AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

SUBCHAPTER C—FIRE PREVENTION AND CONTROL

PART 150—PUBLIC SAFETY AWARDS TO PUBLIC SAFETY OFFICERS

Sec.
150.1 Background and purpose.
150.2 Definitions.
150.3 Nomination process.
150.4 Nomination and selection criteria.
150.5 Joint Public Safety Awards Board.
150.6 Design and procurement of awards.
150.7 Selection process.
150.8 Presentation of awards.
150.9 Funding.
150.10 Date of submission of nominations.

AUTHORITY: Federal Fire Prevention and Control Act of 1974, sec. 15, 15 U.S.C. 2214; Reorg. Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329, and E.O. 12127, dated Mar. 31, 1979, 3 CFR, 1979 Comp., p. 376.

SOURCE: 49 FR 39845, Oct. 11, 1984, unless otherwise noted.

§ 150.1 Background and purpose.

The regulations in this part are issued under the authority of the Federal Fire Prevention and Control Act of 1974 (the Act), 15 U.S.C. 2201 *et seq*. The Act establishes two classes of honorary awards for public safety officers and directs the issuance of the necessary joint regulations by the Administrator of the Federal Emergency Management Agency (FEMA) and the Attorney General. The functions of the Secretary of Commerce were transferred by Reorganization Plan No. 3 of 1978 to the Administrator , FEMA. Since initial passage of the Act, civil defense functions which then were delegated to the Secretary of Defense have been delegated to theAdministrator, FEMA. Section 15 of the Act has been amended to delete the Secretary of Defense from participating in the granting of awards. *See* Public Law 98–241, 98 Stat. 95, 96 (1984). The Administrator , FEMA, and the Attorney General are issuing this regulation to implement the statutory provisions for FEMA and the Department of Justice.

§ 150.2 Definitions.

Civil defense officer (or member of a recognized civil defense or emergency preparedness organization) means any individual who is assigned to and is performing the assigned tasks of the unit or organization which has been given a mission under the direction or operational control of a Civil Defense or Emergency Preparedness Director/Coordinator in accordance with a Federal, State or local emergency plan and sanctioned by the government concerned. This also includes emergency management officers. This includes volunteers and paid employees for any governmental entity.

Distinguished Public Safety Service Award means the *Secretary's Award for Distinguished Public Safety Service*, presented by either the Attorney General or the Administrator of FEMA to public safety officers for distinguished service in the field of public safety.

FEMA means the Federal Emergency Management Agency.

Firefighter means a member, regardless of rank or duties, of any organization (including such Federal organizations) in any State consisting of personnel, apparatus, and equipment which has as its purpose protecting property and maintaining the safety and welfare of the public from the dangers of fire. This term includes volunteer or paid employees. The location of any such organization may include, but is not limited to, a Federal installation, a State, city, town, borough, parish, county, fire district, rural fire district or other special district.

Joint Board means the Joint Public Safety Awards Board established by the Administrator of the Federal Emergency Management Agency and the Attorney General to carry out the purposes of the Federal Fire Prevention and Control Act of 1974.

Law enforcement officer means a person involved in the control or reduction of crime and juvenile delinquency or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and court officers, and Federal civilian officers in such capacities.

Nominating official means the head of a Federal government department or agency, or his delegatee(s), the governor or other head of a State, or the chief executive or executives of any

general governmental unit within any State.

President's Award means the President's Award for Outstanding Public Safety Service, presented by the President of the United States to public safety officers for extraordinary valor in the line of duty or for outstanding contributions to public safety.

Public safety officer means a person serving a public agency, with or without compensation, as a firefighter, a civil defense officer (or member of a recognized civil defense or emergency preparedness organization), or a law enforcement officer, including a corrections or court officer.

State means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands and any other territory or possession of the United States.

§ 150.3 Nomination process.

(a) The Nominating Officials nominating Firefighters and Civil Defense Officers shall submit their nominations for the President's Award or Distinguished Public Safety Service Award to the Executive Secretary, Joint Public Safety Awards Board, National Emergency Training Center, Emmitsburg, MD 21727. Copies of all nominations shall also be forwarded, depending on the category of the nominee, as follows:

(1) *Firefighter:*

FEMA, Attention: Superintendent, National Fire Academy, Emmitsburg, MD 21727

(2) *Civil defense officer (or member of a recognized civil defense or emergency preparedness organization):*

FEMA, Attention: Superintendent, Emergency Management Institute, Emmitsburg, MD 21727

(b) The Nominating Officials nominating law enforcement, corrections or court officers shall submit their nominations for the President's Award or Distinguished Public Safety Service Awards to: Assistant Attorney General for Administration, U.S. Department of Justice, Washington, DC 20530.

(c) All nominations shall be submitted in writing in accordance with the requirements prescribed in this section and § 150.4 at the earliest practicable date after the performance of the act or acts for which the nomination is made. Nominations for each year shall be made before November 15; any received thereafter will be considered as having been made for the following year. However, for the year 1983, nominations may be made by February 28, 1985.

(d) Nominations for the President's Award or the Distinguished Public Safety Service Award should include the name of the candidate, his/her position, title and address, and public agency served, the locale where the candidate performs his/her duties, the name, address and telephone number of the nominating official, a summary describing the outstanding contribution, distinguished service or extraordinary valor, and the dates relating thereto. The description should be sufficiently concise and specific to justify the request for recognition of the public safety officer through the presentation of either of the awards. Copies of any published factual accounts of the nominee's accomplishment should also be attached when available.

(e) An annual invitation shall be issued by the Joint Board for nominations for the President's Award and, on behalf of the Attorney General and the Administrator of FEMA, for the Distinguished Public Safety Service Award. The invitation shall be issued by letter or by notice in apporpriate publications of interest to the public safety community. However, nominating officials need not wait for such invitation but may nominate at the most appropriate time in accordance with the other provisions of this part.

[49 FR 39845, Oct. 11, 1984, as amended at 50 FR 3350, Jan. 24, 1985; 74 FR 15344, Apr. 3, 2009]

§ 150.4 Nomination and selection criteria.

(a) Nominations for the President's Award or the Distinguished Public Safety Service Award shall be made on the basis of, and in conformity with, the following uniform criteria.

(1) *President's Award*. Documentation accompanying the nomination for this Award must indicate not only that the

nominee unquestionably meets the standards established for the Distinguished Public Safety Service Award (see paragraph (a)(2) of this section), but also deserves greater public recognition because he/she has demonstrated unique qualities of courage, imagination or ability, which have resulted in outstanding contributions to the public safety.

(2) *Distinguished Public Safety Service Award*. Nomination for this award shall clearly show that the public safety officer's qualifying service or act is marked by courage, imagination or ability or has resulted in a significant contribution to the public safety accomplished through an originality of effort which far exceeds the expected quality of performance of the normal duties assigned to the nominee.

(b) A nomination shall specify whether it is being submitted for the President's Award or the Distinguished Public Safety Award.

[49 FR 39845, Oct. 11, 1984, as amended at 74 FR 15344, Apr. 3,2009]

§ 150.5 Joint Public Safety Awards Board.

(a) A Joint Public Safety Awards Board (Joint Board) is hereby established to fulfill the responsibilities of the Administrator of FEMA and the Attorney General by administering the process of nomination for the President's Award and by participating in the selection process with the Executive Office of the President. The Joint Board shall consist of ten representatives who are Federal employees and are of appropriate rank (at or equivalent to grades GM–14 or above). Five persons shall be named by and represent the Administrator of FEMA, and five persons shall be named by and represent the Attorney General. The representatives serving on the Joint Board shall select one of their number to act as the chairperson.

(b) Representatives on the Joint Board shall serve in addition to their regular duties and without additional compensation. Consistent with the requirements of this part, the members of the Joint Board shall establish the procedures by which the selections for the President's Award shall be made to assure the timely presentation of these awards.

(c) A National Emergency Training Center employee shall act as Executive Secretary of the Joint Board. The Executive Secretary shall perform such functions as are appropriate to the Board's responsibilities, including the receipt of all nominations and the communication of nomination information, for the purpose of receiving comments thereon, from members of the public safety community pursuant to § 150.5(e). The Executive Secretary shall be appointed by the Associate Director, Training and Fire Programs of FEMA.

(d) The Joint Board shall review the nominations for the President's Award and shall recommend to the Administrator , FEMA, and the Attorney General by February 1 of each year, those nominees determined by it to merit consideration for the President's Award together with reasons therefor. The Administrator and the Attorney General shall then recommend to the President those nominees determined by them to merit the President's Award, together with the reasons therefor. Recommendations for 1983 shall be submitted on or before March 29, 1985.

(e) The Joint Board may request that persons representing a cross-section of the national public safety community comment upon nominations made to the Board for the President's Award. Both the request for comments and the comments themselves shall be made in writing.

[49 FR 39845, Oct. 11, 1984, as amended at 50 FR 3350, Jan. 24, 1985]

§ 150.6 Design and procurement of awards.

(a) The Joint Board shall consult with the Department of the Treasury and the Executive Office of the President in regard to the design and procurement of the appropriate citations and medal for the President's Award in accordance with applicable laws and regulations.

(b) Insofar as practicable, the designs for Distinguised Public Safety Service Awards of FEMA and the Department of Justice shall be coordinate so as to avoid distinctly different recognition of the various public safety officers.

§ 150.7 Selection process.

(a) *President's Award.* Nominations for the President's Award shall be reviewed, and winners selected by the President (or his designee) in accordance with the requirements of § 150.3, the criteria in § 150.4(a)(1), and the procedures of § 150.5.

(b) *Distinguished Public Safety Service Award.* Upon receipt of nominations for this Award, the Administrator of FEMA or the Attorney General shall cause an evaluation and selection of the nominees to be made in accordance with the requirements of § 150.3 and the criteria prescribed in § 150.4(a)(2). In reviewing nominations, the Attorney General or the Administrator of FEMA may request that persons representing the relevant segment of the national public safety community comment upon the nomination and accompanying documentation. Both the request for comments and the comments themselves shall be made in writing.

(c) Individuals nominated for the President's Award who are considered not to meet the criteria for the Award by the Joint Board or who are not recommended to or selected by the President shall be automatically considered by the appropriate authority for nomination for the Distinguished Public Safety Service Award.

(d) Individuals nominated for the Distinguished Public Safety Service Award may be considered by the Joint Board for the President's Award if the Administratorof FEMA or the Attorney General determines that consideration for the President's Award is merited.

§ 150.8 Presentation of awards.

(a) Presentation of the President's Award shall be made at such time, place and circumstances as the Executive Office of the President directs. There shall not be more twelve President's Awards given out during any calendar year.

(b) Presentation of the Distinguished Public Safety Service Award shall be made by the Attorney General or the Administrator of FEMA or a designee at such time, place and circumstances as the Administrator of FEMA or the Attorney General determines. There is no limit on the number of these awards made during any calendar year.

§ 150.9 Funding.

(a) *President's Award.* The costs involved in designing and striking the medal to be presented in conjunction with the President's Award shall be prorated among the agencies concerned. The cost of producing the medal and printing the certificate shall be borne by FEMA if the recipient is a firefighter or a civil defense officer. If the award recipient is a law enforcement officer, then such cost shall be borne by the Department of Justice.

(b) *Distinguished Public Safety Service Award.* All expenses in connection with this Award shall be borne by the appropriate Agency.

§ 150.10 Date of submission of nominations.

Nominations may only be submitted for acts, services, or contributions occurring within two years preceding the November 15 cut-off date described in § 150.3(c) of this part. However, nominations submitted prior to the February 28, 1985 cut-off date may be made for acts, services or contributions occurring on or after October 29, 1972 (two years before the effective date of the Act).

[50 FR 3350, Jan. 24, 1985]

PART 151—REIMBURSEMENT FOR COSTS OF FIREFIGHTING ON FEDERAL PROPERTY

Subpart A—Purpose, Scope, Definitions

Sec.
151.01 Purpose.
151.02 Scope.
151.03 Definitions.

Subpart B—Submission, Determination, Appeal

151.11 Submission of claims.
151.12 Determination of amount authorized for payment.
151.13 Reconsideration of amount authorized for payment.
151.14 Adjudication.

Subpart C—Administration, Penalties

151.21 [Reserved]
151.22 Audits.

151.23 Penalties.

AUTHORITY: Secs. 11 and 21(b)(5), Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2210 and 2218(b)(5)); Reorganization Plan No. 3 of 1978 (3 CFR, 1978 Comp., p. 379) and E.O. 12127, dated Mar. 31, 1979 (3 CFR, 1979 Comp., p. 376).

SOURCE: 49 FR 5929, Feb. 16, 1984, unless otherwise noted.

Subpart A—Purpose, Scope, Definitions

§ 151.01 Purpose.

Section 11 of the Federal Fire Prevention and Control Act of 1974, provides that ''each fire service that engages in the fighting of a fire on property which is under the jurisdiction of the United States may file a claim with the Administrator of the Federal Emergency Management Agency for the amount of direct expenses and direct losses incurred by such fire service as a result of fighting such fire.'' This part, implements section 11 of the Act and governs the submission, determination, and appeal of claims under section 11.

§ 151.02 Scope.

Fire services, in any State, may file claims for reimbursement under section 11 and this part for the direct expenses and losses which are additional firefighting costs over and above normal operating costs incurred while fighting a fire on property which is under the jurisdiction of the United States. Section 11 requires that certain payments be deducted from those costs and that the Treasury Department will ordinarily pay the amount resulting from the application of that formula. Where the United States has entered into a contract (which is not a mutual aid agreement, defined in § 151.03) for the provision of fire protection, and it is the intent of the parties that reimbursement under section 11 is unavailable, this intent will normally govern. Where a mutual aid agreement is in effect between the claimant and an agency of the United States for the property upon which the fire occurred, reimbursement will be available in otherwise proper situations. However, any payments (including the value of services) rendered under the agreement during the term of the agreement (or the Federal fiscal year in which the fire occurred, if no term is discernible) shall be deducted from the costs claimed, pursuant to § 151.12.

§ 151.03 Definitions.

(a) *The Act* means the Federal Fire Prevention and Control Act of 1974, 15 U.S.C. 2201 *et seq.*

(b) *Additional firefighting costs over and above normal operating costs* means reasonable and authorized (or ratified by a responsible Federal official) costs ordinarily associated with the function of firefighting as performed by a fire service. Such costs would normally arise out of response of personnel and apparatus to the site of the fire, search and rescue, exposure protection, fire containment, ventilation, salvage, extinguishment, overhaul, and preparation of the equipment for further use. This would also include costs associated with emergency medical services to the extent normally rendered by a fire service in connection with a fire. Not included are administrative expenses, costs of employee benefits, insurance, disability, death, litigation or health care, and the costs associated with processing claims under section 11 of the Act and this part.

(c) *Administrator* means the Administrator of the Federal Emergency Management Agency, or his/her designee.

(d) *Claimant* means a fire service as defined in paragraph (g) of this section.

(e) *Direct expenses and losses* means expenses and losses which would not have been incurred had not the fire in question taken place. This includes salaries for specially employed personnel, overtime pay, the cost of supplies expended, and the depreciated value of equipment destroyed or damaged. It does not include such costs as the ordinary wages of firefighters, overhead costs, or depreciation (if based on other than hours of use during fires). Expenses as defined herein would normally be incurred after the first call or alarm and would normally cease upon the first of the following: Return to station, report in-service and ready for further operations, or commence response to another incident.

(f) *Fire* means any instance of destructive or uncontrolled burning, including scorch burns and explosions of combustible dusts or solids, flammable liquids, and gases. The definition does not include the following except where they cause fire or occur as a consequence of fire: Lightning or electrical discharge, explosion of steam boilers, hot water tanks, or other pressure vessels, explosions of ammunition or other detonating materials, overheating, mechanical failures, or breakdown of electrical equipment in power transmission facilities, and accidents involving ships, aircraft, or other vehicles. Not included in this definition are any costs associated with false alarms, regardless of cause.

(g) *Fire service* means any organization in any State consisting of personnnel, apparatus, and equipment which has as its purpose protecting property and maintaining the safety and welfare of the public from the dangers of fire, including a private firefighting brigade. The personnel of any such organization may be paid employees or unpaid volunteers or any combination thereof. The location of any such organization and its responsibility for extinguishment and suppression of fires may include, but need not be limited to, a State, city, town, borough, parish, county, fire district, fire protection district, rural fire district, or other special district.

(h) *Mutual aid agreement* means any reciprocal agreement whether written or oral between a Federal agency and the claimant fire service, or its parent jurisdiction, for the purpose of providing fire protection for the property of the United States upon which the fire which gave rise to the claim occurred and for other property for which the claimant normally provides fire protection. Such agreement must be primarily one of service rendered for service, or must be entered into under 42 U.S.C. 1856 through 1856d. Not included are all other agreements and contracts, particularly those in which the intent of the parties is that the United States pays for fire protection.

(i) *FEMA* means the Federal Emergency Management Agency.

(j) *Over and above normal operating expenses* means costs, losses and expenses which are not ordinarily and necessarily associated with the maintenance, administration, and day-to-day operations of a fire service and which would not have been incurred absent the fire out of which the claim arises.

(k) *Payments to the fire service or its parent jurisdiction, including taxes or payments in lieu of taxes, the United States has made for the support of fire services on the property in question* means any Federal monies, or the value of services, including those made available through categorical or block grants, contracts, mutual aid agreements, taxes, and payments in lieu of taxes which the United States has paid to the fire service or its parent jurisdiction for fire protection and firefighting services. Such payments will be determined on the basis of the term of the arrangement, or if no such term is discernible, on the basis of the Federal fiscal year in which the fire occurred.

(l) *Property which is under the jurisdiction of the United States* means real property and Federal improvements thereon and appurtenances thereto in which the United States holds legal fee simple title. This excludes Federal leasehold interests. This likewise excludes Federal personal property on land in which the United States does not hold fee simple title.

(m) *State* means any State of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, The Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

[49 FR 5929, Feb. 16, 1984, as amended at 74 FR 15344, Apr. 3, 2009]

Subpart B—Submission, Determination, Appeal

§ 151.11 Submission of claims.

Any fire service in any State which believes it has a claim(s) cognizable under section 11 shall submit its claim(s) in writing within 90 days of the occurrence of the fire(s) for which a claim(s) is made. If the fire is of such duration that the claimant desires to

submit a claim before its conclusion, it may do so, but only for the eligible costs actually incurred to date. Additional claims may be filed for costs later incurred. Claims shall be submitted to the Director, FEMA, Washington, DC, 20472. Each claim shall include the following information:

(a) Name, address, jurisdiction and nature (volunteer, private, municipal, etc.) of claimant's fire service organization;

(b) Name, title, address and telephone number of individual authorized by the claimant fire service to make this claim in its behalf and his/her certification as to the accuracy of the information provided;

(c) Name and telephone number of Federal employee familiar with the facts of the event and the name and address of the Federal agency having jurisdiction over the property on which the fire occurred;

(d) Proof of authority to fight the fire (source of alarm, whether fire service was requested by responsible Federal official or whether such an official accepted the assistance when offered);

(e) Personnel and equipment committed to fighting of fire (type of equipment and number of items); and an itemized list of direct expenses (e.g., hours of equipment operation, fuel costs, consumables, overtime pay and wages for any specially hired personnel) and direct losses (e.g., damaged or destroyed equipment, to include purchase cost, estimate of the cost of repairs, statement of depreciated value immediately preceding and subsequent to the damage or destruction and the extent of insurance coverage) actually incurred in fighting the fire. A statement should be included explaining why each such expense or loss is considered by the claimant not be a normal operating cost, or to be in excess of normal operating costs;

(f) Copy of fire report which includes the location of the fire, a description of the property burned, the time of alarm, etc.;

(g) Such other information or documentation as the Administrator considers relevant to those considerations to be made in determining the amount authorized for payment, as set forth in § 151.12 of these regulations;

(h) Source and amount of any payments received or to be received for the fiscal year in which the fire occurred, including taxes or payments in lieu of taxes and including all monies received or receivable from the United States through any program or agreement including categorical or block grants, and contracts, by the claimant fire service or its parent jurisdiction for the support of fire services on the property on which the fire occurred. If this information is available when the claim is submitted, it should accompany the claim. If it is not, the information should be submitted as soon as practicable, but no later than 15 days after the end of the Federal fiscal year in which the fire occurred.

[49 FR 5929, Feb. 16, 1984, as amended at 74 FR 15344, Apr. 3, 2009]

§ 151.12 Determination of amount authorized for payment.

(a) The Administrator shall determine the amount to be paid on a claim (subject to payment by the Department of the Treasury). The amount to be paid is the total of eligible expenses, costs and losses under paragraph (a)(1) of this section which exceeds the amount of payments under paragraph (a)(2) of this section. The Administrator shall establish the reimbursable amount by determining:

(1) The extent to which the fire service incurred additional firefighting costs, over and above its normal operating costs, in connection with the fire which is the subject of the claim, i.e., the ''amount of costs''; and

(2) What payments, if any, including taxes or payments in lieu of taxes, the fire service or its parent jurisdiction has received from the United States for the support of fire services on the property on which the fire occurred.

The reimbursable amount is the amount, if any, by which the amount of costs, determined under paragraph (a)(1) of this section exceeds the amount of payments determined under paragraph (a)(2) of this section. Where more than one claim is filed the aggregate reimbursable amount is the amount by which the total amount of costs, determined under paragraph (a)(1) of this section exceed the amount of Federal payments (in the case of a

mutual aid agreement—its term or if none is determinable, the Federal fiscal year) determined under paragraph (a)(2) of this section.

(b) The Administrator will first determine the costs as contemplated in paragraph (a)(1) of this section. The Administrator will then notify the claimant as to that amount. The claimant must indicate within 30 days its acceptance or rejection of that amount.

(1) If the determination is accepted by the claimant, this will be the final and conclusive determination of the amount of costs by the claimant in conjunction with the fire for which the claims are submitted.

(2) If the claimant rejects this amount, it must notify the Administrator , within 30 days, of its reasons for its rejection. Upon receipt of notification of rejection, the Administrator shall reconsider his determination and notify the claimant of the results of the reconsideration. The amount determined on reconsideration will constitute the costs to be used by the Director in determining the reimbursable amount.

(c) Upon receipt of documentation from the claimant on the amount of payments the Federal Government has made for the support of fire services on the property in question, the Administrator will, following such verification or investigation as the Administrator may deem appropriate, calculate the full amount to be reimbursed under the section 11 formula as set forth in § 151.12(a). This calculation of the reimbursable amount is based upon the costs determined pursuant to § 151.12(b) and the documentation of Federal payments that the claimant submitted.

(d) The Administrator's determination of the reimbursable amount will be sent to the Secretary of the Treasury. The Secretary of the Treasury shall, upon receipt of the claim and determination made under § 151.12 (a), (b), and (c), determine the amount authorized for payment, which shall be the amount actually available for payment from any monies in the Treasury not otherwise appropriated but subject to reimbursement (from any appropriations which may be available or which may be made available for the purpose) by the Federal department or agency under whose jurisdiction the fire occurred. This shall be a sum no greater, although it may be less, that the reimbursable amount determined by the Administrator , FEMA, with respect to the claim under § 151.12 (a), (b) and (c).

(e) Upon receipt of written notification from the claimant of its intention to accept the amount authorized as full settlement of the claim, accompanied by a properly executed document of release, the Administrator will forward the claim, a copy of the Administrator's determination and the claimant's document of release to the Secretary of the Treasury for payment of the claim in the amount authorized.

(f) Subject to the discovery of additional material evidence, the Administrator may reconsider any determination in this section, whether or not made as his final determination.

[49 FR 5929, Feb. 16, 1984, as amended at 49 FR 38119, Sept. 27, 1984]

§ 151.13 Reconsideration of amount authorized for payment.

(a) If the claimant elects to protest the amount authorized for payment, after the applicable procedures of § 151.12 have been followed, it must within 30 days of receipt of notification of the amount authorized notify the Administrator in writing of its objections and set forth the reasons why the Administrator should reconsider the determination. The Administrator will upon notice of protest and receipt of additional evidence reconsider the determination of the amount of Federal payments under § 151.12(a)(2) but not the determination of the amount of costs under § 151.12(a)(1). The Administrator shall cause a reconsideration by the Secretary of the Treasury of the amount actually available and authorized for payment by the Treasury. The Administrator, upon receipt of the Secretary of the Treasury's reconsidered determination, will notify the claimant in writing of the amount authorized, upon reconsideration, for payment in full settlement of the claim.

(b) If the claimant elects to accept the amount authorized, upon reconsideration, for payment in full settlement of its claims, it must within 30 days (or a longer period of time acceptable to

the Administrator) of its receipt of that determination notify the Administrator of its acceptance in writing accompanied by a properly executed document of release. Upon receipt of such notice and document of release, the Administrator will forward the claim, a copy of the Administrator's final determination, and the claimant's document of release to the Secretary of the Treasury for payment of the claim in the amount of final authorization.

§ 151.14 Adjudication.

If the claimant, after written notice by the Administrator of the amount authorized for payment in full settlement of the claim and after all applicable procedures of §§151.12 and 151.13 have been followed elects to dispute the amount authorized, it may then initiate action in the United States Claims Court, which shall have jurisdiction to adjudicate the claim and enter judgment in accordance with section 11(d) of the Act.

Subpart C—Administration, Penalties

§ 151.21 [Reserved]

§ 151.22 Audits.

At the discretion of the Administrator, all claims submitted under section 11 of the Act and all records of the claimant will be subject to audit by the Administrator or his/her designee. In addition, the Comptroller General of the United States or his/her designee shall have access to all books and records of all claimants making claims under section 11.

§ 151.23 Penalties.

Claimant's officials or others who provide information or documentation under this part are subject to, among other laws, the criminal penalties of Title 18 of the United States Code, sections 287 and 1001, which punish the submission of false, fictitious or fraudulent claims and the making of false, fictitious or fraudulent statements and which provide for a fine of not more than $10,000 or imprisonment for not more than five years, or both. For such a violation, the person is likewise subject to the civil penalties set out in 31 U.S.C. 3729 and 3730.

PART 152—ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM

Sec.

152.1 Purpose and eligible uses of grant funds.
152.2 Definitions.
152.3 Availability of funds.
152.4 Roles and responsibilities.
152.5 Review process and evaluation criteria.
152.6 Application review and award process.
152.7 Grant payment, reporting and other requirements.
152.8 Application submission and deadline.
152.9 Reconsideration.

AUTHORITY: Federal Fire Protection and Control Act, 15 U.S.C. 2201 *et seq*.

SOURCE: 68 FR 12547, Mar. 14, 2003, unless otherwise noted.

§ 152.1 Purpose and eligible uses of grant funds.

(a) This competitive grant program will provide funding directly to fire departments of a State for the purpose of enhancing departments abilities to protect the health and safety of the public, as well as that of firefighting personnel, facing fire and fire-related hazards. Eligible applicants can submit only one application per application period. Departments that submit multiple applications in one application period will have each of their applications deemed ineligible.

(b) Eligible applicants are fire departments or fire departments of a State which is defined as an agency or organization that has a ''formally recognized arrangement'' with a State, local or tribal authority (city, county, parish, fire district, township, town, or other non-Federal governing body) to provide fire suppression services within a fixed geographical area. A fire department can apply for assistance for its emergency medical services unit provided the unit falls organizationally under the auspices of the fire department. A municipality or fire district may submit an application on behalf of a fire department when the fire department lacks the legal status to do so, e.g., where the fire department falls

within the auspices of the municipality. When a municipality or fire district submits an application on behalf of a fire department, the fire department is precluded from submitting an additional application. Non-Federal airport and/or port authority fire departments are eligible, but only if they have a formally recognized arrangement with the local jurisdiction to provide fire suppression, on a first-due basis, outside the confines of the airport or port facilities. Airport or port authority fire departments whose sole responsibility is suppression of fires on the airport grounds or port facilities are not eligible for this grant program. Fire departments that are Federal or contracted by the Federal government and whose sole responsibility is suppression of fires on Federal installations are not eligible for this grant program. Fire stations that are not independent but are part of, or controlled by a larger fire department or agency, are typically not eligible. Fire departments that are for-profit departments (*i.e.*, do not have specific non-profit status or are not municipally based) are not eligible to apply for assistance under this program. Also not eligible for this program are ambulance services, rescue squads, auxiliaries, dive teams, urban search and rescue teams, fire service organizations or associations, and State/local agencies such as a forest service, fire marshal, hospitals, and training offices.

(c) Congress included in the legislation a list of fourteen activities eligible for funding under this program. Those activities are as follows:

(1) To hire additional firefighting personnel;

(2) To train firefighting personnel in firefighting, emergency response (including response to a terrorism incident or use of a weapon of mass destruction), arson prevention and detection, or the handling of hazardous materials, or to train firefighting personnel to provide any of the training in this paragraph (c);

(3) To fund the creation of rapid intervention teams to protect firefighting personnel at scenes of fires and other emergencies;

(4) To certify fire inspectors;

(5) To establish wellness and fitness programs for firefighting personnel to ensure that the firefighting personnel can carry out their duties;

(6) To fund emergency medical services provided by fire departments;

(7) To acquire additional firefighting vehicles, including fire trucks;

(8) To acquire additional firefighting equipment, including equipment for communications, monitoring, and response to a terrorism incident or use of a weapon of mass destruction;

(9) To acquire personal protective equipment required for firefighting personnel by the Occupational Safety and Health Administration, and other personal protective equipment for firefighting personnel, including protective equipment to respond to a terrorism incident or the use of a weapon of mass destruction;

(10) To modify fire stations, fire training facilities, and other facilities to protect the health and safety of firefighting personnel;

(11) To enforce fire codes;

(12) To fund fire prevention programs;

(13) To educate the public about arson prevention and detection; and

(14) To provide incentives for the recruitment and retention of volunteer firefighting personnel for volunteer firefighting departments and other firefighting departments that utilize volunteers.

(d) The specific activities that will be eligible for funding will be announced in the Notice of Funding Availability (NOFA) that we will publish pursuant to the program's annual appropriation.

§ 152.2 Definitions.

Active firefighter is a member of a fire department or organization in good standing that is qualified to respond to and extinguish fires or perform other fire department emergency services and has actively participated in such activities during the past year.

Bay is the part or compartment of a building that provides parking for one or more pieces of firefighting apparatus.

Career department is a fire suppression agency or organization in which all active firefighters are considered full-time employees, are assigned regular

duty shifts, and receive financial compensation for their services rendered on behalf of the department. Departments with active firefighters that are paid stipends on a per-call basis are not career departments. See the definition of combination department in this section.

Combination department is a fire suppression agency or organization in which at least one active firefighter receives financial compensation for his/her services rendered on behalf of the department and at least one active firefighter does not receive financial compensation for his/her services rendered on behalf of the department other than life/health insurance, workmen's compensation insurance, length of service awards, pay per-call or per-hour, or similar token compensation.

Construction is the creation of a new structure or any modification of the footprint or profile of an existing structure. Changes or renovations to an existing structure that do not change the footprint or profile of the structure but exceed either $10,000 or 50 percent of the value of the structure, are also considered construction for the purposes of this grant program. Changes that are less than $10,000 and/or 50 percent of the value of the structure are considered renovations, for the purposes of this grant program.

Direct delivery of training is training conducted within a training organization's own jurisdiction using the organization's own resources (trainers, facilities, equipment, etc.).

Fire boat is a vessel designed primarily for firefighting operations, however, may also be capable of water rescue and hazardous materials spills mitigation, etc. These vessels may also have the capability to pump a large volume of water from a drafting operation.

Fire department or fire department of a State is an agency or organization that has a ''formally recognized arrangement'' with a State, local or tribal authority (city, county, parish, fire district, township, town, or other non-Federal governing body) to provide fire suppression services within a fixed geographical area. A fire department can apply for assistance for its emergency medical services unit provided the unit falls organizationally under the auspices of the fire department. A municipality or fire district may submit an application on behalf of a fire department when the fire department lacks the legal status to do so, e.g., where the fire department falls within the auspices of the municipality. When a municipality or fire district submits an application on behalf of a fire department, the fire department is precluded from submitting an additional application. Non-Federal airport and/or port authority fire departments are eligible, but only if they have a formally recognized arrangement with the local jurisdiction to provide fire suppression services, on a first-due basis, outside the confines of the airport or port facilities. Airport or port authority fire departments whose sole responsibility is suppression of fires on the airport grounds or port facilities are not eligible for this grant program. Fire departments that are Federal or contracted by the Federal government and whose sole responsibility is suppression of fires on Federal installations are not eligible for this grant program. Fire departments or fire stations that are not independent but are part of, or controlled by a larger fire department or agency, are typically not eligible. Fire departments that are for-profit departments (*i.e.*, do not have specific non-profit status or are not municipally based) are not eligible to apply for assistance under this program. Also not eligible for this program are ambulance services, rescue squads, auxiliaries, dive teams, urban search and rescue teams, fire service organizations or associations, and State/local agencies such as a forest service, fire marshal, hospitals, and training offices.

Firefighter. See the definition of *Active firefighter* in this section.

First-due response area is a geographical area in proximity to a fire or rescue facility and normally served by the personnel and apparatus from that facility in the event of a fire or other emergency.

Formally recognized arrangement is an agreement between the fire department and a local jurisdiction such that the jurisdiction has publicly or otherwise

formally deemed that the fire department has the first-due response responsibilities within a fixed geographical area of the jurisdiction. Often this agreement is recognized or reported to the appropriate State entity with cognizance over fire departments, such as registration with the State Fire Marshal's office, or the agreement is specifically contained in the fire department's or jurisdiction's charter.

Integrated communication systems and devices are equipment or systems for dispatch centers or communication infrastructure. Examples of these include 911 systems, computer-aided dispatch systems, global positioning systems, fixed repeaters, etc. Towers are an integral part of any communication system, but they are not eligible to be included in any award under this program.

New mission is a first-responder function that a department has never delivered in the past or that was once delivered but has since been abandoned by the department due to the lack of funding or community support. Examples include technical search and rescue, emergency medical services, hazardous materials response, etc. A new mission does not include services already provided from existing facilities. Opening additional stations to provide similar services would be considered an expansion of existing services.

Population means permanent residents in the first-due response area or jurisdiction served by the applicant. It would include students but does not include seasonal population or any population in area that the fire department responds to under mutual/automatic aid agreements.

Prop is something that can be held up in a classroom or moved from site to site in order to facilitate or enhance the training experience. A training tower (pre-fabricated or constructed) is not a prop.

Renovation is changes or alterations or modifications to an existing structure that do not exceed either $10,000 and/or 50 percent of the market value of the structure and do not involve a change in the footprint or profile of the structure.

Rural community is a community that has low population density, zoned agricultural or parkland, and whose fire department has a relatively low volume of fire calls.

State means any of the fifty States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Suburban community is a community that has a medium density population with a portion of their jurisdiction being zoned for industrial and/or commercial uses, and whose fire department has a high call volume relative to a rural community.

Supplies means any expendable property that typically has a one-time use limit and an expectation of being replaced within one year.

The United States Fire Administrator's (USFA) operational and performance objectives are to reduce losses of life and reduce economic losses due to fire and related emergencies. Specific target groups are children under 14 years old, seniors over 65 years old, and firefighters.

Urban community is a community with a high density population with a major proportion of its jurisdiction zoned for commercial and/or industrial use and a significant call volume.

Vehicle is a mechanized device used for carrying passengers, goods, or equipment. Examples of vehicles include, but are not limited to: pumpers, brush trucks, tankers, tenders, attack pumpers, rescue (transport and non-transport), ambulances, foam units, quints, aerials, ladders, hazmat vehicles, squads, crash rescue (ARFF), boats, hovercraft, planes, and helicopters. Details concerning vehicle eligibility will be provided in the NOFA that will be published pursuant to this program's annual appropriation.

Volunteer department is a fire suppression agency or organization in which no active firefighters are considered full-time employees, and which no members receive financial compensation for their services rendered on behalf of the department other than life/health insurance, workers' compensation insurance, length of service awards, pay per-call or per-hour, or similar token compensation.

Watercraft is a small boat (less than 13 feet in length) or other watercraft

designed and equipped for water and/or ice rescue, rather than basic firefighting operations. Generally, these vessels will be equipped with water rescue equipment, flotation devices, and other basic medical and rescue equipment and their primary function will be rescue activities.

§ 152.3 Availability of funds.

(a) Fire departments that have received funding under the Assistance to Firefighter Grant Program in previous years are eligible to apply for funding in the current year. However, due to our responsibilities under this program to assure adequate distribution of awards amongst certain types of departments (career, combination and volunteer) and certain types of communities (urban, suburban or rural) as well as an equitable geographic distribution, we reserve the right to fund or not to fund previous recipients of grants under this program in order for us to fulfill these responsibilities.

(b) No applicant can receive more than $750,000 in Federal grant funds under this program in any fiscal year.

(c) No applicant can submit more than one application per fiscal year. Applicants that submit multiple applications will have each of their applications deemed ineligible.

(d) The scoring of the applications will determine the distribution of the funding across the eligible programs. Notwithstanding anything in this part, no more than twenty-five (25) percent of the funds appropriated for grants shall be used to assist grant recipients to purchase firefighting vehicles and not less than five (5) percent of the funds shall be used for fire prevention programs.

(e) We will not provide assistance under this part for activities for which another Federal agency has more specific or primary authority to provide assistance for the same purpose. We may disallow or recoup amounts that fall within other Federal agency's authority.

§ 152.4 Roles and responsibilities.

(a) Applicants must:

(1) Complete the application and certify to the accuracy of all the information contained therein;

(2) Certify that they are an eligible applicant, *i.e.*, a fire department, as defined in this part;

(3) Certify that the person submitting the application is duly authorized to do so, and

(b) Recipients (Grantees) must agree to:

(1) Share in the costs of the projects funded under this grant program. Fire departments in areas serving populations over 50,000 must agree to match the Federal grant funds with an amount of non-Federal funds equal to thirty (30) percent of the total project cost. Fire departments serving areas with a population of 50,000 or less will have to match the Federal grant funds with an amount of non-Federal funds equal to ten (10) percent of the total project cost. No waivers of this requirement will be granted except for fire departments of Insular Areas as provided for in 48 U.S.C. 1469a.

(2) Maintain operating expenditures during the grant's period of performance in the areas funded by a grant at a level equal to or greater than the average of their operating expenditures in the two years preceding the year in which this assistance is received.

(3) Obtain the appropriate Federal, State, or local permits necessary to fulfill the grant's scope of work including historical and/or environmental clearances as required.

(4) Retain grant files and supporting documentation for three years after the official closeout of the grant.

(5) Report to FEMA on the progress made on the grant and financial status of the grant. The award documents will detail the specific period of performance for each grantee and provide instructions on the frequency and timing of the required performance reports.

(6) Maintain documentation to support the expenditure of grant funds as well as pertinent grant decisions.

(7) Make their grant files and other books and records related to the grant, available if requested for an audit to ensure compliance with any requirement of the grant program.

(8) Agree to provide information to the U.S. Fire Administration's National Fire Incident Reporting System (NFIRS) for the period covered by the grant. If a grantee does not currently

participate in the incident reporting system and does not have the capacity to report at the time of the award, that grantee must agree to provide information to the system for a twelve-month period commencing as soon as they develop the capacity to report. Capacity to report to the NFIRS must be established prior to the termination of the one-year performance period.

(c) FEMA activities:

(1) We will ensure that the funds are awarded based on the priorities and expected benefits articulated in the statute, this part, USFA's strategic plan, and the Notice of Funds Availability.

(2) We will ensure that not more than twenty-five (25) percent of the appropriated funding will be used to purchase firefighting vehicles.

(3) We will ensure that not less than five (5) percent of the funds are made available to national, State, local, or community organizations, including fire departments, for the purpose of carrying out fire prevention programs.

(4) We will ensure that fire departments with volunteer staff, or staff comprised of a combination of career fire fighters and volunteers, receive a proportion of the total grant funding that is not less than the proportion of the United States population that those firefighting departments protect.

(5) We will ensure that grants are made to fire departments located in urban, suburban, and rural communities.

(6) We will strive to ensure geographic diversity of awards as stipulated in § 152.6.

(7) We will strive to ensure that activities funded under this grant program are consistent with the programs goals and intent, and generally in the government's best interest.

(8) We will provide the chief executives of the States with information concerning the total number and dollar amount of awards made to fire departments in their States; the program areas and activities supported by these grants; and other information about specific awards when generated and available.

[68 FR 12547, Mar. 14, 2003, as amended at 74 FR 15344, Apr. 3, 2009]

§ 152.5 Review process and evaluation criteria.

(a) Every application will be evaluated based on the answers to the activity-specific questions during our initial screening. The applications that are determined to best address the Assistance to Firefighters Grant Program's established priorities during this initial screening will be in the ''competitive range'' and subject to a second level of review. We will use the narratives/supplemental information provided by the applicants in their grant applications to evaluate, on a competitive basis, the merits and benefits of each request for funding. In selecting applications for award, we will evaluate each application for assistance independently based on established eligibility criteria and the program priorities. Eligible applicants that best address the priorities will advance to a second level of review. The second level of review involves an assessment of the financial needs of the applicant, and an analysis of the benefits that would result from the grant award.

(b) In order to be successful at this second level of the evaluation, an applicant must complete the narrative section of the application package. The narrative should include a detailed description of the planned program, uses for the grant funds including details of each budget line item. For example, if personnel costs are included in the budget, please provide a break down of what those costs are for. The narrative should explain why the grant funds are needed and why the department has not been able to obtain funding for the planned activities on its own. A discussion of financial need should include a discussion of any Federal funding received for similar activities. Finally, the applicant's narrative should detail the benefits the department or community will realize as a result of the grant award.

(c) This second level of review will be conducted using a panel of technical evaluation panelists. These panelists are largely made up of non-Federal experts with a fire service background. The panelists will assess the application's merits with respect to the clarity and detail provided in the narrative

about the project, the applicant's financial need, and the project's purported benefit to be derived from the cost. Technical evaluation panelists will independently score each application before them and then discuss the merits/shortcomings of the application in an effort to reconcile any major discrepancies. A consensus on the score is not required. The highest scoring applications resulting from this second level of review will then be considered for award. We seek to maximize the benefits derived from the funding by crediting applicants with the greatest financial need and whose proposed activities provide the greatest benefit versus the cost.

(d) In addition to the project narrative, the applicant must provide an itemized budget detailing the use of the grant funds. If an applicant is seeking funds in more than one eligible activity within a program, separate budgets will have to be generated for each activity and then an overall or summary budget will have to be generated. For those applicants applying on line, the summary budget will be automatically generated by the e-grants system.

(e) Specific rating criteria for each of the eligible programs will be published in a Notice of Funding Availability that we will publish pursuant to the program's annual appropriation.

§ 152.6 Application review and award process.

(a) As stated in § 152.5, we will evaluate each application in the preliminary screening process to determine which applications best address the program's established priorities. The best applications as determined in this preliminary step will be deemed to be in the ''competitive range.'' All applications in the competitive range will advance to a second level review by a technical evaluation panel. Using the evaluation criteria detailed in the Program Guidance and in the NOFA (both of which are published pursuant to this program's annual appropriation), the panelists will score each application they evaluate. The assigned score will reflect the degree to which the applicant: clearly relates their proposed project; demonstrates financial need; and, details a high benefit to cost value of the proposed activities. We will provide the panelists the complete application content for their evaluation. We will also provide them with reference materials for national standards or regulations and guidelines with respect to typical costs for proposed apparatus and equipment purchases.

(b) Our award decisions will be based on the stated priorities of the grant program first, then on the demonstrated need of the applicant and the benefits to be derived from the proposed projects. We will make awards on a competitive basis, *i.e.*, we will fund the highest scored applications before considering lower scored applications.

(c) In a few cases, to fulfill our obligations under the law to make grants to a variety of departments, we may also make funding decisions using rank order as the preliminary basis, and then analyze the type of fire department (paid, volunteer, or combination fire departments), the size and character of the community it serves (urban, suburban, or rural), and/or the geographic location of the fire department. In these instances where we are making decisions based on geographic location, we will use States as the basic geographic unit. We may also base our funding decisions on previous grant awards funded by this program and/or grantees' performance on previous grants and a technical evaluation of reasonable costs for labor, services, materials or equipment.

§ 152.7 Grant payment, reporting and other requirements.

(a) Grantees will have twelve months to incur obligations and complete the scope of work to fulfill their responsibilities under this grant program. The performance period of each grant will be detailed in the Articles of Agreement that we provide each grantee. Grantees may request funds from FEMA as reimbursement for expenditures made under the grant program or they may request funds for immediate cash needs under FEMA regulations (44 CFR 13.21). Advances of funds may also be approved to meet immediate cash needs.

(b) Generally, fire departments cannot use grant funds to pay for products

and services contracted for, or purchased prior to the effective date of the grant. However, we will consider requests for reimbursement for these on an exception basis. Expenses incurred after the application deadline but prior to award may be eligible for reimbursement if the expenses were justified, unavoidable (i.e., urgent and compelling), consistent with the scope of work, and specifically approved by the Assistance Officer. Expenses, obligations, commitments or contracts incurred or entered into prior to the application deadline are not eligible to be included as an expense.

(c) All grantees must follow their own established procurement process when buying anything with Federal grant funds (as provided in 44 CFR 13.26). If the grantee does not have an established procurement process, they must seek a minimum of two bids for any acquisition.

(d) When requesting funding, grantees can only request an amount that is necessary to satisfy their immediate cash needs directly related to the grant, i.e., an amount equal to the total eligible grant expenses due within 30 days. Grantees can request payments of up to one hundred (100) percent of the federal share of the award amount but only if delivery of the ordered products and/or services is imminent (approximately 30 days) and the resulting payment will require the entire amount of funds.

(e) A grantee may request sufficient funding for a down payment if required to do so by the seller, such as in grants involving some purchases of firefighting vehicles. The grantee may request as much as fifty (50) percent of the federal share of the award amount at the time of the order placement to pay the down payment. The grantee may request the balance of the federal share upon delivery of the ordered equipment or vehicle.

(f) The recipients of funding under this program must report to us on how the grant funding was used and the benefits that resulted. This will be accomplished via submission of performance reports. Details regarding the reporting requirements will be provided in the Articles of Agreement provided to each grantee.

(g) Fire departments that receive funding under this program must agree to provide information to the National Fire Incident Reporting System (NFIRS) for the period covered by the assistance. If a grantee does not currently participate in the incident reporting system and does not have the capacity to report at the time of the award, that grantee must agree to provide information to the system for a twelve-month period commencing as soon as possible after they develop the capacity to report. Capacity to report to the NFIRS must be established prior to the termination of the one-year performance period.

[68 FR 12547, Mar. 14, 2003, as amended at 74 FR 15344, Apr. 3, 2009]

§ 152.8 Application submission and deadline.

In each year that this program is authorized and receives an appropriation, we will announce the grants availability via Notice of Funds Availability. That Notice will contain all pertinent information concerning the eligible funding activities, funding priorities, funding levels, application period, timelines, and deadlines.

§ 152.9 Reconsideration.

(a) *Reconsideration of initial grant award decisions.* We will review our decision with respect to an initial grant award decision only when the applicant asserts that we have made a material technical or procedural error in the processing of the application and can substantiate such assertions. As grants are awarded on a competitive basis, in accordance with the findings of an independent panel of experts, we cannot consider requests for reconsideration based upon the merits of an original application. Similarly, we will not consider new information provided after the submission of the original application. In the case of new information, we encourage applicants to incorporate their changed circumstances into their applications for future grant cycles.

(b) *Reconsideration of other decisions.* We will consider requests for reconsideration of decisions other than those related to the initial grant award on their merits.

(c) We must receive a request for reconsideration under this section within 60 days of the date of the notice of the decision for which reconsideration is requested.

(d) Requests for reconsideration should be directed to: Assistant Administrator, Grant Programs Directorate, Assistance to Firefighters Grant Program, FEMA, 800 K Street, NW., South Tower 5th Floor, Washington, DC 20001.

PARTS 153–199 [RESERVED]