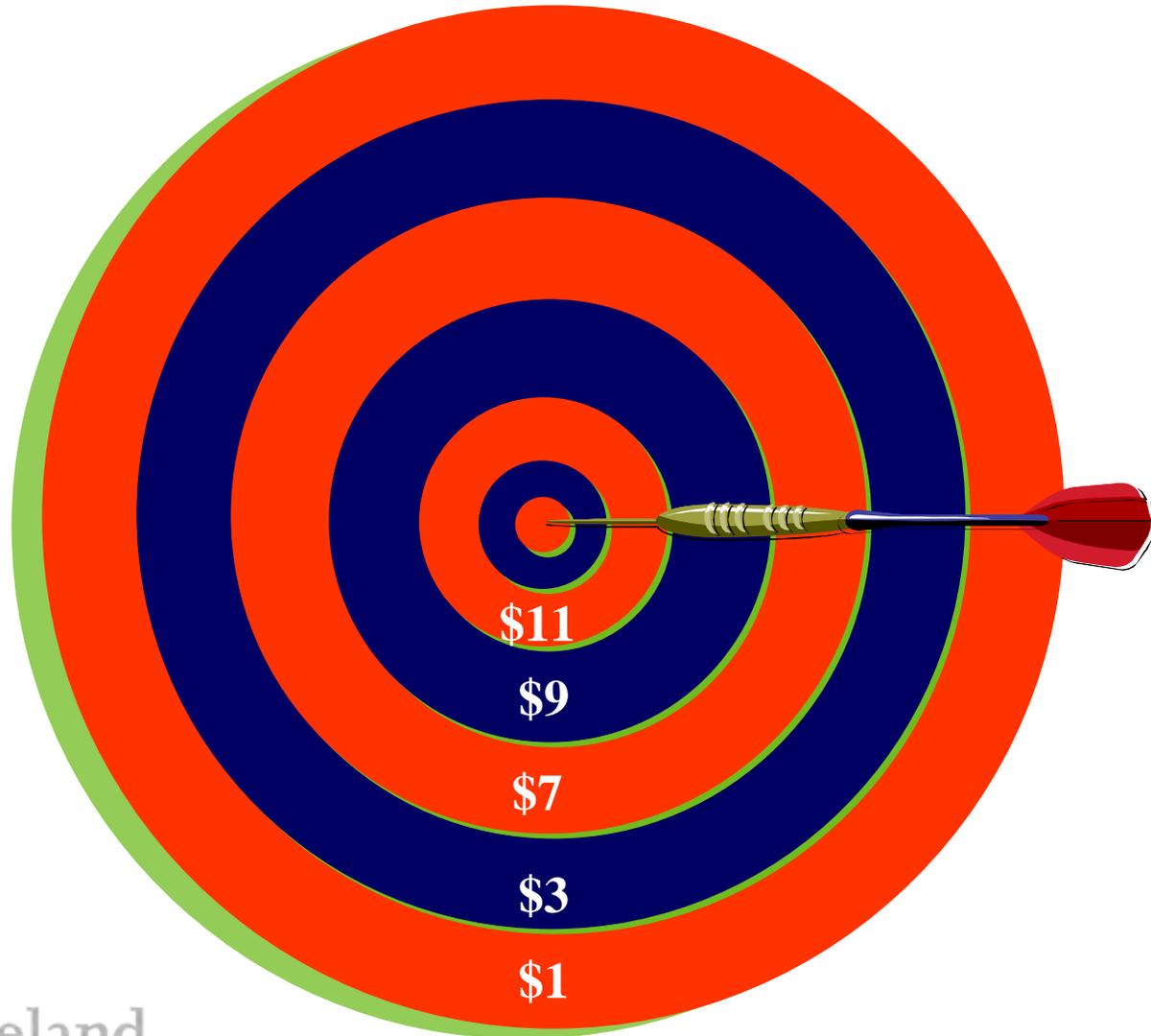
Benefits of SAFETY Act Designation

- Exclusive action in Federal court.
- Liability = Insurance.
- No joint and several liability for non-economic damages.
- No punitive damages or prejudgment interest.
- Plaintiff's recovery reduced by amounts from collateral sources.

Seller's Insurance – Staircase Method



Seller's Insurance – Dart Board Method



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Seller's Insurance – Statutory Method

Insurance amount is equal to:

“...the maximum amount of liability insurance reasonably available from private sources on the world market at prices and terms that will not unreasonably distort the sales price of the Seller's technologies.”



Additional Criteria for Certification

- Designation is a prerequisite for granting Certification.
- To receive Certification, a Qualified Anti-Terrorism Technology must also be shown to:
 - Perform as intended.
 - Conform to the Seller's specifications.
 - Be safe for use as intended.
 - ✓ Seller is required to provide safety and hazard analyses.



Benefits of SAFETY Act Certification

- Rebuttable presumption that the Seller is entitled to the “Government Contractor Defense.”
- Placement on “Approved Product List for Homeland Security.”
- “Certificate of Conformance” issued to the Seller.



Definition: Act of Terrorism

- Is unlawful;
- Causes harm to a person, property, or entity, in the United States, or in the case of a domestic United States air carrier or a United States-flag vessel in or outside the United States; and
- Uses or attempts to use instrumentalities, weapons or other methods designed or intended to cause mass destruction, injury, or other loss to citizens or institutions of the United States.



Seller's Obligations After Approval

- Obtain liability insurance in a specified amount and type as required by the Under Secretary for Science and Technology.
- Enter into reciprocal waivers of claims with specified parties.
- Provide annual certification of insurance coverage to the Under Secretary.
- Notify the Under Secretary of any change in the type or amount of insurance coverage for the Qualified Anti-Terrorism Technology.

Pre-Application Process

- **Voluntary Submission** – Pre-Applications have **NO** bearing on the final outcome of **ANY** Full Application.
- Review completed by DHS in 21 days.
- DHS will provide feedback as to the likelihood of the application being considered for protection, should all supporting documentation be available.
- Process includes a basic review of the Technology's capabilities, its insurance portfolio, and its need for protection.

Full Application Evaluation Process

- Full Application Kit submitted to DHS for consideration under the SAFETY Act:
 - Application assessed for “Completeness” within 30 days of receipt by the Office.
 - Applicant then notified that application is either:
 - ✓ Complete and ready for evaluation (90-day internal review clock begins).
 - ✓ Incomplete and requires additional information before it may be evaluated (90-day internal review clock does not begin).



Full Application Evaluation Process

- Within 90 days of Notification of Completeness:
 - Office of SAFETY Act Implementation will conduct the application review using statutory criteria to assess Technologies':
 - ✓ Technical capabilities and efficacy;
 - ✓ Economic effects of deployment vs.non-deployment; and
 - ✓ Evaluation of insurance needs.
 - DHS may extend the 90-day review clock at any time.
 - ✓ Usually to collect additional supporting information.
 - Applicant will be alerted to all extensions.



SAFETY Act Reviewers

- Approximately 420 experts available to review applications.
- Conflict of Interest & Non-Disclosure Agreement signed by each reviewer per application.
- Three Technical Reviewers and two Economic Reviewers per application.
- Reviewers from the prime contractor, Federal Government, Federal & National Labs, and Academia.
- 90 trained reviewers in all 7 threat areas:
 - Cyber
 - Economic
 - Chemical
 - Biological
 - Explosive
 - Rad/Nuc
 - Human



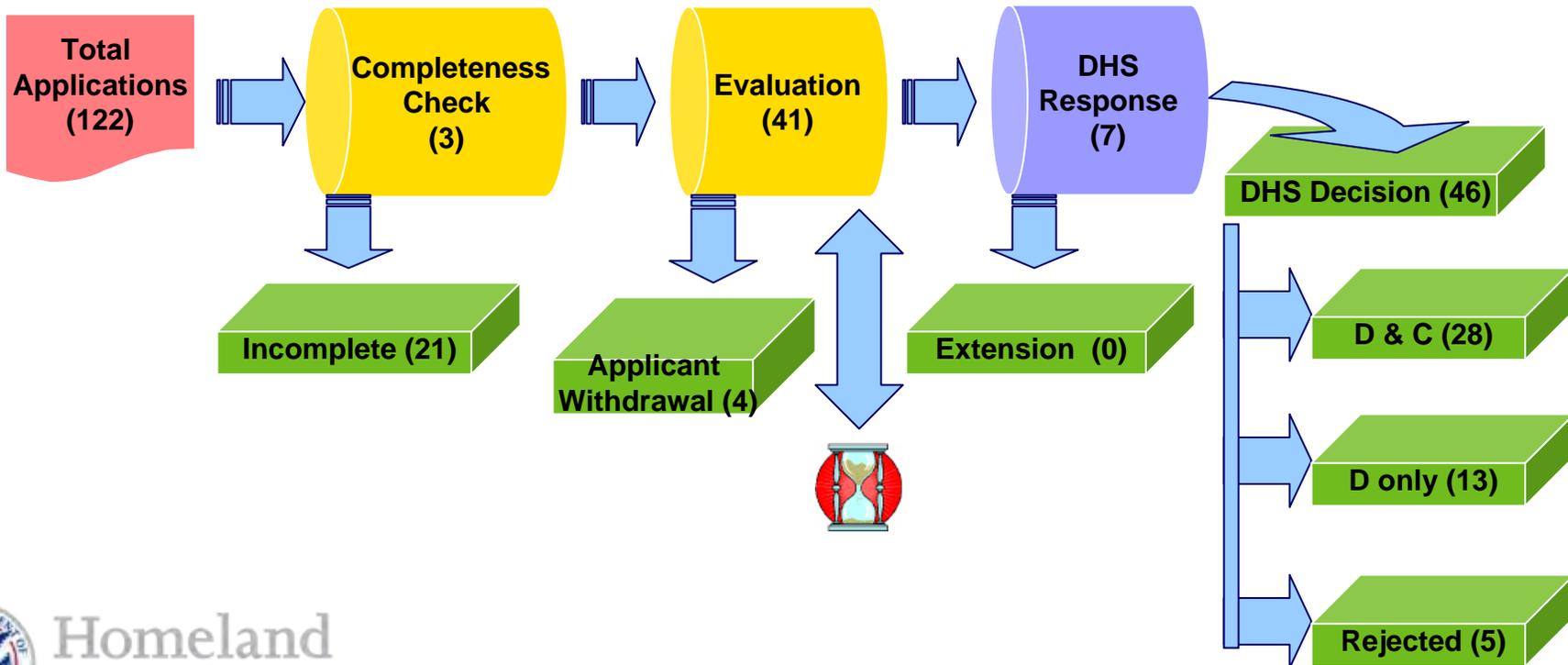
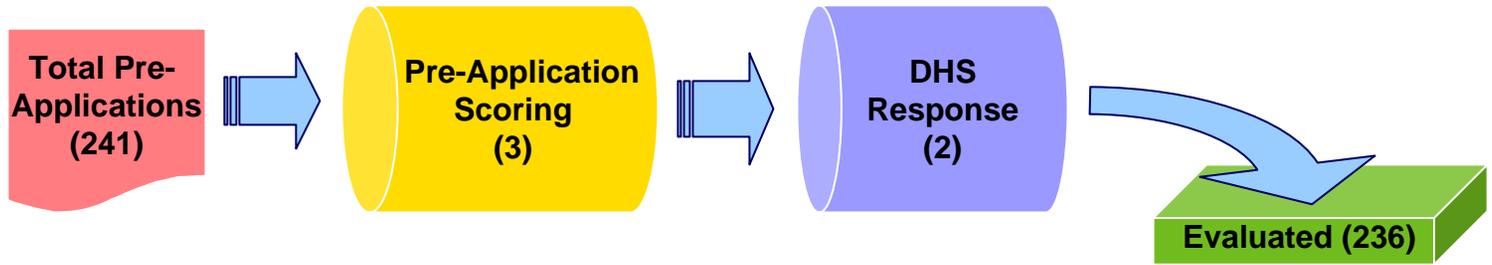
Designation and Certification

Under Secretary has 30 days upon the completion of the SAFETY Act Office review to:

- **Grant Designation & Certification** to the Applicant's product as a Qualified Anti-Terrorism Technology, and provide coverage under the Government Contractor Defense.
 - Designation will include any limitations on the scope of the SAFETY Act protections.
- **Request More Information** from the Applicant.
- **Reject** the application entirely.



DHS SAFETY Act Application Status



Methods for Submitting Applications

- **SAFETY Act Website** → www.safetyact.gov
 - Automatic email notifications.
 - No risk of translation issues during paper scanning process.
 - No delay in evaluation process.
- **Mail to** → U.S. Department of Homeland Security
ATTN: Office of SAFETY Act Implementation
245 Murray Lane, Building 410
Washington, D.C. 20528
 - Hard Copy – Type written paper copies only.
 - ✓ DHS will convert document into electronic format.
 - Soft Copy – CD-ROM only.
 - All mailed applications are subject to security screening.
 - ✓ Will delay start of evaluation process.



Accessing the SAFETY Act Website



Homeland Security Subtitle G of Title VIII of the Homeland Security Act of 2002
The Support Anti-terrorism by Fostering Effective Technologies Act of 2002 (SAFETY Act)

The SAFETY Act is intended to provide critical incentives for the development and deployment of anti-terrorism technologies by providing liability protections for Sellers of "qualified anti-terrorism technologies (QATTs)"

Our aim is to ensure the possessors of such anti-terrorism technologies are not deterred by the threat of liability from developing and commercializing products and technologies that could save lives in the event of a terrorist attack.

This website is designed to provide users with information about the SAFETY Act and a means to apply for the liability protection specified in the legislation. We strongly urge participants desiring to submit technologies for consideration under the provisions of the SAFETY Act to carefully read all instructions provided on this site, gather all necessary data, then complete the appropriate application form. A review of the FAQ section will also be helpful. Because of the potential for high volumes of supporting data we also urge participants, if able, to submit applications electronically.

**** POPUP BLOCKERS ****
You must disable all popup blockers you may have running in order to successfully submit an application.

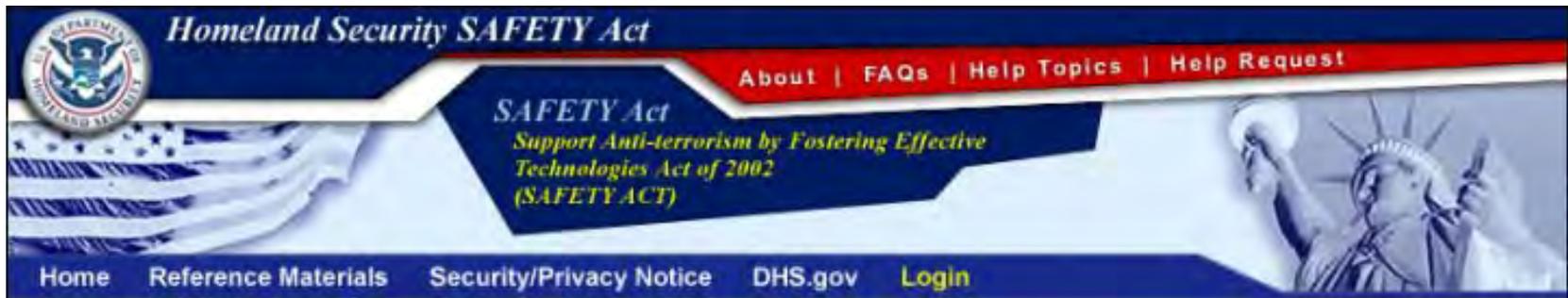
Security Notice

NOTICE: Unauthorized attempts to upload information or to change information on this service are strictly prohibited and may be punishable under the Computer Fraud and Abuse Act of 1987 and the National Information Infrastructure Protection Act.

- www.safetyact.gov
- 128-bit SSL Encryption
- COI/NDA Agreements Per Application
- Disable Popup Blocker Software
- [NO CLASSIFIED DATA](#)



Additional SAFETY Act Information



- Online: www.safetyact.gov
 - FAQs
 - Help Topics
 - Help Desk: Online form for questions requiring an individual response
- Email: helpdesk@safetyact.gov
- Toll-Free: 1-866-788-9318