Protecting you, Protecting U.S.

SAFETY Act

September 9, 2008

The Support Anti-terrorism by Fostering Effective Technologies Act of 2002

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A Summary of the SAFETY Act

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

- Intended to facilitate the development and deployment of effective anti-terrorism technologies by creating systems of "risk management" and "litigation management"

- Provides important legal liability protections for manufacturers and sellers of technologies and services that could save lives in the event of a terrorist attack

- Protections apply **only** to claims arising out of, relating to, or resulting from an Act of Terrorism

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What is Eligible for SAFETY Act Protections?

The SAFETY Act liability protections apply to a wide range of technologies, including:

- Products
- Services
- Software and other forms of intellectual property

Examples of eligible technologies:

- Threat and vulnerability assessment services
- Detection Systems
- Blast Mitigation Materials
- Screening Services
- Sensors and Sensor Integration
- Threatening Object Detectors
- Decision Support Software
- Security Services
- Crisis Management Systems
- Cyber Security Technologies

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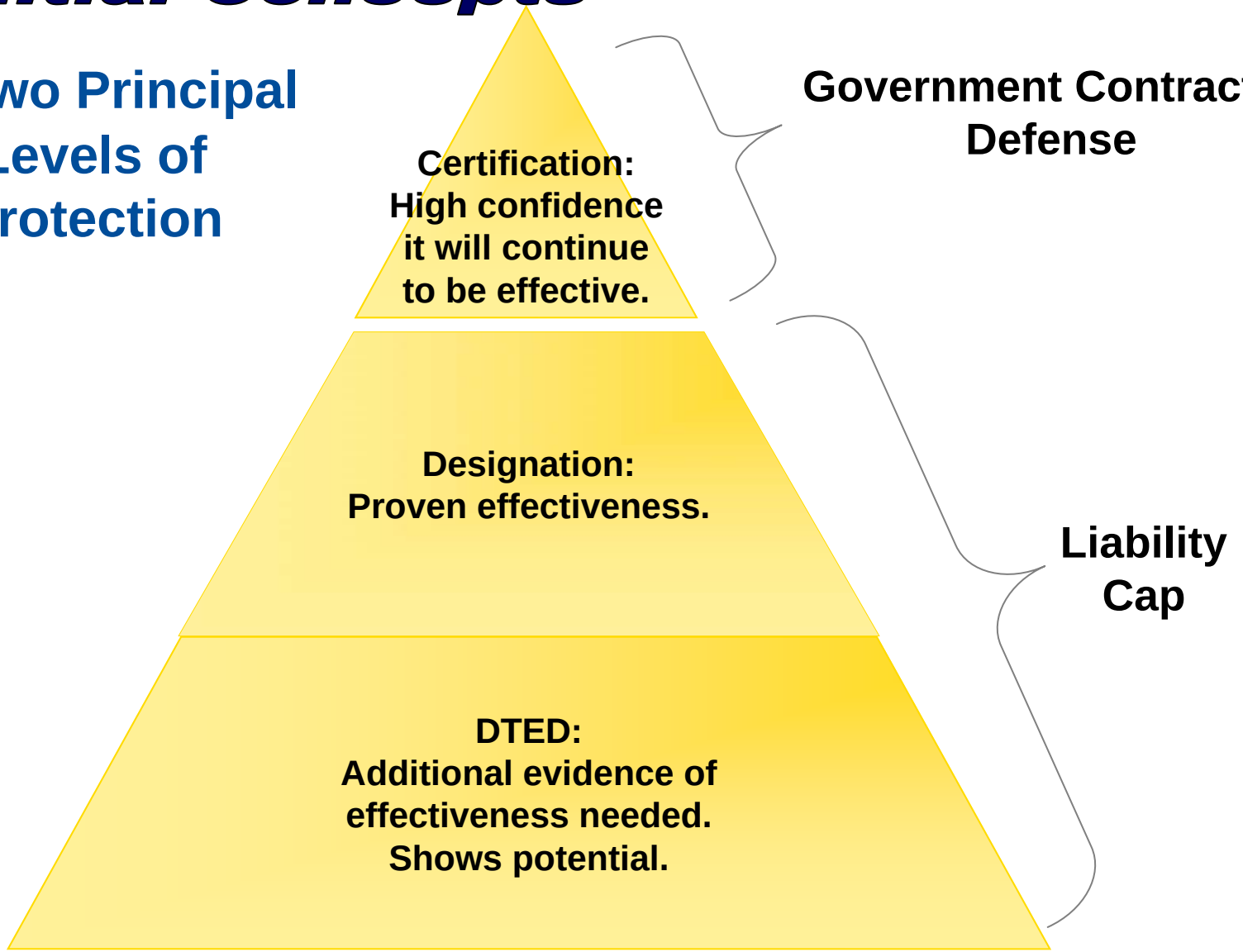
Essential Concepts

1. Two Principal Levels of Protection



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2. Benefits of Designation

- Liability = Insurance required by DHS
- Exclusive action in Federal Court
- No Joint and Several Liability for non-economic damages
- No punitives or prejudgment interest
- Recovery reduced by amounts from collateral sources

Essential Concepts

3. Benefits of Certification

- Benefits of Designation +
- Assert Government Contractor Defense
  - Even if not selling to a Government entity
  - Includes services and COTS
- Placed on Approved Product List for Homeland Security

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4. SAFETY Act Protections Extend to Users

(whether Designation or Certification)

"Such cause of action may be brought **only against the Seller** of the QATT and may **not be brought against the buyers, the buyers' contractors, downstream users of the QATT**, the Seller's suppliers or contractors, or any other person or entity…"

-Preamble to Final Rule, 6 CFR Part 25, at 33150.

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Essential Concepts

5. 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
- ATT determination made by Federal, State, or Local officials

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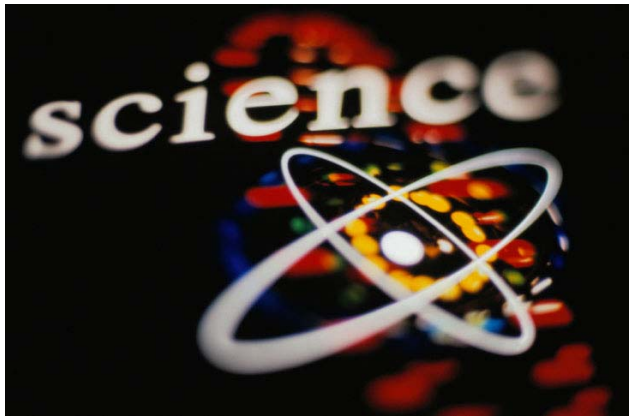
Red=Technical criterion
Blue=Economic criterion

Essential Concepts

5a. How to Establish Effectiveness

- Successful testing in operational environment
- Operational testing
  - Evidence of performance metrics, including:
    - ✓ Probability of Detection
    - ✓ False Positive and False Negative Rates
    - ✓ Limits of Detection (and why that limit is relevant)
    - ✓ Interferrents
    - ✓ Maintenance and Training
- Suitable performance of past deployments documented
- Domain expertise appropriate and available
- In/external audits favorable
- Customer feedback favorable
- QA plans documented
- Repeatability proven



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6. Criteria for Certification

Designation is a prerequisite for granting Certification

To receive Certification, a Qualified Anti-terrorism Technology must also be shown to:

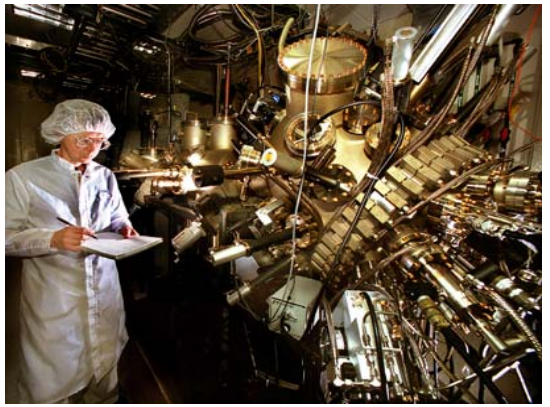
- Perform as intended
- Conform to the Seller's specifications
- Be safe for use as intended
  - Seller is required to provide safety and hazard analyses

Essential Concepts

6a. Performs as Intended

High confidence it will continue to be effective

- Consistent positive results (e.g., long-term low failure rates and false alarms)
- Reliability/Availability is high (e.g., MTBF)
- Performs in accordance with performance specifications
- Installation, use, maintenance procedures proven
- Documented processes (e.g., training, hiring, technology refresh) are being followed
- Standards are identified and met
- QA/QC processes are effective



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Essential Concepts

7. DT&E Designation

For technology that:

- Is in a prototype stage
- Has lab tests that are not operational in nature (too controlled)
- Indicated potential effectiveness
- Has a testing scenario identified and “customers” to prove relevant metrics
- Limited term (up to 3 yr) and limited number of sites

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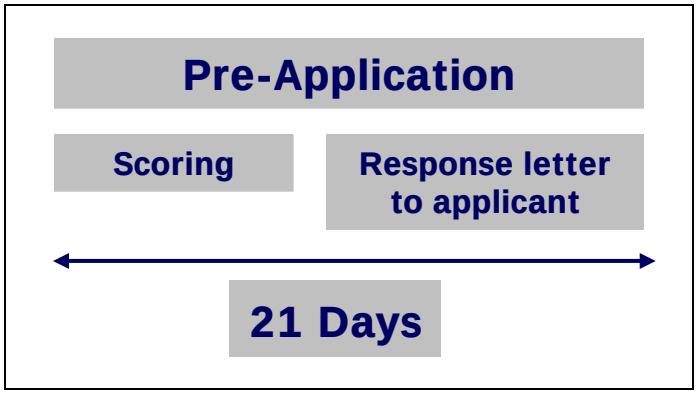
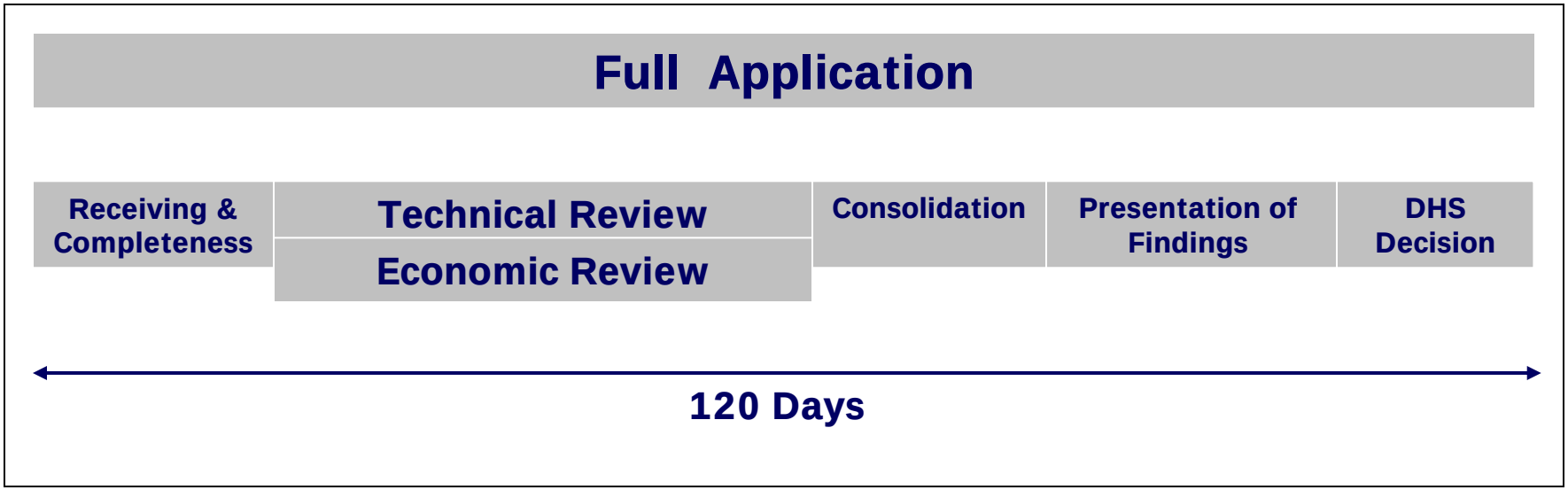
8. SAFETY Act Award Summary

	DTED	Designation	Certification
Effectiveness Evaluation	Needs more proof, but potential exists	Proven effectiveness (with confidence of repeatability)	Consistently proven effectiveness (with high confidence of enduring effectiveness)
Protection	Liability cap only for identified test event(s) and for limited duration (≤3yrs)	Liability cap for any and all deployments made within 5-8 year term	Government Contractor of Defense (GCD) for any and all deployments made within 5-8 year term

Timeline of SAFETY Act Application Review Process





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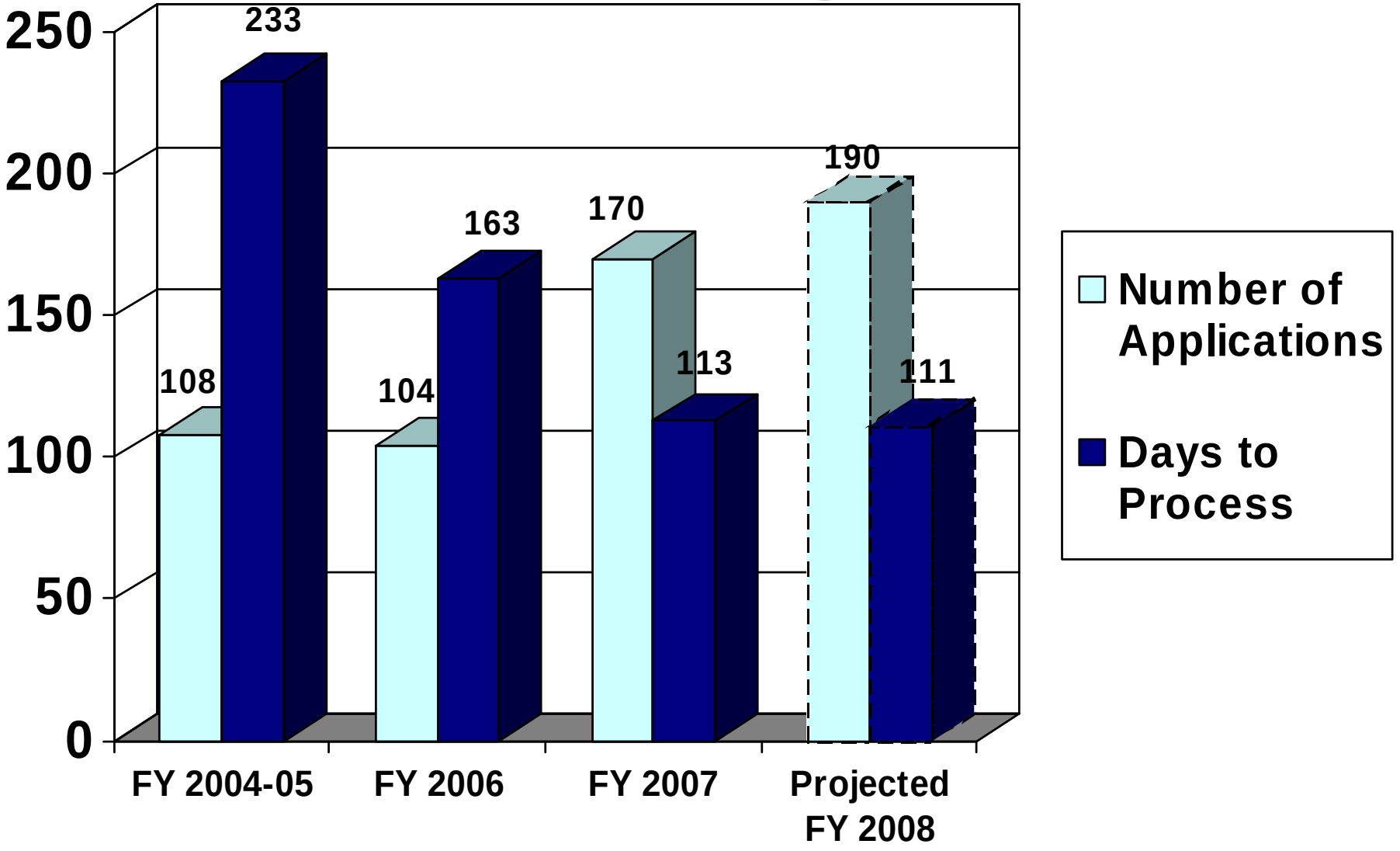
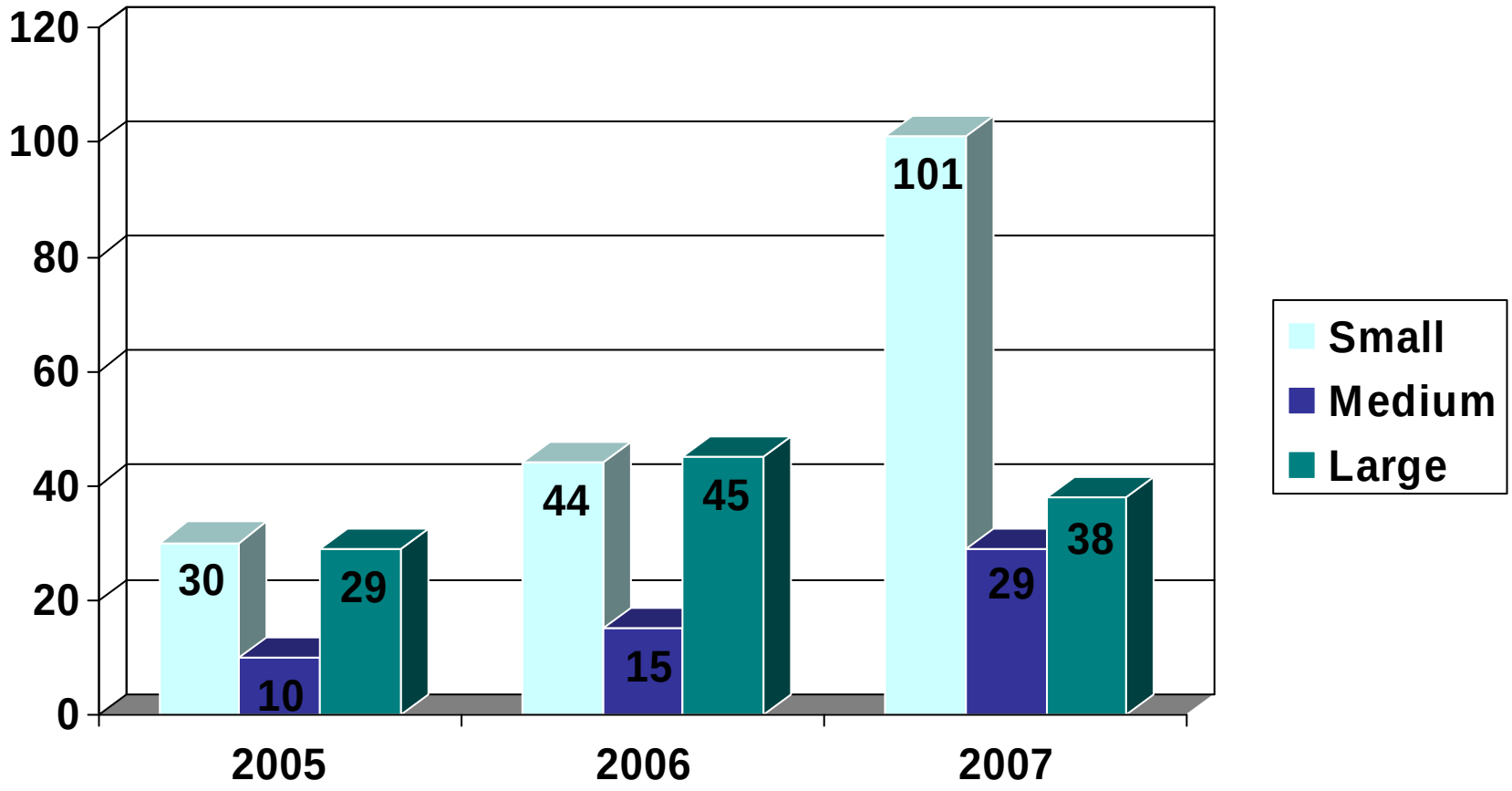
SAFETY Act Progress



2006-2007

- Processing time has decreased by 31%
- Applications have increased by 63%
- With no additional resources

Applications by Company Size *



***Small** = $0 - $50,000,000
Medium = $50,000,000 - $1,000,000,000
Large = Over $1,000,000,000 by Net Revenue

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How is Your Proprietary Data Protected?

- Strong data protection measures that conform to DHS information security standards
- All application reviewers are screened for conflicts of interests, sign conflict of interest statements for each application they review, and sign general nondisclosure agreements

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Who are the SAFETY Act Reviewers?

- Conflict of Interest & Non-Disclosure Agreement signed by each reviewer per application.
- Three Technical Reviewers and two Economic Reviewers per application.
- Reviewers from the FFRDCs, non-profits, Federal Government, Federal & National Labs, and Academia.
- 100+ already trained reviewers (SMEs) in:

- Cyber
- Economic
- Chemical
- Biological
- Explosive
- Rad/Nuc
- Human
- Services

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Providing Value for You

- Seller of a QATT
  - Enterprise survival
  - Risk mitigation
  - Defense against claims
  - Business development

- User of a QATT
  - Defense against suit
  - Benchmarking
  - Interoperability
  - Procuring an effective product/service

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The SAFETY Act
Looking AHEAD…
Areas OF Emphasis…
Out of many, one

Critical Infrastructure

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Transportation Security

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Counter IEDs

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Safer Products

Homeland Security

Commercial Facilities

Homeland Security

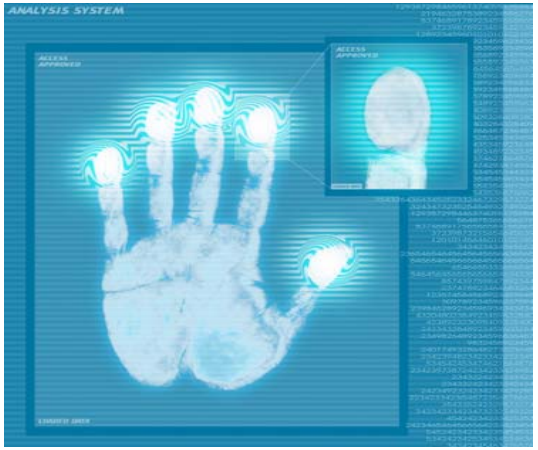
Small Business

Homeland Security

Public Venues

Homeland Security

Cyber Security



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SAFETY Act: Encouraging Development and Commercialization of Transition Technologies

Examples:

SPACEHAB, Inc: Miniature Mass Spectrometer. A trace chemical detector designed to detect residues and vapors from explosives, chemical warfare agents, and toxic industrial chemicals. This can be done either through the sampling of ambient air or the use of swabs.

Surveillance Consulting Group, Inc: Digital Radio Frequency Jammer. A digital radio frequency jammer that can be used to block the remote detonation of improvised explosive devices (IEDs).

VeriTainer Corporation, Inc: VeriSpreader™. A crane-mounted radiation scanning device.

MindCo, Inc: MINDS. A security system that monitors the environment for the presence of nuclear spectra. Designed to detect and identify the presence of radionuclide elements.

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