AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

H.R. 4107, ASSISTANCE TO FIREFIGHTERS REAUTHORIZATION ACT OF 2004

HEARING

BEFORE THE

COMMITTEE ON SCIENCE
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

MAY 12, 2004

Serial No. 108–58

Printed for the use of the Committee on Science

Available via the World Wide Web: http://www.house.gov/science

U.S. GOVERNMENT PRINTING OFFICE

93–551PS WASHINGTON : 2005

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON SCIENCE

HON. SHERWOOD L. BOEHLERT, New York, *Chairman*

RALPH M. HALL, Texas
LAMAR S. SMITH, Texas
CURT WELDON, Pennsylvania
DANA ROHRABACHER, California
KEN CALVERT, California
NICK SMITH, Michigan
ROSCOE G. BARTLETT, Maryland
VERNON J. EHLERS, Michigan
GIL GUTKNECHT, Minnesota
GEORGE R. NETHERCUTT, JR., Washington
FRANK D. LUCAS, Oklahoma
JUDY BIGGERT, Illinois
WAYNE T. GILCHREST, Maryland
W. TODD AKIN, Missouri
TIMOTHY V. JOHNSON, Illinois
MELISSA A. HART, Pennsylvania
J. RANDY FORBES, Virginia
PHIL GINGREY, Georgia
ROB BISHOP, Utah
MICHAEL C. BURGESS, Texas
JO BONNER, Alabama
TOM FEENEY, Florida
RANDY NEUGEBAUER, Texas
VACANCY

BART GORDON, Tennessee
JERRY F. COSTELLO, Illinois
EDDIE BERNICE JOHNSON, Texas
LYNN C. WOOLSEY, California
NICK LAMPSON, Texas
JOHN B. LARSON, Connecticut
MARK UDALL, Colorado
DAVID WU, Oregon
MICHAEL M. HONDA, California
BRAD MILLER, North Carolina
LINCOLN DAVIS, Tennessee
SHEILA JACKSON LEE, Texas
ZOE LOFGREN, California
BRAD SHERMAN, California
BRIAN BAIRD, Washington
DENNIS MOORE, Kansas
ANTHONY D. WEINER, New York
JIM MATHESON, Utah
DENNIS A. CARDOZA, California
VACANCY
VACANCY
VACANCY

CONTENTS

May 12, 2004

	Page
Witness List	2
Hearing Charter	3

Opening Statements

Statement by Representative Nick Smith, Member, Committee on Science, U.S. House of Representatives	10
Written Statement	10
Statement by Representative Bart Gordon, Minority Ranking Member, Committee on Science, U.S. House of Representatives	11
Written Statement	12
Statement by Representative Gil Gutknecht, Member, Committee on Science, U.S. House of Representatives	13
Statement by Representative Lynn Woolsey, Member, Committee on Science, U.S. House of Representatives	13
Statement by Representative Lincoln Davis, Member, Committee on Science, U.S. House of Representatives	13
Statement by Representative Dana Rohrabacher, Member, Committee on Science, U.S. House of Representatives	14
Prepared Statement by Representative Sherwood L. Boehlert, Chairman, Committee on Science, U.S. House of Representatives	14
Prepared Statement by Representative Curt Weldon, Member, Committee on Science, U.S. House of Representatives	15
Prepared Statement by Representative Jerry F. Costello, Member, Committee on Science, U.S. House of Representatives	18
Prepared Statement by Representative Eddie Bernice Johnson, Member, Committee on Science, U.S. House of Representatives	18

Panel 1:

The Hon. Bill Pascrell, Jr., Member, U.S. House of Representatives	
Oral Statement	19
Written Statement	21
Discussion	22

Panel 2:

Mr. R. David Paulison, Administrator, United States Fire Administration	
Oral Statement	27
Written Statement	29
Biography	32
Mr. Andrew T. Mitchell, Deputy Director, Office of Domestic Preparedness, Department of Homeland Security	
Oral Statement	32
Written Statement	34
Biography	36
Mr. James M. Shannon, President and CEO, National Fire Protection Association	
Oral Statement	37

Page

Mr. James M. Shannon, President and CEO, National Fire Protection Association—Continued
Written Statement 39
Biography 41
Financial Disclosure 42

Chief Philip C. Stittleburg, Chairman, National Volunteer Fire Council
Oral Statement 44
Written Statement 45
Biography 48
Financial Disclosure 49

Chief Ernest Mitchell, President, International Association of Fire Chiefs
Oral Statement 50
Written Statement 52
Biography 54
Financial Disclosure 55

Mr. Kevin B. O'Connor, Assistant to the General President, International Association of Fire Fighters
Oral Statement 58
Written Statement 60
Biography 65
Financial Disclosure 66

Discussion 67

Panel 3:

The Hon. Steny H. Hoyer, Member, U.S. House of Representatives from the State of Maryland
Oral Statement 72
Written Statement 75

Discussion 76

Appendix 1: Answers to Post-Hearing Questions

Mr. Andrew Mitchell, Deputy Director, Office of Domestic Preparedness, Department of Homeland Security 84

Chief Philip C. Stittleburg, Chairman, National Volunteer Fire Council 87

Chief Ernest Mitchell, President, International Association of Fire Chiefs 88

Mr. Kevin B. O'Connor, Assistant to the General President, International Association of Fire Fighters 89

Appendix 2: Additional Material for the Record

H.R. 4107, *Assistance to Firefighters Reauthorization Act of 2004* 94

U.S. Department of Homeland Security Views on H.R. 4107, *Assistance to Firefighters Reauthorization Act of 2004* 105

H.R. 4107, ASSISTANCE TO FIREFIGHTERS REAUTHORIZATION ACT OF 2004

WEDNESDAY, MAY 12, 2004

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC.

The Committee met, pursuant to call, at 10:09 a.m., in Room 2318 of the Rayburn House Office Building, Hon. Nick Smith [Chairman of the Subcommittee on Research] presiding.

COMMITTEE ON SCIENCE
U.S. HOUSE OF REPRESENTATIVES

H.R. 4107, the Assistance to Firefighters Reauthorization Act of 2004

Wednesday, May 12, 2004
10:00 a.m. – 12:00 Noon
2318 Rayburn House Office Building (WEBCAST)

Witness List

Panel I

Honorable Bill Pascrell, Jr.
Member, U.S. House of Representatives

Panel II

Mr. R. David Paulison
Administrator
United States Fire Administration

Mr. Andrew Mitchell
Deputy Director, Office of Domestic Preparedness
Department of Homeland Security

Mr. James M. Shannon
President and CEO
National Fire Protection Association

Chief Philip C. Stittleburg
Chairman
National Volunteer Fire Council

Chief Ernest Mitchell
President
International Association of Fire Chiefs

Mr. Kevin O'Connor
Assistant to the General President
International Association of Fire Fighters

Panel III

Honorable Steny H. Hoyer
Member, U.S. House of Representatives

Section 210 of the Congressional Accountability Act of 1995 applies the rights and protections covered under the Americans with Disabilities Act of 1990 to the United States Congress. Accordingly, the Committee on Science strives to accommodate/meet the needs of those requiring special assistance. If you need special accommodation, please contact the Committee on Science in advance of the scheduled event (3 days requested) at (202) 225-6371 or FAX (202) 225-0891.

Should you need Committee materials in alternative formats, please contact the Committee as noted above.

HEARING CHARTER

COMMITTEE ON SCIENCE
U.S. HOUSE OF REPRESENTATIVES

H.R. 4107, Assistance to Firefighters Reauthorization Act of 2004

WEDNESDAY, MAY 12, 2004
10:00 A.M.—12:00 P.M.
2318 RAYBURN HOUSE OFFICE BUILDING

1. Purpose

On Wednesday, May 12th, 2004, the House Science Committee will hold a hearing to examine the Assistance to Firefighters Grant Program and to receive testimony on H.R. 4107, the *Assistance to Firefighters Grant Reauthorization Act of 2004.*

2. Witnesses

Panel I

The Honorable Bill Pascrell is the representative from the 8th District of New Jersey.

Panel II

Mr. R. David Paulison is Administrator of the United States Fire Administration (USFA) within the Department of Homeland Security (DHS) Emergency and Preparedness Response directorate. Before being appointed as Administrator in 2001, Mr. Paulison was Chief of the Miami-Dade Fire Rescue Department.

Mr. Andrew Mitchell is Deputy Director of the Office of Domestic Preparedness (ODP) within the DHS Border and Transportation Security Directorate. Prior to joining ODP, Mr. Mitchell served as the Chief of the National Initiatives Branch in the Bureau of Justice Assistance at the Department of Justice.

Mr. James M. Shannon is President and CEO of the National Fire Protection Association (NFPA). Mr. Shannon joined NFPA as senior vice president and general counsel in 1991. From 1987–1991, he served as Attorney General of the Commonwealth of Massachusetts. Prior to that, he served for six years as a Member of the U.S. House of Representatives.

Chief Philip C. Stittleburg is Chairman of the National Volunteer Fire Council (NVFC). He served as the NVFC Foundation President for twelve years and is a current member of the NFPA Board of Directors. Chief Stittleburg has served as Chief of the LaFarge (WI) Fire Department for 26 years. He is also legal counsel to the NVFC, the LaFarge Fire Department, and the Wisconsin State Firefighters Association.

Chief Ernest Mitchell is President of the International Association of Fire Chiefs. Chief Mitchell recently retired as Chief of the Pasadena Fire Department. He is also Past President of the Foothill Chiefs, Los Angeles Area Fire Chiefs, and League of California Cities Fire Chiefs associations.

Mr. Kevin O'Connor is the Assistant to the General President of the International Association of Fire Fighters. Previously, Mr. O'Connor served concurrently as president of the Maryland State and District of Columbia Professional Fire Fighters and the Baltimore County Fire Fighters Association, Local 1311.

Panel III

The Honorable Steny Hoyer is the House Minority Whip and representative of the 5th District of Maryland.

3. Overarching Questions

The hearing will address the following overarching questions:

1. How do the administration and fire services organizations view H.R. 4107?

2. How effective has the Assistance to Firefighters Grant Program (AFGP, also known as the FIRE Act) been at improving the overall level of readiness of fire departments in the United States? What level of need still exists with regard to the ability of fire departments to respond to day-to-day hazards, and in what areas are the gaps the greatest?
3. How should the Federal Government balance support for basic first responder needs with support for counter-terrorism preparedness?
4. What are the status and outlook for the Fiscal Year (FY) 2004 grant process? What major changes, if any, have taken place in the program since ODP assumed responsibility for administering it this year? To what extent are ODP and USFA coordinating to ensure continuity in program administration?

4. Brief Overview

- In 2000, Congress established the AFGP to award grants directly to local fire departments to protect "the health and safety of the public and firefighting personnel against fire and fire-related hazards, and to provide assistance for fire prevention programs." (The current authorization expires at the end of FY 2004.)
- Since 2001, the AFGP has distributed $1.1 billion to nearly 17,000 fire departments around the country. Currently, more than 20,000 departments have applied for the $750 million available for the AFGP in FY 2004.
- From its inception until FY 2003, the AFGP was administered by USFA. For the first time this year, the program is being administered by ODP as a result of language included in the FY 2004 appropriation bill for the Department of Homeland Security. Many in the fire services and Congress have voiced concern that this transfer could shift the focus of the program toward state-administered counter-terrorism assistance and away from providing direct assistance on a competitive basis to fire departments for the purpose of improving basic firefighting capabilities.
- On April 1st 2004, Chairman Boehlert and a bipartisan group of Congressional Fire Services Caucus leaders introduced H.R. 4107, the *Assistance to Firefighters Grant Reauthorization Act of 2004.* The bill would authorize $900 million per year for the program in fiscal years 2005–2007. While H.R. 4107 continues the AFGP mostly unchanged, it does make several programmatic modifications, including:
  - *Program Location.* Transfers authority for administering the AFGP from ODP to USFA.
  - *EMS Eligibility.* Allows volunteer non-profit, non-hospital Emergency Medical Service (EMS) squads not affiliated with fire departments to apply for grants. The bill would set a cap on the amount of funds those entities could collectively receive at four percent of the total appropriation for the program.
  - *Non-federal Match.* Reduces from 30 percent to 20 percent the non-federal matching requirement to receive a grant for jurisdictions that serve more than 50,000 people.
  - *Maximum Grant Size.* Increases the grant-size cap from $750,000 to $3 million for jurisdictions that serve more than one million people, $2 million for jurisdictions that serve between one million and 500,000 people, and $1 million for all other departments.
  - *Volunteer Non-Discrimination.* Specifies that departments that receive funding under this Act cannot discriminate against, or prohibit employees from engaging in, volunteer firefighting activities in another jurisdiction during off-duty hours.
  - *Peer Review.* Codifies USFA's current practices of consulting with fire service organizations in considering criteria changes to the AFGP and appointing fire service personnel to conduct peer-review of applications.
- In February, a coalition of fire service groups[1] submitted to Congress a position paper (or White Paper) on the reauthorization of the AFGP. Many of the

[1] Comprised of the Congressional Fire Services Institute, International Association of Arson Investigators, International Association of Fire Chiefs, International Association of Fire Fighters, International Code Council, International Fire Service Training Association, International Society of Fire Service Instructors, National Fire Protection Association, National Volunteer Fire Council, and North American Fire Training Detectors.

provisions in H.R. 4107, such as increased maximum grant size and decreased non-federal match for larger departments, are similar to or the same as those in the White Paper. The most notable differences are:

- *Program Location.* The White Paper requires the Director of DHS to decide which directorate within DHS should be responsible for administering the AFGP.
- *EMS Eligibility.* The White Paper does not address this issue.
- *Volunteer Non-Discrimination.* The White Paper does not address this issue.

5. Issues

Volunteer Non-Discrimination

H.R. 4107 includes a provision barring fire departments receiving grants under the act from prohibiting their members from volunteering in other jurisdictions during off-duty hours. These firefighters, known as "two-hatters," are the center of an ongoing issue of contention between volunteer fire departments and the International Association of Fire Fighters, a career firefighters union. While the prevalence of two-hatters is widespread and has been for decades, pressure from IAFF locals either to (1) enter into collective bargaining agreements with their municipalities prohibiting firefighters from volunteering in their off-duty hours; or (2) take internal union actions against members that also serve as volunteer firefighters, is a more recent and regional practice.

Despite the infrequent occurrence of such activities, increased pressure to do away with two-hatters has potential to substantially reduce the readiness of volunteer departments across the country, where preparedness is often heavily dependent upon more experienced, full-time firefighters. In response to these concerns, H.R. 4107 states that "A fire department receiving funds provided under this section shall not discriminate against, or prohibit its members from engaging in, volunteer activities in another jurisdiction during off-duty hours." The language would not impact IAFF internal policies[2] or the ability of a union local (as opposed to a fire department) to take internal action against two-hatter members.

The non-discrimination provision is similar to one that passed last year in the SAFER Firefighter Grant Program, which provides funding to municipalities to train and hire new firefighters. That bill, which came out of the Science Committee, prohibits a department from barring firefighters hired using SAFER funds from volunteering.

Location of the AFGP Program within DHS

The *Homeland Security Act of 2002* (P.L. 107–296) designated ODP as the principal federal agency responsible for the preparedness of the United States for acts of terrorism. Since 2002, ODP has administered a number of grant programs that provide funds to states explicitly for distribution to first responders for terrorism preparedness. These programs include the State Homeland Security Grant Program, the Law Enforcement Terrorism Prevention Program, the Citizen Corps Program, and the Urban Area Security Initiative Grant Program.

In an effort to consolidate first responder grant programs, the AFGP was transferred to ODP in FY 2004. However, because ODP's mission is terrorism preparedness and because the agency does not have experience working with fire departments or local jurisdictions, many in the fire services community and Congress have voiced concern that this shift could be detrimental to the program. H.R. 4107 places authority for administering the AFGP at USFA.

Distribution of Grant Funds

When the fire grant program was created, there was some concern that large career departments would get a majority of the funding at the expense of smaller departments. To address this, the original legislation capped grants to individual departments at $750,000. In addition, a 30 percent cost share for departments serving jurisdictions with a population of greater than 50,000 was implemented. In part because of the lower tax base in rural areas, jurisdictions serving less than 50,000 people were required to provide only a 10 percent cost share.

The unintended result of these policies appears to be that career departments, which serve approximately 40 percent of the population, are actually applying for and receiving a disproportionately lower amount of funding than volunteer and com-

[2] Currently, Article 15 of the IAFF Constitution prohibits members from joining "rival organizations. . .including volunteer fire departments."

bination departments. For example, in FY 2003, only 13 percent of applications submitted, and 17 percent of grants awarded, were from career departments. This issue of equity was raised in an Office of Management and Budget Program Assessment Rating Tool (PART) review of the AFGP in the 2005 budget, which noted that the $750,000 grant cap disadvantages larger departments.

In response to this disparity, H.R. 4107 includes changes to make it easier for larger departments to apply for more AFGP funding. The non-federal matching requirement for jurisdictions that serve more than 50,000 people is reduced from 30 percent to 20 percent. Also, the bill increases the grant-size cap from $750,000 to $3 million for jurisdictions that serve more than one million people, $2 million for jurisdictions that serve between one million and 500,000 people, and $1 million for all other departments.

Program Effectiveness

While the Assistance to Firefighters Grant Program has received nearly universal acclaim from fire departments and fire services organizations, reviews from various federal entities have been more mixed. A 2003 DHS Inspector General (IG) report stated that "program goals, priorities, and grant criteria (had been) prudently developed." The report also found that the "application solicitation is adequate, grant process is competitive, and application review is equitable." The report concluded that the "AFGP appears to be addressing the basic needs and capabilities of the fire service as a whole." The report did make the following recommendations for ways that the AFGP could be strengthened:

1) require greater detail to determine a fire department's financial need;
2) require applicants to declare other federal funding sources to avoid potential duplication of assistance;
3) promote mutual aid and regional approaches to enhance inter-operability;
4) improve monitoring of grant recipients to ensure expectations and responsibilities are met;
5) developing performance measures to assess the program's long-term effect;
6) Use needs assessment findings as an additional tool to define program priorities and eligibility criteria; and
7) Clarify the distinction between the Fire Prevention and Safety program and the Fire Prevention program category of the AFGP.

The overall conclusion of the OMB PART review of the AFGP in the FY 2005 budget request was more critical. One of the primary criticisms raised in the PART assessment was that there were no data to indicate that the AFGP had been effective at reducing losses of life and property from fires. Another is that there have not been enough independent evaluations of the program to evaluate program effectiveness and guide improvements.

6. Questions for Witnesses

Questions for Mr. Paulison:

- How effective has the Assistance to Firefighters Grant program been at improving the overall level of readiness of emergency responders in the United States? What needs still exist with regard to the ability of fire departments to respond to day-to-day hazards, and in what areas are the gaps the greatest? How should the Federal Government balance support for basic first responder needs with support for counter-terrorism preparedness?
- Please describe the role that non-government participation has played in administering of the program. Should the role of outside groups and individual firefighters be modified and if so how?
- Please describe the results of the September 2003 USFA Inspector General's report on the Assistance to Firefighters Grant Program. What is your reaction to the recommendations of the report and what actions has USFA taken to respond to those recommendations?

Questions for Mr. Mitchell:

- What is the status and outlook for the FY 2004 grant process? What major changes, if any, have taken place in the program since ODP assumed responsibility for administering it this year? To what extent has ODP coordinated with USFA to ensure continuity in program administration?
- What needs still exist with regard to the ability of fire departments to respond to day-to-day hazards, and in what areas are the gaps the greatest?

How should the Federal Government balance support for basic first responder needs with support for counter-terrorism preparedness programs?

Questions for Mr. Shannon

- How effective has the Assistance to Firefighters Grant Program been at improving the overall level of readiness of emergency responders in the United States? What did the NFPA study, *A Needs Assessment of the U.S. Fire Service,* reveal about the ability of fire departments to respond to day-to-day hazards? How should the Federal Government balance support for basic first responder needs with support for counter-terrorism preparedness?
- According to a Program Assessment Rating Tool (PART) evaluation by the Office of Management and Budget, the fire grant program does not address a specific and existing problem, interest or need. What is your response to this conclusion? What measurable evidence is there that the program has improved public safety, and—to the extent more evidence is needed—what metrics should be used to evaluate the success of the program?
- Please provide comments and recommendations on H.R. 4107 and how it might be improved, including specific comments on the following important provisions that the Committee and Congress will be discussing.

Questions for Chief Mitchell, Mr. Schaitberger, and Mr. Stittleburg

- How effective has the Assistance to Firefighters Grant Program been at improving the overall level of readiness of emergency responders in the United States? What needs still exist with regard to the ability of fire departments to respond to day-to-day hazards, and in what areas are the gaps the greatest? How should the Federal Government balance support for basic first responder needs with support for counter-terrorism preparedness?
- According to a Program Assessment Rating Tool (PART) evaluation by the Office of Management and Budget, the fire grant program does not address a specific and existing problem, interest or need. What is your response to this conclusion? What measurable evidence is there that the program has improved public safety, and—to the extent more evidence is needed—what metrics should be used to evaluate the success of the program?
- Please provide comments and recommendations on H.R. 4107 and how it might be improved, including specific comments on the following important provisions that the Committee and Congress will be discussing.

SECTION-BY-SECTION SUMMARY OF H.R. 4107
ASSISTANCE TO FIREFIGHTERS GRANT REAUTHORIZATION ACT OF 2004

Sec. 1. Short Title.

"Assistance to Firefighters Grant Reauthorization Act of 2004"

Sec. 2. Findings.

Contains 27 Findings describing fire department needs and other relevant fire statistics.

Sec. 3. Amendments.

Amends Section 33 of the Federal Fire Prevention Control act of 1974 (15 U.S.C. 2229), which authorizes the Assistance to Firefighters Grant Program (AFGP), making the following changes:

(1) Strikes [FEMA] "Director" each place it appears and replaces with [USFA] "Administrator".

(2) Expands upon authority to make grants to fire departments to also include "volunteer emergency medical service squads".

(3) Expands authority to provide assistance for fire prevention programs under the program to include assistance for "firefighter safety research and development"

(4) Expands upon eligible use of grant funds to include emergency medical services provided by volunteer EMS squads that are not affiliated with a fire department, hospital, or any for-profit entity.

(5) Amends subsection on Fire prevention programs to—

(A) Expand the title to "Fire prevention and firefighter safety research and development";

(B) Clarify that fire departments cannot apply for grants under this subsection.

(C) Expand priority consideration under this subsection to include organizations that focus on prevention of injuries "to high-risk groups from fire, as well as research programs that demonstrate the potential to improve firefighter safety"

(6) Amends subsection on matching requirements to

— reduce the non-federal match for departments serving jurisdictions of greater than 50,000 people from 30 percent to 20 percent; and

— clarify the Fire prevention grants shall not have a matching requirement.

(7) Amends subsection on grant size limitation to provide that—

(A) The total amount a grant recipient may receive is increased from $750,000 to

— $1,000,000 for departments that serve a jurisdiction with 500,000 people or less;

— $2,000,000 for departments that serve a jurisdiction of 500,000 to 1,000,000 people; and

— $3,000,000 for departments that serve a jurisdiction with more then 1,000,000 people. The bill also provides that, upon showing sufficient need, a jurisdiction serving a number of people near the threshold may receive funding up to the next higher level.

(B) Re-designates subparagraph (B) as subparagraph (C)

(C) Provides that "no single recipient may receive more than one half of one percent of the funds appropriated under this section for a single fiscal year"; and

(D) Requires that not more than four percent of the funds appropriated to provide grants may be collectively awarded to volunteer medical service squads."

(8) Codifies current grant program practice regarding annual criteria development and peer-review process. Also adds at the end the following new paragraph on discrimination of volunteer firefighters:

"(16) Protection of volunteers from discrimination—A fire department receiving funds provided under this section shall not discriminate against, or prohibit its

members from engaging in, volunteer activities in another jurisdiction during off-duty hours."

(9) Authorizes annual appropriations of $900 million for the program through fiscal year 2007.

Sec. 4. Reports.

(a) Study on Need for Federal Assistance to State and Local Communities to Fund Firefighting and Emergency Response Activities—Directs the Administrator to—

(1) reconduct the study required under section 1701(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, in conjunction with the National Fire Protection Association, to——

(A) define the current role and activities associated with the fire services;

(B) analyze the extent to which grant awards fulfill the goals of applicants; and

(C) provide a needs assessment to identify shortfalls;

(2) express the needs assessment under subparagraph (A)(iii) on a national and State-by-State basis; and

(3) measure the impact the Assistance to Firefighters Grant program under section 33 of the Federal Fire Prevention and Control Act of 1974 has had in meeting the shortfalls identified in the original report conducted under such section 1701(b).

(b) Time for Completion of Study; Report—Directs the Administrator to complete the study under subsection (a), and submit a report on the results of the study to Congress, not later than 18 months after the date of the enactment of this Act.

(c) Authorization of Appropriations—Authorized to be appropriated to the United States Fire Administration $300,000 for fiscal year 2005 to carry out the study required by subsection (a).

Mr. SMITH OF MICHIGAN. [Presiding] The Committee on Science will come to order. The Chairman is in an emergency session of the Intelligence Committee, and so for the time being, I will proceed. He expects to be here before the hearing is over.

Let me just say I would like to thank Chairman Boehlert and Mr. Gordon for having this hearing. We are talking about a program that has worked very well today, and specifically H.R. 4107, the Assistance to Firefighters Grant Reauthorization Act for 2004. I would like to thank certainly all of the Members from both sides of the aisle, as we have tried to have legislation that is going to allow this program that we started in the year 2000 to continue in the successful way that it has continued, and David Paulison is here and Mr. Paulison and your staff—we would like to compliment you for allowing us to have this bill hearing today because if the program hadn't run effectively, if a peer-review hadn't worked efficiently and if we weren't able to get this out to what is nearly now 17,000 fire departments across the country, there wouldn't be the kind of support that we are seeing today for the continuation of this legislation.

H.R. 4107 is the product of a collaborative effort between fire service organizations and Members of Congress who are all highly supportive of firefighters, but sometimes differ in their opinions of maybe the best way to proceed to make this legislation better and to make sure that it continues from here on. This legislation increases the amount to $900 million a year. It tries to encourage more participation from some of the larger departments by lowering the threshold that those departments can contribute and participate in this program, but still at the same time gives a reserve opportunity for volunteer fire departments across the country to make sure that they can participate.

I would like—without objection, Chairman Boehlert's statement will be entered into the record, and if he prefers to give it at a later time, he can do that also. But without objection, Chairman Boehlert's statement is entered into the record, and with that, I will turn the speaker over to Mr. Gordon.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF REPRESENTATIVE NICK SMITH

I'd like to thank Chairman Boehlert for holding this hearing today to discuss H.R. 4107, the *Assistance to Firefighters Grant Reauthorization Act of 2004.* I'd also like to thank all of the Members from both sides of the aisle who worked so hard to draft H.R. 4107. Mr. Chairman, when you and I, along with Curt Weldon, Steny Hoyer, and Bill Pascrell drafted the legislation that created the fire grant program back in 2000, there was a lot of skepticism about the need for it and whether or not it would be effective. In fact, the program has exceeded just about all expectations, having already distributed $1.1 billion in funding to 17,000 fire departments around the country with another $750 million slated to go out this year.

One person who deserves a lot of credit for this is here to testify, David Paulison, Administrator of the United States Fire Administration. Because of the efforts of Administrator Paulison and his staff, grants have been awarded on a competitive basis and equipment and training have gotten to the fire departments that need it the most. When I talk to firefighters who have been involved with the fire grant program, they have nothing but good things to say about USFA and the way that the program has been run.

This year, for the first time, the Office of Domestic Preparedness is administering the program. I look forward to hearing from Andrew Mitchell later on about how that process is coming because I am concerned that in the long run, the focus of

the fire grant program will shift if it is administered by ODP instead of USFA. H.R. 4107 transfers the fire grant program back where I think that it belongs, at USFA.

H.R. 4107 is the product of a collaborative effort between fire service organizations and Members of Congress who are all highly supportive of firefighters, but sometimes differ in their opinions on how that support should be expressed. I don't think that anyone got everything that they wanted out of this bill but it is good solid legislation that will improve first responder capabilities across the country, in all types of communities.

Career departments, which generally protect large communities and 40 percent of the Nation's population, should receive more than the 17 percent of the fire grant funding that they received in fiscal year 2003 under the fire grant program. In H.R. 4107, we address this problem by lowering the matching requirement for large departments and increasing the maximum grant size.

Volunteer fire departments are vital in protecting small communities, especially in rural areas like my hometown of Addison, Michigan. Volunteer firefighters are incredibly selfless, putting their lives at risk for no reward greater than the knowledge that they are making their community a safer place to live. Many career firefighters actually get their start as volunteers, only joining a paid department after they have attained a basic level of training and experience. It is unconscionable that any volunteer would be told that he or she must choose between a job and protecting their friends and neighbors.

A provision in H.R. 4107 that I'm sure we will be talking about a lot today would make fire departments that prohibit employees from volunteering ineligible to receive a fire grant. I understand that this provision is opposed by the International Association of Fire Fighters for a variety of reasons that they will elaborate on in a few minutes. This isn't surprising seeing as their own constitution prohibits members from volunteering. They figure that if you get rid of all the volunteers, municipalities will be forced to hire new union members. Maybe this makes sense to union lobbyists in Washington, but it doesn't seem fair to the thousands of career firefighters that choose to volunteer out of a sense of civic duty. Eliminating volunteer firefighters would compromise safety in thousands of communities across the country like my own that simply do not have the resources to maintain anything but a volunteer or combination fire department.

I'd like to thank all of the groups, administration representatives, and my colleagues from the Congressional Fire Services Caucus for appearing here to testify on the bill, H.R. 4107. I look forward to a productive discussion.

Mr. GORDON. Thank you, Mr. Chairman. I am pleased to join you in welcoming our witnesses to the hearing on legislation to improve the capabilities of the Nation's fire services. The focus of H.R. 4107 is on providing the resources necessary to increase the effectiveness of fire services in performing their critical public safety role, while also improving firefighter safety. Too often in the past, fire services were taken for granted and given too low a priority in public resource allocation, despite serious needs. For example, a Congressionally mandated survey of the United States Fire Services, released at the end of 2002, found that 233,000 firefighters, 21 percent of the U.S. total, lacked formal training in structural firefighting, that more than 10,000 fire pumper trucks in service are more than 30 years old, and that 57,000 firefighters have no personal protective clothing.

Today, we will consider a federal program that helps to redress this problem. The FIRE Grants Program was established by Congress to make a substantial increase in direct assistance to fire departments to help provide the tools they need to do their job. Thus far, nearly $2 billion has been appropriated over four years to support training programs for fire service personnel and to provide resources for the purchase of up-to-date firefighting and emergency response equipment. The legislation we will consider today will reauthorize the Grants Program through fiscal year 2007 at the currently authorized funding level of $900 million a year.

The bill also makes some changes to the way the program is currently implemented, including increases in maximum award size, a reduction in the cost share for large fire departments, and support for research grants on ways to improve firefighting safety. Unfortunately though, this bill also includes a fatal provision that imposes a new restriction on the award of FIRE Grants, which raises serious concerns. This provision denies grants to departments whose contracts prohibit their firefighters from volunteering during off-duty hours. Although well-intended, the provision has the effect of mandating a collective bargaining restriction on local fire services. And although this doesn't apply to many services, I think it is a very bad precedent. I think all of us probably in this room—I know Mr. Davis certainly knows what pancake breakfasts are at the local volunteer fire departments. I went to two of them just last weekend. So we certainly are supporting our local volunteer fire departments, but this is the wrong way to go about it.

I believe a grant program to assist fire departments in obtaining equipment and training is not the right place to dictate terms of employment contract. Interestingly, just in the last couple of weeks, the Chairman who is not—couldn't be here today said that we could not take up a particular provision of the bill because it might mean that we would have joint jurisdiction. I think this provision would allow again a joint referral, which could slow down this process. For that reason, I am going to have an amendment at the Full Committee that will take this provision out because I think that it is a needless controversy, not only with the joint referral, but also I think that it is simply a very bad precedent.

So I would like to obtain the views of our witnesses on these proposed changes to the FIRE Grants Program, as well as on any other recommendations they have for improving the program. I am interested in hearing what the impact of this program has been from some of those it is intended to benefit and determining whether it is being effectively implemented and administered.

Again, I want to welcome our witnesses today and I look forward to this discussion.

[The prepared statement of Mr. Gordon follows:]

PREPARED STATEMENT OF REPRESENTATIVE BART GORDON

Mr. Chairman, I am pleased to join you in welcoming our witnesses to this hearing on legislation to improve the capabilities of the Nation's fire services.

The focus of H.R. 4107 is on providing the resources necessary to increase the effectiveness of the fire services in performing their critical public safety role, while also improving firefighter safety.

Too often in the past, fire services were taken for granted, and given too low a priority in public resource allocations, despite serious needs.

For example, a congressionally mandated survey of the U.S. fire services released at the end of 2002 found that 233,000 firefighters—21 percent of the U.S. total—lack formal training in structural firefighting, that more than 10,000 fire pumper trucks in service are more than 30 years old, and that 57,000 firefighters have no personal protective clothing.

Today we will consider a federal program that helps to redress this problem. The Fire Grants program was established by Congress to make a substantial increase in direct assistance to fire departments to help provide the tools they need to do their job.

Thus far, nearly $2 billion has been appropriated over four years to support training programs for fire service personnel and to provide resources for the purchase of up-to-date firefighting and emergency response equipment.

The legislation we are considering today will reauthorize the grants program through fiscal year 2007 at the currently authorized funding level of $900 million per year.

The bill also makes some changes to the way the program is currently implemented, including increases in maximum award size, a reduction in the cost share for large fire departments, and support for research grants on ways to improve firefighter safety.

Unfortunately, the bill also includes a fatal provision that imposes a new restriction on the award of Fire Grants, which raises serious concerns.

This provision denies grants to departments whose contracts prohibit their firefighters from volunteering during off duty hours. Although well intentioned, the provision has the effect of mandating a collective bargaining restriction on local fire services.

I believe a grant program to assist fire departments in obtaining equipment and training is not the right place to dictate the terms of an employment contract.

I would like to obtain the views of our witnesses on these proposed changes to the Fire Grants program, as well as on any other recommendations they may have for improving the program.

I am interested in hearing what the impact of this program has been from some of those it is intended to benefit and in determining whether it is being effectively implemented and administered.

Again, I want to welcome our witnesses today, and I look forward to our discussion.

Mr. SMITH OF MICHIGAN. I am going to allow other Members to say a brief comment. This is important legislation, and I would ask the Members to try to hold their verbal comments at this time down to about 1 minute and then put in the rest of their statement for the record, and with that, I would call on Mr. Gutknecht.

Mr. GUTKNECHT. Thank you, Mr. Chairman, and I only want to say that I apologize to some of the witnesses here today. That we have so many other things going on and a lot of other Members have Committee hearings going on at the same time, and it is not that this is not important. It is very important and we are very honored to have so many of you here today, and—as witnessed by the fact that even the Chairman can't be here. Don't take that as any kind of a besmirch to the firefighters, because we do appreciate what you do every day and your members do every day, and we try to do the best on this committee and in the Congress to recognize that.

So again, thank you so much for coming, and we apologize that many of us have other events and other meetings that are going on at the same time.

Mr. SMITH OF MICHIGAN. Ms. Woolsey.

Ms. WOOLSEY. I will be very quick because I know our witness is in a hurry. I would like to say that what I am hoping we will talk about today that I want to hear about is using the FIRE Act to address local fire department policies and the separation between federal decisions and local decisions. So I am very interested in hearing that from both my colleagues and from the witnesses.

So thank you very much, and I would like to comment on Mr. Gutknecht's comment. Actually, this is a pretty good showing for a hearing, so it does already show that we care a lot about you.

Mr. SMITH OF MICHIGAN. Would anyone else like to make a comment? Mr. Davis.

Mr. DAVIS. Thank you, Mr. Chairman. When I am in the rural areas, I see volunteer fire departments who make a tremendous difference in our local communities, and I applaud the efforts and certainly those in Congress for making available funding for our

fire departments, whether they are full-time or whether they are volunteer fire departments.

What I might say, and Mr. Gutknecht certainly was apologetic, but really what happens is that if you are not doing your job right and you are—we all want to find out how we can improve it. So in essence, I think it is a compliment to you that you don't have a great deal of the Members of Congress here that would ask you questions. We, in essence, trust you, we believe in you, and we know that you are doing a fine job, and I applaud the service that you provide. We have local law enforcement, emergency personnel, educators that are committed, but I don't think there is a group more committed than—in the district I represent than our volunteer fire departments and those who work in the full-time fire departments.

Thank you for being here, and I apologize for the brevity of many of our comments.

Mr. SMITH OF MICHIGAN. And again, the full opening comments of all Members will be entered and be part of the record. Mr. Rohrabacher, did you want did you want to make a——

Mr. ROHRABACHER. I will make mine very quick. Thank you, Mr. Chairman. Firefighting is vital. We in California understand that. We go through these conflagrations where people die and large—and hundreds of millions, even billions of dollars of property are lost. I am—I will be looking at this legislation very closely. I am personally interested in making sure that if we are providing support and supplementing the ability of local firemen to confront certain challenges that we also permit people from—and I will give you this example, the Soviet Union collapsed and became Democratic Russia, but Democratic Russia invested in developing firefighting equipment. They actually have people that can fly in airplanes over and help us fight fires, but they have been frozen out of our market.

It seems to me that we should be able to help our local firefighters contract out for huge forest fires and things, if they would like to do so, and I am looking at this legislation as a possible vehicle for that goal.

Thank you.

[The prepared statement of Chairman Boehlert follows:]

PREPARED STATEMENT OF CHAIRMAN SHERWOOD L. BOEHLERT

Let me welcome everyone here this morning to this hearing on H.R. 4107, the *Assistance to Firefighters Grant Reauthorization Act of 2004.* I introduced this legislation with my esteemed colleagues Curt Weldon, Bill Pascrell, Steny Hoyer, Nick Smith, and Rob Andrews—to continue, indeed to strengthen, what is one of the most popular, respected, and well-run grant programs in the Federal Government.

You know, in large part because of the actions of this committee, the U.S. Fire Administration began investing in improving fire prevention and control in 1974. At that time, over 12,000 Americans were dying each year because of fire. Now as USFA nears its 30th birthday, we have cut those losses to under 4,000 people. We have an active Congressional Fire Services Caucus that is the largest caucus on Capitol Hill. We're throwing our weight around on fire policy issues and strengthening the Federal Government's role and contributions. But we all know that we need to do better than that. The United States still has one of the highest fire loss rates in the industrialized world.

And the centerpiece of federal efforts to reduce those losses is indeed the Assistance to Firefighters Grant Program that we will discuss today. I should also mention that another very important program that will provide an ideal complement to the fire grant program is the SAFER Act, which will provide grants for hiring fire-

fighters and was signed into law late last year. We are still working on getting funding for SAFER but are optimistic we will succeed.

You know, whether it is the Utica, or Cortland, or Auburn Fire Departments in my district in upstate New York, or the fire departments in Nebraska, Alaska, Hawaii, or any state, the U.S. Fire Administration's fire grant program has provided critical funding for a critical issue. In all now, over $1.1 billion for over 16,000 fire departments, and another $750 million that is being competed for right now. And, I should add, it has done so through a competitive, peer-reviewed grant process that has resulted in an efficiency and fairness all too uncommon in most federal programs.

But as I indicated, we're a long way from where we need to be. A comprehensive review of fire department capabilities conducted by NFPA in conjunction with the program found significant gaps. An estimated one-third of firefighters per shift are not equipped with self-contained breathing apparatus; nearly half of firefighters on a shift lack "IPASS" personal alert devices; only one-fourth of fire departments have thermal imaging cameras. I could go on and on and on, but those statistics illustrate the significant needs that have yet to be addressed.

Let me now briefly describe the bill before us, which will allow us to continue to address these most pressing needs. The legislation reauthorizes the fire grant program for three more years, at its current authorized level of $900 million per year. It mandates the peer-review process that has been such a critical component of the program's success. It calls on USFA to administer the program the right agency with the track record of success in working with the fire services. It increases the maximum allowable grant size and decreases the matching requirement for larger departments—two issues that were very important to the fire services, which we worked very closely with—in our usual bipartisan fashion, to craft this bill.

With that, I will stop, as we have eight witnesses before the Committee and a limited amount of time for discussion.

[The prepared statement of Mr. Weldon follows:]

PREPARED STATEMENT OF REPRESENTATIVE CURT WELDON

I would like to thank Chairman Boehlert for his leadership in the House Science Committee to make firefighter issues a top priority and for allowing me to submit my testimony for the record today. Please accept my apologies for my not being present at the hearing today.

I am extremely proud of the Assistance to Firefighters Grant Program and especially the manner in which it was created by a handful of very dedicated and bipartisan group of lawmakers from the Congressional Fire Services Caucus. The reauthorization of this program, H.R. 4107, introduced by Representatives Sherwood Boehlert, Bill Pascrell, Nick Smith, Steny Hoyer, Robert Andrews, Chris Cox, Jim Turner and myself, represents a broad spectrum of the House of Representatives and how great things can be accomplished in Congress when we work together.

As a former fire chief with first-hand knowledge of the needs of the fire service, I am proud of H.R. 4107 because it succeeds in addressing the many important issues and shortfalls that have affected the Nation's career, volunteer, combination, urban, rural and suburban fire departments. It also addresses the needs of the many essential entities that engage in fire prevention, fire safety and EMS services. I urge all of the Members of this committee to co-sponsor this legislation.

It is necessary to ensure that Fire Act grants are attainable and worthwhile for all departments, whether they are integrated within a large metropolitan department or a single suburban or rural department. However, it is sometimes not feasible for cities with budgetary problems to come up with the same 30 percent match for their large and sophisticated grant requests and also provide for as many as 30 different fire houses within highly populated cities. In comparison, a greater number of smaller departments per capita can raise their match for small grant requests with chicken dinners and boot brigades. Therefore, the 30 percent match for departments serving populations larger that 50,000 persons should be lowered to 20 percent, and the limitations on grant awards should be raised on a graduated scale to permit the few very large departments to be able to provide for numerous fire houses.

A paramount concern of the Fire Caucus and this committee is the future of this grant program within the Department of Homeland Security. When Congress passed the Fire Act prior to September 11, 2001, it did so without any intention for it to be used for terrorism preparedness. Instead, Congress aimed to correct the lack of basic needs and unsafe circumstances that were left unaddressed for too long. To prevent this program from being consolidated among the numerous anti-terrorism

programs within the Office of Domestic Preparedness and to embrace the tremendous success and experience within the U.S. Fire Administration, I believe it is appropriate to return this program to the direction of Chief R. David Paulison.

Fire prevention and fire safety grants are a small but vital asset to the fire services community. They are the source of safety education, smoke detector dispersal, technology research and development, burn prevention and many other programs that drastically reduce fires, injuries and the loss of lives. Since these programs are usually provided by non-profit organizations that are not affiliated with State and local budgets, Congress did not impose a match requirement. The reauthorization bill properly removes the unexpected match put into place by the Department of Homeland Security for these grants and expands the research and development activities under the program.

An additional concern of mine are the few, yet very significant acts of discrimination imposed on career firefighters who wish to volunteer in their hometowns by their local union or the city employer. The sponsoring Members of the Congressional Fire Services Caucus have taken a courageous step by making it clear that the Federal Government does not wish to sponsor those departments who selfishly jeopardize the emergency preparedness of our country by attacking our volunteering force. Despite the sensitivity of this issue, I implore the Members of this committee to consider the wishes of the firefighters, who are the innocent origin of this too frequent debate.

As evidenced from the International Association of Fire Fighters (IAFF) Charter, career firefighters were originally discouraged from volunteering in other departments because they are considered 'rival' organizations that threatened the membership and negotiating power of unionized departments. Through time, new justifications were given such as health, safety and theories of local control. I commend Harold Schaitberger, President of the IAFF, for acknowledging the importance of the volunteer force and the lack of enforcement of this provision in their charter by the national organization. However, due to the rise in combination departments where volunteer departments hire full-time firefighters to satisfy staffing and safety standards, local unions are beginning to make discriminating controls on firefighters a principle request in collective bargaining negotiations. When all is said and done, the total firefighting force in America is weakened.

It should be noted that some situations illustrate that this may be practiced for competitive, rather than legitimate concerns. For example, a recent ruling by the New York City firefighters union prevents its members from volunteering in combination departments who posses one or more full-time, paid firefighters. The practice of discriminating against combination departments as opposed to volunteer-only departments illustrates that membership and union influence was the principle factor in that decision. Due to the increasing demands of homeland security today, the number of combination departments will rise. As the number of completely volunteer departments fall, firefighter discrimination and the number of affected communities will also rise.

This is not an exaggeration. Suburban and rural volunteer fire departments are now threatened in Maryland, Virginia, New York, Connecticut, Wisconsin, Washington, California and Florida. Since career firefighters often travel great distances to reach their workplaces, I guess that three times as many states are impacted from this practice. As a result, an increased number of suburban and rural departments are stressed, which are the essential supporting cast of first responders during large or regional emergencies.

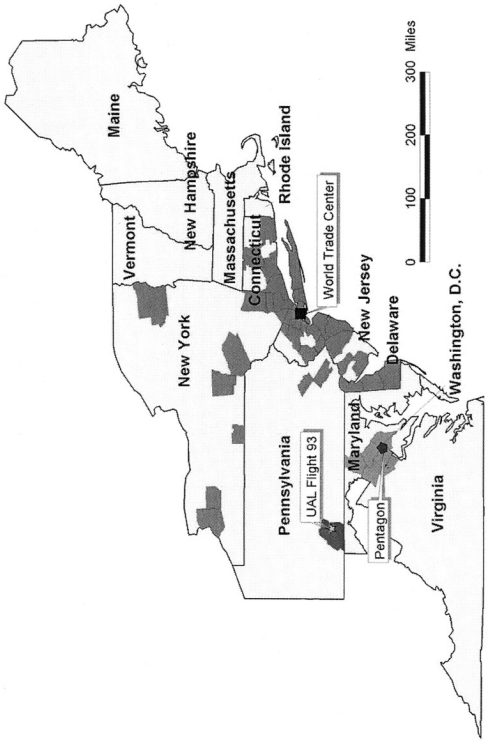
During September 11, 2001, responding departments arrived on Ground Zero and the Pentagon from Long Island, upstate New York, Pennsylvania, Connecticut, Delaware, Virginia, Maryland and West Virginia. A report published by the National Volunteer Fire Council on August 1, 2002, estimated that approximately 285 departments, including 2,613 volunteers provided over 43,700 hours of service at the World Trade Center. Over 100 departments participated in the Pentagon response with about 1,930 volunteers providing about 30,000 hours of service. Meanwhile, only volunteers from 10 departments provided over 1,500 hours of service in Somerset, Pennsylvania. (A map of the responding fire departments on September 11, 2001 follows.) The anti-discrimination clause in H.R. 4107 protects this admirable and essential volunteer career firefighter resource that is obviously depended upon by urban departments during large incidents.

As a volunteer firefighter and traditional and steadfast supporter of all career firefighters, for whom this provision was created, I encourage the long-deserved debate on this issue. I only ask that Members examine both sides of this argument and reach out to the fire companies in their districts before they come to a conclusion.

The reauthorization bill takes a comprehensive approach to addressing the concerns of all of our fire service organizations, including the union. I believe that my fellow Members of the Congressional Fire Services Caucus have performed admirably with the introduction of this bill and I seek the Committee's support for its passage.

Thank you again for allowing me this opportunity to speak on behalf of the Assistance to Firefighters Grant Program.

Figure 1: Overview of Attack Sites and Volunteer Response Jurisdictions



[The prepared statement of Mr. Costello follows:]

PREPARED STATEMENT OF REPRESENTATIVE JERRY F. COSTELLO

Good morning. I want to thank the witnesses for appearing before our committee to discuss legislation to reauthorize appropriations for the Assistance to Firefighters Grant program which provides fire departments with the tools and training necessary to protect the health and safety of firefighters and the public they serve.

As a member of the Congressional Fire Services Caucus, I have a deep interest in this matter. The U.S. has one of the highest fire death rates in the industrialized world. Each year, fire kills more Americans than all natural disasters combined. Over 4,000 people die each year from fire in America, including an average of about 100 firefighters in duty-related incidents. A significant amount of evidence suggests that if we were to increase the number of firefighter personnel, many of these preventable injuries could be avoided.

In 2000, Congress established the AFGP to award grants to local fire departments to protect the health and safety of the public. Since 2001, the AFGP has distributed $1.1 billion to nearly 17,000 fire departments around the country. At present, more than 20,000 departments have applied for the $750 million available for the AFGP in FY 2004. The current authorization expires this year.

Chairman Boehlert recently introduced legislation reauthorizing this important program. While the FIRE Act has long enjoyed bipartisan support, I was disappointed language was included in the reauthorization which would affect local collective bargaining agreements for career firefighters. Experience has proven that when public safety officers can discuss workplace conditions, partnerships and cooperation develop, leading to improved labor-management relations and better, more cost effective, service. This results in improved delivery of public safety services. Legislation which severely alters these local collective bargaining agreements restricts employees fundamental right to bargain with their employer. It is my hope that we can resolve this issue so we can move the legislation forward and not turn the FIRE Act into partisan politics.

I welcome our panel of witnesses and look forward to their testimony.

[The prepared statement of Ms. Johnson follows:]

PREPARED STATEMENT OF REPRESENTATIVE EDDIE BERNICE JOHNSON

Thank you, Chairman Boehlert and Ranking Member Gordon, for calling this hearing today on such an important issue. I would also like to thank our distinguished witnesses, especially our colleagues Representative Bill Pascrell and Minority Whip Steny Hoyer, for agreeing to testify.

Our hearing focuses on reauthorization of the Assistance to Firefighters Grant (AFG) program. The Assistance to Firefighters Grant program provides one-year grants directly to local fire departments to protect the health and safety of the public and firefighting personnel against fire and fire-related hazards, giving priority to programs that have an emphasis on children and fire prevention efforts.

Although there are many aspects of this bill that are essential to assisting our nation's fire departments as they protect our citizens from the dangers of fire, there are also some troubling issues that we need to address here today.

I am especially concerned about provisions in this bill that block a local fire department's ability to regulate outside volunteer service. I do not believe we should be using the FIRE Act to address these issues. The FIRE Act should be used solely for providing federal assistance to local Fire Departments, not for overturning provisions of local collective bargaining agreements.

I believe we are treading on dangerous grounds once we begin to use the FIRE Act to compel Fire Departments to adopt certain policies. There are much more important matters we should be addressing. For example, we should require Fire Departments to abide by OSHA standards that protect the safety of our firefighters, or require that fire departments meet basic levels of preparedness. While I am concerned that such restrictions could ultimately weaken the program, if we decide to retain the current restriction regarding volunteer firefighters, there are other issues I hope we will address.

And for these reasons, I strongly support removal of this provision from the legislation.

The FIRE Act has long enjoyed bipartisan support, and I am disappointed that such divisive language has been inserted into this bill. I hope we can resolve this issue so we can move the legislation forward, and not turn the FIRE Act into another partisan football.

Again, I would like to thank all of our witnesses for appearing here today, and I look forward to your testimony.

Mr. SMITH OF MICHIGAN. Well, we would now turn for his testimony to Mr. Pascrell from New Jersey, an extremely diligent and dedicated member, to move ahead on fire issues. So Mr. Pascrell, please proceed.

Panel 1:

STATEMENT OF HON. BILL PASCRELL, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. PASCRELL. Thank you, Chairman Smith and Ranking Member Bart Gordon, distinguished Members of this great Committee. I appreciate the opportunity to speak with you today on H.R. 4107, legislation crafted to reauthorize the Assistance to Firefighters Grant Program, again continuing to try to respond to the other half of the public safety equation, which for so long has been neglected.

This topic has been particularly close to my heart as long as I have been here. In 1999, I introduced the Firefighter Investment Response Act, which provided federal grants directly to local fire departments to help address a variety of equipment, training and other firefighter-related needs that have been well-documented, and have been well-documented since then. Since then, the program has distributed over $1.1 billion in funding to over 16,000 fire departments across the country. Indeed, career and volunteer fire departments throughout America have received funds for such items as improved breathing apparatuses, personal protective gear, fire engines, advanced training, fitness programs, which I can tell you anecdotally has helped save the lives of a few people in my own district, communications systems and Hazmat detection devices, just to name a few.

It has been remarkable the success that we have brought to this program, all of us on both sides of the aisle, and it is fair to say that hometowns across our nation have greatly benefited. I would be remiss if I did not tout the exemplary leadership of several Members, many of whom sit on this committee. Chairman Boehlert, Curt Weldon, Nick Smith have shown their commitment to firefighters time and time again, long before I got here. Your passion and knowledge for issues important to the fire service is very extraordinary, and without your dedication and diligence, the FIRE Grant Program may never have become reality.

I would like also to express my strong admiration for Steny Hoyer and Rob Andrews, two Members on our side of the aisle who have been steadfast allies. It has been an honor to work with all of you. And I think much of the success of the FIRE Grant Program derives from that very bipartisanship which we have held since 1999, believe it or not, which is pretty remarkable in this place. Trying to help thousands of local fire departments achieve their vital missions you have made a priority on your agenda. It hasn't been easy; not when we first introduced this in '99 and not now in introducing H.R. 4107 to reauthorize the program. All of us understand we must come together to provide our firefighters with the tools and resources necessary so they can perform their jobs.

While the program has been a resounding success, there is always room for improvement, and I believe H.R. 4107 will help better serve both career and volunteer fire departments across the country, and we have been focused on trying to make this not only a career program or a volunteer program, we have brought—done everything in our power in this legislation to bring the services together so that we are not trying to do one-upmanship, and I think if you looked at the history of the grants, particularly in the first two years, there has been a tenacious attempt to be fair, to be open, and isn't it ironic we haven't had any complaints? That is very different from what I am used to down here in Washington, D.C.

When the program was first developed, we placed a cap on the size of the awards at $750,000, regardless of whether it was a large town or small town. At the time, we thought that this would increase the number of grants to be awarded, but we have quickly learned that having the same cap applied to all jurisdictions brings forth unfavorable consequences. The fact is that larger fire departments often need more funds. Fire departments in some of America's largest cities protect millions of people. We can all agree that New York City, for example, should not have the same cap placed on it as a small volunteer department.

To help remedy this, H.R. 4107 increases the dollar amount available to the largest departments from the current cap of $750,000 to $3 million for jurisdictions serving more than one million people. Departments serving between 500,000 and one million would be eligible for $2 million, and all other departments would be qualified for $1 million. These changes will give more of our large and high-threat urban fire departments greater access to these funds for their basic needs. Another change in H.R. 4107 is the reduction of the matching requirements for career fire departments. Currently, large jurisdictions must match 30 percent of the federal funds. We have discovered that in certain instances, this has been problematic, to the point where some fire departments do not even apply for FIRE Grant funding.

We have also seen some communities turn down FIRE Grant awards because they cannot come up with their own matching money. To alleviate this problem, we have reduced the matching requirement by ⅓, down to 20 percent. We feel this is a fair and just response that will alleviate much of the problem. Another issue I am glad that H.R. 4107 addresses is the actual location of the program itself, and I would ask you please to pay particular attention to what I am about to say. It is not to minimize or denigrate any other agency whatsoever. But we are all aware that the management of the FIRE Grant Program was transferred this year from the United States Fire Administration to the Office of Domestic Preparedness. Our legislation puts it back into USFA. I believe it belongs there.

While I have enormous respect for ODP and the work that they are doing, particularly in Homeland Security—the men and women who work within it I have great respect for. But the simple fact is the USFA has done an extraordinary job of first getting this program off the ground in 2000 and responding to the communities in a fair and adequate way of evaluation and reevaluation. It has

been praised by all realms for its remarkably efficient manner in administering the program. When money goes directly to communities where there is no skimming, where there is no bureaucratic nightmare, we have found that many times, this is the success of the program. It is at the core of the program.

The FIRE Grant Program is about addressing basic critical needs. Long before 9/11, the folks sitting up there addressed these needs, and all of us addressed those needs. We all know the statistics. We know that 45 percent of the firefighters lack standard portable radios still to this day. Forty—57,000 firefighters lack critical personal protective clothing. We know that 10,000 fire engines are at least 30 years old or more, and the statistics go on and on. These are basic needs. These are needs that firefighters have to deal with day in and day out, be they on a small farm community or in a large community in this country, and I ask you, Mr. Chairman—I thank you for giving me this time. This is an exceptional Committee. You have done exceptional things. Please do this exceptional thing and continue what is a very successful program.

Any questions, I will try to answer them.

[The prepared statement of Mr. Pascrell follows:]

PREPARED STATEMENT OF THE HONORABLE BILL PASCRELL, JR.

Mr. Chairman, Ranking Member Gordon, and distinguished Members of the Committee, I appreciate the opportunity to speak with you today about H.R. 4107, legislation crafted to reauthorize the Assistance to Firefighters Grant Program.

As you know, this topic is particularly close to my heart, and has been for as long as I can remember. In 1999, I introduced the *Firefighter Investment and Response Act,* to provide federal grants directly to local fire departments to help address a variety of equipment, training and other firefighter-related needs. It has been my greatest honor to see this bill signed into law.

Since then, the program has distributed over $1.1 billion in funding to almost 16,000 fire departments across the country. Indeed, career and volunteer fire departments throughout America have received funds for such items as improved breathing apparatuses, personal protective gear, fire engines, advanced training and fitness programs, communication systems and hazmat detection devices—just to name but a few.

It has been a remarkable success to say the least. It is fair to say that hometowns across our nation have greatly benefited from the Fire Grant Program.

Of course, I would be remiss if I did not tout the exemplary leadership of several Members—many of whom sit on this very committee. Chairman Boehlert, Curt Weldon and Nick Smith have shown their commitment to firefighter's time and time again. Your passion and knowledge for issues important to the fire service is simply extraordinary, and without your dedication and diligence, the Fire Grant Program may never have become a reality.

In addition, I would also like to express my strong admiration for Steny Hoyer and Rob Andrews, two Members on my side of the aisle who have been steadfast allies to fire and emergency personnel throughout their service in Congress. It has been an honor to work with all of you.

And I think much of the success of the Fire Grant Program derives from that very bipartisanship. We know that this isn't a Republican or Democratic issue. Helping thousands of local fire departments achieve their vital missions is an obligation that cannot be marred by politics.

And it hasn't been. Not when we first introduced this in 1999 and not now, with the introduction of H.R. 4107, to reauthorize the program.

All of us understand that we must come together to provide our firefighters with the tools and resources necessary so they can perform their vital jobs as safely and effectively as possible, and I truly believe that this bill is another large leap in the right direction.

While the Program has been a resounding success, there's always room for improvement, and I believe that H.R. 4107 will help better serve both career and volunteer fire departments across the country.

For example, when the program was first developed, we placed a cap on the size of awards at $750,000. At the time we thought that this would increase the number of grants to be awarded, but we have quickly learned that having the same cap apply to all jurisdictions brings forth unfavorable consequences.

The fact is that larger fire departments often need more funds. Fire departments' in some of America's largest cities protect millions of people. We can all agree that New York City, for example, should not have the same cap placed on it as a small volunteer department elsewhere in the country.

To help remedy this, H.R. 4107 increases the dollar amount available to the largest departments by 400 percent—from the current cap of $750,000 to $3 million for jurisdictions serving more than one million people.

Departments serving between 500,000 and one million people would be eligible for $2 million and all other departments would qualify for $1 million. These changes will give more of our large and high-threat urban fire departments greater access to these funds for their basic needs.

Mr. Chairman, another change in H.R. 4107 is the reduction of the matching requirement for career fire departments. Currently, large jurisdictions must match 30 percent of federal funds. We have discovered that in certain instances this has been problematic—to the point where some fire departments do not even apply for Fire Grant funding. We have also seen some communities turn down Fire Grant awards because they cannot come up with the matching requirement.

To help alleviate this problem we have reduced the matching requirement by one-third-down to 20 percent. We feel this is a fair and just response that will help alleviate much of the burden that some jurisdictions encounter.

Another issue that I am glad H.R. 4107 addresses is the actual location of the program itself. As we are all aware, management of the Fire Grant Program was transferred this year from the United States Fire Administration to the Office of Domestic Preparedness. Our legislation puts it back into the USFA, where it rightfully belongs.

While I have enormous respect for the ODP and the men and women within it, the simple fact is that the USFA has done an extraordinary job of running this program. It has been praised by all realms for its remarkably efficient manner in administering the program. There is no reason to take it from its original home.

The ODP has an emphasis on terrorism preparedness—a worthy and vital mission to be sure. But the Fire Grant program is about addressing the basic, critical needs of firefighters.

We all know the statistics. We know that 45 percent of firefighters lack standard portable radios, and 57,000 firefighters lack critical personal protective clothing. We know that 10,000 fire engines are at least 30 years old. These are basic needs that have gone unmet. We need a program that addresses these basic needs, and we need that program to be administered by an agency that is equally focused on such goals.

The firefighters whose bravery and valor protect our nation deserve all that we can give them. I firmly believe that H.R. 4107 furthers our promise to those who make the ultimate commitment to us every day.

Chairman Boehlert, Members of the Committee, I thank you for giving me the time to speak to you on this important legislation and I look forward to continuing to work with you as we navigate this through the legislative maze that is Capitol Hill.

DISCUSSION

Mr. SMITH OF MICHIGAN. Bill, thank you very much. Let me mention that Mr. Hoyer is planning on being here at 11:30. We will entertain questions for you now, Mr. Pascrell. I will start.

You are one of the co-sponsors of the bill. Do you support the bill, as it is written now?

Mr. PASCRELL. Yes, I do.

Mr. SMITH OF MICHIGAN. Mr. Gordon.

Mr. GORDON. Thank you. Mr. Pascrell, you have been very eloquent and I—and a long-time supporter and leader in this program. What I will do is just—I would like to yield my time to you, if you want to expand on any of your earlier comments.

Mr. PASCRELL. I would simply say that when I go throughout the country to see the good that this program has provided fire departments—and you know what it has done? It has energized departments all over the country because they have always felt left out. When we looked in 1999 at how much money was going through to police departments, which I aggressively and you have aggressively supported, and very little dollars came from the Federal Government, this is a sea change and we want to make it not only a sea change in money, but one that affects the morale of our firefighters, the million of them throughout America.

Mr. GORDON. As Mr. Davis pointed out, in our part of the country, we have many, many more volunteer fire departments than we do regular fire departments, career fire departments, and there is really not a weekend, I don't think, goes by that one of those departments isn't having some kind of a ham breakfast, a pancake breakfast, just to try to raise the money to have the bare necessities. The equipment that you see there—you have got to give them credit for keeping it going as long as they have, but these certainly will be very beneficial for a lot of our volunteer fire departments too. So thank you for your work.

Mr. PASCRELL. Thank you.

Mr. SMITH OF MICHIGAN. Again, Curt Weldon asked that he be excused and that I pass on his desire to enter his statement into the record, and without objection, that is certainly so ordered.

And Mr. Gutknecht, do you have questions, and Mr. Rohrabacher, do you have questions?

Mr. ROHRABACHER. Tell me about contracting out in this bill. Can—because I am interested—in California, what just happened was on—half of our fleet for airplanes that drop retardants on fires have been grounded by a judge, and the—would your bill—would this bill, piece of legislation, help in contracting out for people who have those services available, or are they outlawed or—how does it handle——

Mr. PASCRELL. The——

Mr. ROHRABACHER.—contracting out those kind of services?

Mr. PASCRELL.—contractual responsibilities provided for in this legislation—the bottom line is that we will not fund any private enterprise.

Mr. ROHRABACHER. Uh-huh.

Mr. PASCRELL. This question came up in terms of EMTs [Emergency Medical Technicians]. Anything associated with municipalities is one thing. Anything that is contracted out to a private entity is certainly—because once we get into that, Congressman, we are going to open up a wide Pandora's Box——

Mr. ROHRABACHER. Okay.

Mr. PASCRELL.—and not fund the——

Mr. ROHRABACHER. Is——

Mr. PASCRELL.—the basic needs of our——

Mr. ROHRABACHER. Is there another—I understand that point. It is a good point—say let us not muddy this up with——

Mr. SMITH OF MICHIGAN. If the gentleman would yield——

Mr. ROHRABACHER. Yes.

Mr. SMITH OF MICHIGAN. This technically does allow grants to be provided to private fire departments that are under contract with the local municipalities. Is that correct? And nonprofit.

Mr. ROHRABACHER. Well, would this——

Mr. PASCRELL. And not for profit.

Mr. ROHRABACHER. Okay.

Mr. PASCRELL. Not for profit.

Mr. ROHRABACHER. Right. Yeah. Right. Would this permit a local fire department that needed the resources of airplanes to drop fuel——

Mr. PASCRELL. Right.

Mr. ROHRABACHER.—in case of a major emergency? Because they can't they themselves afford to buy that——

Mr. PASCRELL. Right.

Mr. ROHRABACHER.—technology and have airplanes on—sitting there——

Mr. PASCRELL. Right.

Mr. ROHRABACHER.—waiting. Would that—would this be able to handle that at all?

Mr. PASCRELL. Well, that is why we raised—one of the reasons why we raised the thresholds, so that—there are very expensive needs in particular parts of the country. And again, this needs to be matched by—you know, we have reduced the matching amount of dollars, and I think what it has done is tried to enlarge the potential for each fire department to address its own unique needs. So my answer to that question would be yes.

Mr. SMITH OF MICHIGAN. And expanding from that, Mr. Pascrell, when the United States Fire Administration here is—with Mr. Paulison, we can ask Mr. Paulison how they have reacted to these kinds of grant requests.

Mr. ROHRABACHER. Yeah. Because we have had—I mean, talk about serious fires in California, we had our serious fires just last year, and frankly, the Russians invested as we would like them to invest. Not in airplanes that drop bombs, but——

Mr. PASCRELL. Right.

Mr. ROHRABACHER.—instead airplanes that put fires out. And they were not—they could fly anywhere in the world, and they have done so in Australia, for example. But they have been frozen out of the United States in helping us put out fires, and I think it is because basically, you have got some people who have some older equipment that they——

Mr. PASCRELL. Right.

Mr. ROHRABACHER.—want to maintain to their ability to stay online. But now, those old pieces of equipment, those old airplanes have been grounded in California. If we have another major fire in California now, we are—and we can't bring in, let us say, the Russians or someone else with that type of technology.

Mr. PASCRELL. The very——

Mr. ROHRABACHER. We are in a bad spot.

Mr. PASCRELL. The very essence of the FIRE Act was to respond to the uniqueness of communities, and that is why we did not funnel the money through the states. We directed it to individual municipalities because the individual municipalities know what they need. We don't need consultants to tell us what firefighters need.

We should ask the firefighters. We should ask the fire departments, and that is what we have done.

So the needs basically in California in your—in the situation where we have seen all of these fires—and that has happened in other states. Those needs are quite different. In expanding the threshold, we can respond to a problem like that if California municipalities can prove individual need.

Mr. ROHRABACHER. Let me be a little bit more specific on that. If you have a local municipal fire department and it is next to a large mountain chain or a large forest area and it is expected to respond in order to protect that community, does this permit grants that would then—the grants go directly to the local fire entity, and then they have to provide a 20 percent match that——

Mr. PASCRELL. The community itself, yes.

Mr. ROHRABACHER. The community has to provide the 20 percent match. But in that 20 percent, what they are spending the money for is decided upon by the community.

Mr. PASCRELL. Yes.

Mr. ROHRABACHER. Now can——

Mr. PASCRELL. In other words, in order to provide—send to Washington the application, you would hope that the municipality would have voted that they will accept this grant if it is provided, under the basis that they will come up with the matching dollars.

Mr. SMITH OF MICHIGAN. The gentleman's time has expired. Ms. Woolsey? And who is the next—Mr. Davis?

Mr. DAVIS. Thanks for being here.

Mr. PASCRELL. Thank you.

Mr. DAVIS. My question.

Mr. SMITH OF MICHIGAN. And Mr. Bonner? And Mr. Miller?

Mr. MILLER. I will let this cut pass.

Mr. SMITH OF MICHIGAN. And Mr. Honda, Mr. Wu, any questions for this witness? And with that, Mr. Pascrell, we will thank you—oh, Mr. Baird. I am sorry.

Mr. BAIRD. That is okay, Mr. Chairman. Thank you. It is good to see you again, Mr. Pascrell. Appreciate your leadership on this issue. I have one question, and I confess I haven't had extensive time to study this particular material today. Individuals in my district have come up with a very innovative mechanism for fighting fires that involves—and it sounds rather preposterous when you first hear it, but experts have told me it is quite innovative—essentially a large balloon-like device that is triggered and detonated with an explosion inside that scatters out the water in a peripheral mist-like pattern that firefighting experts, especially wildland fires, say could be very effective at very suddenly stifling the fire. But they need funds for research.

Are there funds in this program—since this is the Science Committee, are there funds in this program to provide research on innovative firefighting technologies, perhaps like this or other?

Mr. PASCRELL. There are many categories, as you know, in this piece of legislation. But—we started out with I think 13 or 14. Each of those categories deals with a very different kind of need within fire departments. As such, you know, the research—I am not so sure that we have ever had any applications for that. I—Nick?

Mr. SMITH OF MICHIGAN. Well, there is a——

Mr. PASCRELL. Have we? We had——

Mr. SMITH OF MICHIGAN. There is a five percent carve-out that deals with some of the research.

Mr. PASCRELL. Well——

Mr. SMITH OF MICHIGAN. I am not sure——

Mr. PASCRELL. But I don't know if——

Mr. SMITH OF MICHIGAN. I don't know either.

Mr. PASCRELL.—that would apply, and we would certainly find out for you. And you know, we are always looking for the state-of-the-art. I mean, if you knew how many departments in this country did not have imaging——

Mr. BAIRD. Yeah.

Mr. PASCRELL.—which would have saved a lot of firefighters' lives in—before they go into a burning building, if they can't see what is in front of them, for crying out loud—we have used them—we are using methods in many departments that go back to the 19th century, and I think we can do better than that. So obviously, there is carved out some part of the dollars that can be used for science. How it is—how it will go through the process, I can't tell you right now——

Mr. BAIRD. Okay.

Mr. PASCRELL.—off the top of my head.

Mr. BAIRD. I would like to work with——

Mr. PASCRELL. But we will get the answer to you.

Mr. BAIRD. I thank the gentleman, thank the Chairman very much.

Mr. SMITH OF MICHIGAN. With that, Mr. Pascrell, thank you very much.

Mr. PASCRELL. Thank you, Mr. Chairman. I appreciate that.

Mr. SMITH OF MICHIGAN. And if the witnesses would take their seat at the table, allow me to start introducing our witnesses for the second panel, and again, let me invite any other Members that would like to be a co-sponsor of this bill—currently the primary sponsor of the bill is Mr. Boehlert. Current co-sponsors are Mr. Hoyer, myself, Mr. Pascrell, Mr. Weldon, Mr. Andrews, Mr. Cox and Mr. Turner.

Panel 2:

Mr. David Paulison is Administrator of the United States Fire Administration within the Department of Homeland Security. Mr. Andrew Mitchell is Deputy Director of the Office of Domestic Preparedness within DHS Border and Transportation Security Directorate, and Mr. James Shannon is President and CEO of the National Fire Protection Association, and Mr. Shannon joined NFPA as the Senior Vice President and General Counsel in 1991. And Chief Phillip Stittleburg is Chairman of the National Volunteer Fire Council, and he served as the NVFC Foundation President for 12 years, and mister—and Chief Ernest Mitchell is President of the International Association of Fire Chiefs, and Chief Mitchell recently retired as Chief of the Pasadena Fire Department. And Mr. Kevin O'Connor is the Assistant to the General President of the International Association of Fire Fighters, and previously, Mr.

O'Connor served concurrently as President of the Maryland State and District of Columbia Professional Fire Fighters Association. So gentlemen, thank you very much, and with that, we will start with you, Mr. Paulison.

STATEMENT OF MR. R. DAVID PAULISON, ADMINISTRATOR, UNITED STATES FIRE ADMINISTRATION

Mr. PAULISON. Thank you, Mr. Chairman. I appreciate that very much. My name is David Paulison and I am the Director of Preparedness for FEMA and also the United States Fire Administrator in the Department of Homeland Security, and I appreciate the opportunity to appear before you on behalf of Secretary Ridge. I have submitted a written statement. I ask that be accepted for the record and—thank you, sir, and we will do that. And I appreciate the comments earlier about giving me credit for the FIRE Act, FIRE Grants, making it successful, but quite frankly, I have got to thank Brian Callan. Brian, stick your hand up in the air. Brian has been with the grant process from the very beginning. He will put it together——

Mr. SMITH OF MICHIGAN.—you, Mr. Paulison, and we will just have him——

Mr. PAULISON. If you would just transfer half of them over to Brian, I would appreciate it. He has just done an outstanding job of managing this, along with the staff, and Brian, I thank you very much for that.

As you all are aware, each year, fire injures and kills more Americans than combined losses of any other natural disaster, and the death rates in the United States are among the highest in the industrialized world. And our mission at the Fire Administration is to reduce that loss of life and property and related emergencies, and it is quite a sobering challenge, quite frankly, but it is also a hopeful challenge because we believe that most of these deaths are preventable.

As part of the Department of Homeland Security, we have been working diligently to prevent these deaths, these injuries and damage to property through leadership advocacy and coordination among these groups that you see sitting at this table here. We provide fire service training, public education and awareness, technology and research, and data analysis, and we are assisting fire responders and emergency managers to practice and refine their response plans with the partners at the state and local level and the federal level, and we are going to continue doing that.

On the Assistance to Firefighters Grant Program in fiscal year 2001, the grant program met the goals and requirements as laid out by this Congress under the Defense Authorization Bill that added Section 33 to the Fire Prevention and Control Act of 1974. And you appropriated $100 million in fiscal year 2001 for the Departments of Labor, Health and Human Services, Education and different agencies to fund the program. Section 33 of the FIRE Act Prevention and Control Act outlined a new federal program to provide direct assistance to local fire departments in order to protect the health and safety of the public and firefighting personnel against fire-related hazards, and to provide assistance to fire prevention programs, something that has never been done before.

The law also gave FEMA the direct discretion to make grants directly to organizations that are recognized for their expertise and experience with respect to fire prevention or fire safety programs and activities for the purpose of carrying out fire prevention programs and giving priority for injuries to children. The law also outlined, as mentioned earlier by Mr. Smith, the 14 grant categories that required a cost share based on population protected by fire departments and mandated at least 5 percent of these funds be used for fire prevention, and limited the total amount that could be spent on vehicles to a maximum of 25 percent of the appropriated funds. Congress also emphasized the importance of a balanced distribution of the funds to departments staffed by paid firefighters and those staffed by volunteers, or a combination of both, as well as a geographical consideration, such as departments within urban, suburban and rural areas.

The Assistance to Firefighters Grant Program provides competitive grants to address training, safety, fire prevention, fire trucks and apparatus, personal protective gear and other firefighting equipment, as well as wellness and fitness issues inside local fire departments. We streamlined the on-line application process for FIRE Grants and sped up the flow of resources to first responders, while insuring that the funds were used effectively and appropriately. In 2001, in 2002 and 2003, we received over 20,000 applications in each year from fire departments across this country. We began announcing the fiscal year 2003 awards to successful applicants in June of 2003, and completed them three months ahead of schedule in February of 2004.

This year, Congress appropriated $750 million to provide grants directly to fire departments to build their basic firefighting response capabilities for all types of emergencies, including suppressing fires. This brings the total grant funding to this program to over one and a half billion dollars for a program that started three years ago, and these dollars are going directly to fire departments. This benefits the community as a whole, and it benefits other first responder entities by building on those base capabilities of local fire departments to respond to all types of incidents.

In 2004, the Office for Domestic Preparedness is managing, with our assistance, the FIRE Grants Program to offer one-stop shopping for grants in the new department. The United States Fire Administration will work closely with the Office of Domestic Preparedness to insure the continued success of this vital program, and I commit my personal commitment to make sure that these grants are carried on successfully, regardless of where they lie.

Mr. Chairman, in your letter of invitation to appear today before the Committee, you asked that I specifically address three questions in regard to the program. First, how effective has the Assistance to Firefighters Grant program been and what needs still exist with regard to insuring the ability of our fire departments to respond to day-to-day hazards.

This program, in its short three-year existence, has provided a tremendous amount of equipment, training and educational programs across the Nation. At present, there has not been an evaluation of its impact. The reason for this is the nature in which these projects are undertaken, completed and the resulting impact on

public safety. In many cases, the vehicles purchased are just coming on-line, the training provided is just now being internalized, and the public education campaigns are just now underway. But we have made a recommendation to the Office of Domestic Preparedness that, in this and the next fiscal year, that a study be undertaken to attempt to quantify the impact of the program on local fire departments and fire safety. GAO's and FEMA's IG offices have also recommended such a study, and we will be working with ODP on that effort.

Second, you asked that I describe the role that non-government participation has played in the administration of this program, and should their roles be modified, and if so, how?

As lauded by many, the peer-review process for the FIRE Grants process has been a tremendous success. This process allows a diverse sample of the national fire services community to review and rank the application. It allows for over 400 services members, both career and volunteer, from large and small communities, from rural, suburban and urban areas to play a significant role in making these award recommendations. This allows the fire services, who best know the needs of the community, to have a substantial role in the decision-making process. The present process of outside groups and individual firefighter involvement significantly enhances the entire grant program and it is my recommendation that that should not be modified but continue as it is now.

Third, in regards to the September 2003 Department of Homeland Security Inspector General's report on the Assistance to Firefighters Grant Program, you asked what actions has the Fire Administration taken to these recommendations.

The 2003 IG report contains several recommendations that are worthy of implementation, and a few that have already been implemented. We are working with ODP to continue that effort, and we will provide, if you request, a copy of our reply to the IG, should you desire it.

Mr. Chair, thank you for giving me this opportunity for you today. Your continued support is greatly appreciated, and I will be glad to answer any questions that anybody in the Committee may have. Thank you.

[Statement of Mr. Paulison follows:]

PREPARED STATEMENT OF R. DAVID PAULISON

Good Morning, Mr. Chairman and Members of the Committee. My name is R. David Paulison. I am the Director of the Preparedness Division and the United States Fire Administrator in the Department of Homeland Security's Federal Emergency Management Agency (FEMA). I appreciate the opportunity to appear before you today on behalf of Secretary Ridge.

Each year, fire injures and kills more Americans than the combined losses of all other natural disasters. Death rates by fire in the United States are among the highest in the industrialized world. The U.S. Fire Administration's mission to reduce loss of life and property because of fire and related emergencies is a sobering challenge, but also a hopeful challenge, since most of these deaths are preventable.

As a part of DHS, the staff works diligently to prevent these deaths, injuries, and the damage to property through leadership, advocacy, coordination and support in four basic mission areas: fire service training, public education and awareness, technology and research, and data analysis.

To accomplish this mission, we work with the fire service, other emergency responders and State and local governments to better prepare them to respond to all hazards, including acts of terrorism. We are also listening to State and local governments, and working with private industry, to provide standardized, practical, com-

patible equipment that works in all possible circumstances. We are assisting first responders and emergency managers practice and refine their response plans with partners at the local, State and federal level. We will continue to provide training and education programs to prepare for the routine hazards as well as the emergent threats posed by WMD and terrorist incidents.

Today, I will focus my remarks on the U.S. Fire Administration and the Assistance to Firefighters Grant Program, known as the FIRE Act Grants, that USFA had the privilege of administering from its inception in 2001 through FY 2003.

Accomplishments

The U.S. Fire Administration is a national leader in fire safety and prevention and in preparing communities to deal with fires and other hazards. USFA is working to support the efforts of local communities to reduce the number of fires and fire deaths and it champions federal fire protection issues and coordinates information about fire programs.

In terms of our preparedness programs, we recognize the importance of training as a vital step toward a first responder community that is prepared to respond to any kind of emergency, ranging from a small fire to a terrorist attack involving a large number of victims. We continue to administer training and education programs for community leaders and first responders to help them prepare for and respond to emergencies regardless of cause or magnitude. DHS also provides equipment, vehicles, and training and wellness programs through our Assistance to Firefighter Grant program to help first responders perform their duties.

This year, Congress appropriated $750 million to provide grants directly to fire departments to build their basic response capabilities for all types of emergencies, including suppressing fires. This brings total funding for this grant program to more than one and a half billion dollars since the program began three years ago. This benefits the community as a whole and benefits other first responder entities by building the base capabilities of local fire departments to respond to all types of incidents. In 2004, the Office for Domestic Preparedness is managing, with our assistance, the fire grants program to offer one stop shopping for grants in the new Department. USFA will work closely with ODP to ensure the continued success of this vital program.

FEMA also continues to provide training in emergency management to our firefighters, law enforcement, emergency managers, health care workers, public works, and State and local officials, at our Emergency Management Institute. I would like to give you a few more details about these and other USFA activities.

Assistance to Firefighters Grant Program

The FY 2001 Assistance to Firefighters Grant Program met the goals and requirements delineated by Congress in the FY 2001 Defense Authorization bill [Public Law 106–398] that added Section 33 to the *Federal Fire Prevention and Control Act of 1974* (15 U.S.C. 2201 et seq., the Fire Prevention and Control Act). Congress appropriated $100 million in the FY 2001 Departments of Labor, Health and Human Services, and Education, and related Agencies Appropriations Act [Public Law 106–554] to fund this program.

Section 33 of the Fire Act Prevention and Control Act outlined a new federal program to provide direct assistance to local fire departments in order to protect "the health and safety of the public and firefighting personnel against fire and fire-related hazards," and to provide assistance for fire prevention programs. The law also gave FEMA the discretion to make grants directly to "organizations that are recognized for their experience and expertise with respect to fire prevention or fire safety programs and activities, for the purpose of carrying out fire prevention programs. . .[giving] priority to organizations that focus on prevention of injuries to children from fire."

FEMA was directed to establish an office to administer the program and criteria for the selection of recipients. The law also outlined 14 possible grant "categories," required a cost share based on the population protected by fire departments, mandated at least five percent of the funds be used for fire prevention, and limited the total amount that could be spent in the vehicles category to a maximum of 25 percent of appropriated funds. Congress also emphasized the importance of the balanced distribution of the funds to departments staffed by paid firefighters and those staffed by volunteers (or a combination of paid and unpaid firefighters), as well as geographical considerations such as departments located in urban, suburban, and rural areas.

The Assistance to Firefighters Grant program provides competitive grants to address training, safety, prevention, apparatus, personal protective gear and other firefighting equipment needs as well as wellness and fitness issues of local fire de-

partments. We have streamlined the online application process for fire grants and sped up the flow of resources to first responders, while ensuring that the funds are used effectively and appropriately. In 2001, 2002 and 2003, we received over 20,000 applications each year, from fire departments across the country.

As of April 13, 2004, FEMA has processed for the Assistance to Firefighters Grants Program from FY01 to FY03, 20,137 grants payments totaling $696,466,838. The total for the Firefighter Assistance for FY 2001 is $91,050,915 for FY 2002, 11,023 payments totaling $324,778,012 and for FY 2003, 8,986 payments totaling $277,590,113. Fire Prevention grants for FY 2002 is 128 payments totaling $3,047,798.

Beginning with the 2001 Grant Program, the Emergency Education NETwork (EENET) broadcast valuable information on the grant programs and process. Prior to the application period in FY 2003, EENET broadcasted an actual applicant workshop, which was rebroadcast several times during the application period. We heard from many organizations that this eased the application process. We began announcing the FY 2003 awards to successful applicants in June 2003 and completed them three months ahead of schedule in February of 2004.

Mr. Chairman, in your letter of invitation to appear today before the Committee, you asked that I specifically address three questions in regards to the Assistance to Firefighters Grants Program.

First, *how effective has the Assistance to Firefighters Grant Program been and what needs still exist with regard to insuring the ability of our fire departments to respond to day-to-day hazards?*

The Assistance to Firefighters Grant program in its short three-year existence has provided a tremendous amount of equipment, training and educational programs across the Nation. At present there has not been an evaluation of its impact. The reason for this is the nature in which these projects are undertaken, completed and the resulting impact on public safety. In many cases the vehicles purchased are just coming on line, the training provided is just now being internalized and the public education campaigns are underway.

We have recommended to ODP that in this and the next fiscal year that a study be undertaken to attempt to quantify the impact of the program on local fire departments and fire safety. We believe that the GAO and the FEMA IG's office has also recommended such a study and we will be working with ODP on that effort.

Second, *describe the role that non-government participation has played in administering the program and should their roles be modified, and if so how?*

Lauded by many, the Peer review process for the fire grants process has been a tremendous success. The process allows a diverse sample of the national fire services community to review and rank the applications. It allows over 400 fire services members, both career and volunteer, from large and small communities, from rural and suburban areas to play a significant role in making award recommendations. This allows the fire services, who best know the needs of that community to have a substantive role in the decision-making process. The present process of outside groups and individual firefighter involvement significantly enhances the entire grant program and should not be modified.

Third, *in regards to the September 2003 Department of Homeland Security Inspectors General's report on the Assistance to Firefighters Grant Program, what actions has USFA taken to respond to the report's recommendations?*

The September 2003 IG report contains several recommendations that are worthy of implementing and a few that have already been implemented. We are working with ODP to continue that effort and would be happy to provide you with the text of our reply to the IG should you desire it.

Challenges

Reducing the loss of life and property caused by fire remains a significant challenge. Each year, fire kills more than 4,000 people and injures more than 22,000. Annual property losses due to fire are estimated at nearly $10 billion. And, firefighters pay a high price. In 2003, 109 firefighters died while on duty. These losses are unacceptable because most can be prevented.

While the numbers are still too high, great progress is being made to reduce the toll from fires. Since 1974, when Congress passed the Federal Fire Prevention and Control Act, and established the United States Fire Administration and its National Fire Academy—USFA has helped to reduce fire deaths significantly. Over the last 10 years, fires have declined by 16 percent. During this same period, a 22 percent

decline in civilian deaths and a 31 percent drop in civilian injuries were also reported.

Conclusion

Thank you, Mr. Chairman, for giving me this opportunity to appear before you today. Your continued support is greatly appreciated. I will be glad to answer any questions you and other Members of the Committee may have.

BIOGRAPHY FOR R. DAVID PAULISON

R. David Paulison was appointed Director of the Preparedness Division of the Emergency Preparedness & Response Directorate/FEMA, in the newly created Department of Homeland Security in 2003. He will continue to serve as the Administrator for the U.S. Fire Administration, a position to which he was appointed in December 2001.

As Director of the Preparedness Division, Mr. Paulison administers a broad range of programs designed to reduce injuries and death due to disasters, strengthen states and communities and prevent or reduce damage to public and personal property. He is also responsible for enhancing State and local emergency preparedness, training federal, State, and local emergency managers, and conducting a nationwide program of exercises. As head of the U.S. Fire Administration, Mr. Paulison also supports State and local fire service programs and oversees programs to reduce life and economic losses due to fire and related emergencies in partnership with fire protection and emergency service communities.

Before joining FEMA, Mr. Paulison, who has 30 years of fire rescue services experience, was Chief of the Miami-Dade Fire Rescue Department. In that position, he oversaw 1,900 personnel with a $200 million operating budget and a $70 million capital budget. He also oversaw the county's emergency management office.

He began his career as a rescue firefighter and rose through the ranks to Rescue Lieutenant, Battalion Commander, District Chief of Operations, Division Chief, Assistant Chief and then Deputy Director for Administration before becoming Chief. His emergency management experience includes Hurricane Andrew and the crash of ValuJet Flight 592.

A native of Miami, Fla., Mr. Paulison earned a Bachelor of Arts from Florida Atlantic University and completed the Program for Senior Executives in State and Local Government at Harvard University's John F. Kennedy School of Government. He is a recipient of the LeRoy Collins Distinguished Alumni Award and has been inducted into the Miami-Dade Community College Hall of Fame. Mr. Paulison was also selected as Fire Chief of the Year by Florida in 1993 and holds positions in several professional associations. He is a certified paramedic and as fire chief, oversaw the Miami-Date Urban Search and Rescue Task Force. He is also Past President of the International Association of Fire Chiefs.

Mr. SMITH OF MICHIGAN. Administrator, thank you. Mr. Mitchell.

STATEMENT OF MR. ANDREW T. MITCHELL, DEPUTY DIRECTOR, OFFICE OF DOMESTIC PREPAREDNESS, DEPARTMENT OF HOMELAND SECURITY

Mr. MITCHELL. Thank you, Mr. Chairman, Members of the Committee. My name is Andy Mitchell, and I am—oh, pardon me. Thank you, Mr. Chairman, Members of the Committee. My name is Andy Mitchell. I am the Deputy Director of the Office for Domestic Preparedness in the Department of Homeland Security. And on behalf of all of us at DHS, I want to thank you, Mr. Chairman, and this committee for your support for the Department and ODP, and we look forward to working with you on the reauthorization of this important program, and we will get right to the point.

The Department of Homeland Security does strongly support reauthorization of the Assistance to Firefighter Grant Program as a separate direct grant program in the Department of Homeland Security, and I will discuss some of our specific comments on that—on the proposed bill a little bit later. I mean, ODP has worked for a long time, since 1997, and we have a very good relationship and

track record with working with State and local governments on the wide range of public safety issues, and particularly the fire service. We have had an extensive involvement with them, and as the Committee is aware, in addition to our regular programs that we have in ODP for Homeland Security-specific activities, the administration of the Assistance to Firefighter Act program was transferred to ODP.

And as part of that transfer, we work very closely with DHS' EP&R [Emergency Preparedness and Response], but principally with the United States Fire Administration, and I want to personally thank Dave Paulison and his staff. He has made this difficult and challenging process very civil and it has been an amazingly smooth transition, and we continue to work—and we will commit to you we will continue to work collaboratively on this program in the future. We are all one department, and I think that Dave's staff has been tremendous and I echo your comments that the program has been exceptionally developed and implemented, and in fact, the—Brian, the person you gave credit to is now working in our office making the transition work more effectively. So David, thank you very much for that.

In fiscal year 2004, the application kit for the program opened on March 1 and closed on April the 2nd. One of the advantages that we have in the consolidation, we were able to post the application materials and additional resources on both ODP's and USFA's websites. The application period, we worked closely on this process, and we actually developed some new resources for the program that were not available in the past. We developed a CD–ROM that contains all the pertinent 2004 program information, including a self-study tutorial on the application process and distributed that widely throughout the country, which I think helped with the application process. And our collaboration with the United States Fire Administration continued with the practice of holding local workshops for fire departments across the country.

During the fiscal year 2004 application process, we conducted 346 workshops in consultation—in coordination with David and his staff, which were attended by more than 4,000 fire department officials nationwide. The 2004 program will program funding in three program areas: firefighter operations, safety, personal protective equipment and fire prevention and firefighting vehicles. The breakdown of the applications received this year under these eligible categories closely mirrors the breakdown of the applications received in the previous two years. Sixty-six percent of the applications were under the fire operations and firefighter safety program, 33 percent were for firefighting vehicles, and one percent were for the fire prevention program category.

And as in the past years, the applications from different types of fire departments are consistent. Sixty-seven percent of the applications received are from all volunteer fire departments, 19 percent were from combination fire departments, and nine percent were from all paid or career fire departments, five percent came from paid-on-call or stipend departments. The average grant for type of community, urban communities requested an average of approximately $181,000. Suburban communities requested an average of $155,000, and rural communities requested and average of

$107,000. The peer-review process for the grant applications has been completed. It was completed on April 27, and based on the work of these fine panelists in this process, we anticipate the first awards will be announced during the first week of June.

Concerning reauthorization of the FIRE Act, we do support that, but there are a couple of provisions that we would obviously suggest that we would make for some modifications. If the Chair so approves, we would like to submit for a copy of the record the Department's views on the bill, and we have that, sir. *[The information referred to appears in Appendix 2: Additional Material for the Record.]* One of the major issues again—and this was touched on by Congressman Pascrell, and is one of the issues here is the location of the program. The Department supports the location of the program in ODP under the reorganization. That was proposed by Secretary Ridge, and we look forward to working with the Committee to try to find the agreement on how we can make this program work all in the same department. We are committed to the program continuing as it has been in the past, a direct program.

There is a request in the Administration's budget for the first time for a separate line-item account for this program, and we look forward to working with the Committee on this program in the future. I invite—to answer any questions you may have after this. Thank you.

[The prepared statement of Mr. Mitchell follows:]

PREPARED STATEMENT OF ANDREW T. MITCHELL

Chairman Boehlert, Congressman Hall, and Members of the Committee, my name is Andrew Mitchell, and I serve as the Deputy Director of the Department of Homeland Security's (DHS) Office for Domestic Preparedness (ODP). On behalf of Secretary Ridge, it is my pleasure to appear before you today to discuss the current status of ODP and other issues of critical importance.

On behalf of all of us at DHS, I want to thank you Mr. Chairman, and all the Members of the Committee, for your on-going support for the Department and for ODP. The Congress has entrusted us with a great responsibility, and we are meeting that responsibility with the utmost diligence.

ODP is responsible for preparing our nation against terrorism by assisting States, local jurisdictions, regional authorities, and Tribal governments with building their capacity to prepare for, prevent, and respond to acts of terrorism. Through its programs and activities, ODP equips, trains, exercises, and supports State and local homeland security personnel—our nation's first responders—who may be called upon to prevent and respond to terrorist attacks.

ODP has established an outstanding track record of capacity building at the State, local, territorial, and Tribal levels, by combining subject matter expertise, grant-making know-how, and establishing strong and long-standing ties to the Nation's public safety community. Since its creation in 1998, ODP has established strong ties to the emergency response community, including the fire services community.

ODP has provided assistance to all 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. territories. Through its programs and initiatives ODP has trained 325,000 emergency responders from more than 5,000 jurisdictions and conducted more than 300 exercises. And, by the end of Fiscal Year 2004, ODP will have provided States and localities with more than $8.1 billion in assistance and direct support.

ODP's support comes through a number of different programs, but principal financial assistance is provided through the Homeland Security Grant Program, which in FY 2004 combined three separate programs: the State Homeland Security Grant Program, the Law Enforcement Terrorism Prevention Program, and the Citizen Corps Program. Additionally, in FY 2004, ODP is responsible for the administration of the Assistance to Firefighters Grant (AFG) Program, more commonly known as the Fire Act Grants, was transferred to ODP. The funding level for the FY 2004 program is $750 million, which was equal to the previous year's funding level.

As part of this transfer, and to ensure a smooth and seamless transition, ODP worked very closely with DHS' Emergency Preparedness and Response Directorate and the United States Fire Administration. ODP conducted regular weekly meetings and had continuous contact with FEMA's and the United States Fire Administration's financial, information technology, regional, program, congressional and legislative affairs staffs.

This year, the Application Kit and Guidance for the Fiscal Year 2004 grant funds opened on March 1st, and closed on April 2nd. To better serve the fire service community, these materials, as well as additional information and resource materials, were posted on the ODP and USFA websites. The FY 2004 AFG Program will provide funding in three program areas, which were selected based on discussions with the fire services community. These areas are: Firefighting Operations and Safety (which includes Training, Equipment, Personal Protective Equipment, Wellness and Fitness Programs, and Modification of Facilities); Fire Prevention; and Firefighting Vehicles.

One change in the FY 2004 AFG Program was that emergency medical services (EMS) was not a separate category. Instead, the Department merged the EMS program area within the Fire Operations and Safety program. This change was made because, in most fire departments, firefighters have multiple roles, including suppressing fires, performing rescues, and providing EMS services. The Department anticipates that this change should increase the number of requests for EMS equipment and training, since it permits departments to request EMS funding without excluding funding from other support areas.

Additionally, in FY04, in an effort to provide local fire departments with greater flexibility and discretion to meet their equipment needs, they may also use Fire Act Grant funds to purchase additional equipment related to WMD response similar to what may be purchased under ODP's Homeland Security Grant Program. This type of equipment has always been eligible for funding under the AFG Program, but, given the dual-use nature equipment, the Department believes it important to highlight the acquisition of this type of equipment. In instances where a fire department is requesting equipment or training that is related to chemical, biological, radiological, nuclear, and explosives, (CBRNE), the Department will ask the state's homeland security office to review the application to ensure that it is consistent with the State's homeland security strategy. Each State will be asked to provide the AFG program office with a representative to carry out a technical review of applications from the State that include CBRNE-related requests and that have been rated as fundable by ODP's peer-review panelists. During the technical review, the State representative will attest to and certify that any CBRNE-related requests are consistent with the State's homeland security plan, and that the requests do not duplicate assistance already provided or about to be provided.

The Department further believes that the transfer of the AFG Program was highly successful. This year, ODP received 20,348 applications, which is slightly more than the number received last year.

- 66 percent of these applications were under the "Fire Operations and Firefighter Safety program;"
- 33 percent were for Firefighting Vehicles; and
- one percent were for under the Fire Prevention category.

As in past years, the Department received applications from different types of fire departments, including:

- 67 percent of the applications received were from "All Volunteer" fire departments;
- 19 percent of the applications were from combination fire departments;
- nine percent were from "All Paid" or "Career" fire departments; and
- five percent from "Paid on Call/Stipend" departments.

Through these applications, fire departments across the country requested more than $2.3 billion in federal support. The average request for funds varied according to the type of department. For instance, the average request for funds from urban fire departments was $180,991. Suburban fire departments requested on average $155,439, while rural fire departments requested on average $107,445.

ODP is currently in the process of conducting the peer-review panels for AFG Program applications. The panels were convened on April 13 and finished their reviews on April 27, 2004. As in past years, the panel sessions were conduced at the National Fire Academy in Emmitsburg, Maryland. Based on the work of the panelists, and the number of applications that we received, the Department anticipates that the first awards will be announced during the first week of June.

Throughout the FY 2004 application period, ODP was committed to a successful program. In an effort to better prepare the fire service, we provided new resources that were not available in the past. We developed a CD–ROM that contains all pertinent FY04 program information, including a self-study tutorial on the grant application process.

ODP, along with USFA and FEMA, continued the successful practice of holding local workshops for fire departments across the country in order to provide valuable information and guidance on the application process. These workshops provide invaluable assistance to fire departments as they complete and submit their funding applications. During the FY 2004 application period, ODP, in coordination with USFA and the FEMA Regional Field Offices, conducted 346 workshops, which were attended by more than 4,000 fire department officials.

In addition to our support of the Fire Service through the Fire Act Grants, DHS is also working to better protect firefighters in their daily work.

As such, the Department recently adopted its first standards regarding personal protective equipment developed to protect first responders against chemical, biological, radiological and nuclear incidents.

These standards, which will assist State and local procurement officials and manufacturers, are intended to provide emergency personnel with the best available protective gear.

The Department adopted these standards, which were developed in partnership with the National Fire Protection Association (NFPA) and the National Institute for Occupational Safety and Health (NIOSH). These guidelines, which have also been adopted by the Interagency Board for Equipment Standardization and Inter-operability, include NIOSH standards for CBRN three main categories of respiratory protection equipment and five current NFPA standards for protective suits and clothing to be used in responding to chemical, biological and radiological attacks.

These standards reflect the continuing support of a multi-year program in Homeland Security's Science and Technology division, managed by the National Institute of Standards and Technology, to develop chemical, biological, radiological and nuclear and explosive protective equipment standards. This program, which transitioned from the Department's Office of Domestic Preparedness in 2003, continues to facilitate the development of performance standards and test methods for first responder protective and operational equipment.

Let me assure you that we at ODP recognize the importance that continued support for the fire service through the Fire Act Grants represents, particularly to rural and volunteer fire departments, as well as to urban and suburban departments. For many of these departments, these funds are critical to their operations.

We at ODP look forward to continuing to provide the fire service with the valuable resources available through the Fire Act Grant Program. The President's FY 2005 budget request of $500 million is equal to the FY 2004 request. As you know, this is the beginning of a long appropriations process, and we look forward to working with Congress to ensure that you and your colleagues in the fire services receive the support that you need to do your vitally important work.

I am confident that by working with you and your colleagues in the fire service and with the Congress, we will make this an even more successful program in the future. At this point, I would be happy to answer any questions from the Committee.

BIOGRAPHY FOR ANDREW T. MITCHELL

Andy Mitchell currently serves as the Deputy Director of the Office for Domestic Preparedness, United States Department of Homeland Security (DHS). The Office is responsible for the development and administration of DHS's programs to enhance the capabilities of the Nation's public safety community to prevent and respond to terrorist incidents. The Office is responsible for the development and implementation of training programs for State and local first responders; administering a state formula grant program to develop statewide domestic preparedness strategies and provide specialized equipment, training and exercise support to enhance the capacity of State and local agencies to respond to CBRNE terrorism; development and implementation of a major DHS program providing funding to America's urban metropolitan areas to enhance their terrorism prevention and response capabilities; plan and execute national-scope exercises and support State and local exercises; oversee a national training program for State and local first responders and government officials; and to provide specialized technical assistance to State and local public safety agencies.

The Administration's Fiscal Year 2004 Budget Request establishes ODP as DHS' primary grant program agency and establishes a new program priority for ODP to

support the development and implementation of a comprehensive national program to address the needs of State and local law enforcement to prevent and deter terrorist attack in the U.S. Since its inception, ODP's budget has grown from $5 million in FY 1997 to $4.037 billion in FY 2004.

Prior to joining the ODP, he served as the Chief of the National Initiatives Branch in the Bureau of Justice Assistance (BJA) where he was responsible for the management of BJA's First Responder to Terrorist Incidents National Training Program for fire and emergency medical personnel, and also served as the Director of the Emergency Federal Law Enforcement Assistance Program. He previously served as the Chief of the South Branch in BJA's State and Local Assistance Division (SLAD). Prior to his SLAD assignment, he served as the Senior Policy Analyst in BJA's Policy Development and Management Division where he was responsible for BJA's legislative, budget and policy matters. Mr. Mitchell has over 25 years experience in public safety and criminal justice program development, program management, program planning and policy development in both the public and private sectors having previously served as a Business Unit Manager for Public Safety and Technology in the Government Services Division of Aspen Systems Corporation; Director of Special Projects for the National Criminal Justice Association; and Director of Financial and Grants Administration for the Georgia State Crime Commission.

Mr. Mitchell received a Bachelor of Business Administration, with a major in Finance, from Georgia Southern College.

Mr. SMITH OF MICHIGAN. Mr. Mitchell, thank you. Mr. Shannon, thank you and thank you NFPA for your work on the assessment research. I think it is extremely helpful to have a little better understanding of what some of our shortages are. Please proceed.

STATEMENT OF MR. JAMES M. SHANNON, PRESIDENT AND CEO, NATIONAL FIRE PROTECTION ASSOCIATION

Mr. SHANNON. Thank you, Mr. Chairman, and Ranking Member Gordon and Members of the Committee. I am honored to appear before this committee today. My name is Jim Shannon. I am the President and CEO of NFPA, and I am here to testify in strong support of H.R. 4107. This legislation will codify much of the important work that the United States Fire Administration has done in administering this crucial grant program since 2001.

From day one, USFA has worked with the Nation's fire service to insure that this program is managed in a way that best meets existing needs. Now first, let me state emphatically that the reauthorization of the Assistance to Firefighters Grant program, the FIRE Grant Program is extremely important, we believe, to the effectiveness of the fire service throughout the United States. This program addresses every element of the fire service, including fire suppression, prevention, code enforcement and emergency medical response. Back in May of 1973, the Chairman of the National Commission on Fire Prevention and Control, Richard Bland, transmitted to President Nixon its final report, America Burning.

In that report, the Commission recommended establishment of the United States Fire Administration to evaluate the Nation's fire problem through data collection and analysis and research, to create a National Fire Academy to improve training and education for fire service personnel, to strengthen public awareness of the fire threat, and to provide grants to state and local governments. Before Congress created the FIRE Grant Program, USFA was unable to use that final key function with the scale and the breadth needed to help America's fire service achieve full effectiveness in its role of protecting the public. And now with the continuing support of Congress and with diligent administration by USFA and with the

work of ODP, this program is addressing the needs of the fire service and promoting public safety.

I think the staff at USFA has done a tremendous job in administering this program. Since its creation in fiscal year 2001, this program has provided almost $2 billion in financial resources to fire departments. Nonetheless, fire departments have applied for more than $9 billion, and the real needs are even greater than this, as I shall discuss. It is crucial that the FIRE Grant Program be maintained as a separate and distinct funding source where fire departments can receive direct funding from the Federal Government and avoid unnecessary red tape. And I would also urge that Congress fund the program at a level no less than its authorized amount of $900 million.

Now when I said that the needs are much greater than the currently authorized and appropriated amounts for the FIRE Grant Program, I was speaking about the Needs Assessment Survey[1] that Mr. Smith spoke about, which was specifically commissioned by Congress as part of the FIRE Act and which was completed just over a year ago by NFPA, in cooperation with FEMA and USFA. I won't go into the details because the findings of the bill delineate them in some detail, but it is very, very clear that our nation's fire service and first responders desperately need help in order to be prepared to do the job that we are asking them to do.

In the next two or three months, NFPA will release a Needs Assessment on each of the 50 states, which is based on further analysis of the data which has been collected from the National Fire Service Needs Assessment, and we will be pleased to make that available to each of the Members of the House and Senate for their state so they can see how their state stacks up. And we fully expect these reports to demonstrate that fire departments in every part of the Nation share in the national needs and require the help that this grant program has been providing.

This legislation takes the next appropriate step, and that is to provide the resources to update the original Needs Assessment. Now that the FIRE Grant Program is in its fourth year, it is important to have empirical data to show how this program is addressing the needs the original study documented. This updated study would measure the impact of the grant program on the shortfalls identified by NFPA's original assessment. In addition, H.R. 4107 protects the fire prevention and education portion of the FIRE Grant Program. While it is only five percent of the total funding, fire prevention and education activities conducted by our fire departments, educators and other community leaders address a pressing need.

These programs often reach out to high-risk groups who disproportionately die in fires: children, older adults and the disadvantaged. Some of the statistics on these populations are really troubling. Children five and younger and adults 65 and older have a death rate from fire and burns that is roughly twice the rate of the population as a whole, and these groups—these two groups account for over 40 percent of all civilian fatalities. And fire risk is highest in rural areas and large urban areas, the same commu-

[1] The information referred to can be found at http://www.nfpa.org/pdf/needsassessment.pdf

nities where poverty and other high-risk conditions are most widespread. So we can't continue to ask our fire service to do the job that needs to be done and not provide the resources to do this.

The Federal Government must continue to provide adequate resources through the Assistance to Firefighters Grant Program and to support our firefighters to meet the many challenges they face every day. This legislation will help to insure that this program does just that.

Thank you for the opportunity to testify here today, and I would be happy to answer any questions that you might have. Thank you very much.

[The prepared statement of Mr. Shannon follows:]

PREPARED STATEMENT OF JAMES M. SHANNON

Chairman Boehlert, Ranking Member Gordon and Members of the Committee, I am honored to appear before this committee today. My name is James M. Shannon, and I am President and Chief Executive Officer of the National Fire Protection Association. NFPA is a non-profit organization; founded more than 100 years ago, with a mission to save lives through scientifically based consensus codes and standards, fire and life safety education and training, and fire research and analysis. NFPA consensus codes and standards are adopted by State and local jurisdictions throughout the United States and widely used by the Federal Government.

Today NFPA has nearly 300 codes and standards addressing safety, each accredited by the American National Standard Institute (ANSI) and developed by technical experts, the fire service, and others participating as volunteers in a consensus process. This process ensures that all interested parties have a say in developing standards. Congress affirmed its support for voluntary consensus standards in the *National Technology Transfer and Advancement Act of 1995* (P.L. 104–113) and reaffirmed that support in the *Homeland Security Act of 2002,* the law that created the new department. Recently, the Department of Homeland Security adopted five NFPA personal protective equipment standards.

As Congress considers the reauthorization of the Assistance to Firefighters Grant Program, I wish to testify in support of H.R. 4107. This legislation will codify much of the important work the United States Fire Administration (USFA) has done in administering this crucial grant program since 2001. From day one, USFA has worked with the Nation's fire service to ensure that this program is managed in a way that best meets the existing needs.

First, let me state emphatically that the reauthorization of the Assistance to Firefighters Grant Program, commonly known as the FIRE Grant program, is extremely important to the effectiveness of the fire service throughout the United States. This program addresses every element of the fire service including fire suppression, prevention, code enforcement, and emergency medical response. In May of 1973 the Chairman of the National Commission on Fire Prevention and Control, Richard E. Bland, transmitted to President Nixon its final report "America Burning." In that report the Commission recommended establishment of the United States Fire Administration to:

- Evaluate the Nation's fire problem through data collection and analysis and research,
- Create a National Fire Academy to improve training and education for fire service personnel,
- Strengthen public awareness of the fire threat, and
- Provide grants to State and local governments.

Before Congress wisely created the FIRE Grant Program, USFA was unable to use that final key function with the scale and breadth needed to help America's fire service achieve full effectiveness in its role of protecting the public. Now, with the continuing support of Congress, and with diligent administration by USFA, this program is addressing the needs of the fire service and promoting public safety.

The staff at USFA has done a tremendous job in administering the FIRE Grant Program. Since its creation in FY 2001, this program has provided more than $1 billion in financial resources directly to fire departments. Nonetheless, fire departments have applied for more than $7 billion, and the real needs are even greater than this, as I shall discuss. It is crucial that the FIRE Grant Program be main-

tained as a separate and distinct funding source where fire departments can receive direct funding from the Federal Government and avoid unnecessary red tape. I would also urge the Congress to fund the program at a level no less than its authorized amount of $900 million dollars.

When I said the needs are much greater than the currently authorized and appropriated amounts for the FIRE Grant program, I was speaking on the basis of the "Needs Assessment Survey" of the fire service, which was specifically commissioned by Congress as part of the FIRE Act and which was completed just over a year ago by NFPA in cooperation with FEMA/USFA. Let me share with you a few of the major findings from that survey.

- Only one in every 10 fire departments has the local personnel and equipment required to respond effectively to a building collapse or the release of chemical or biological agents with even minimal to moderate casualties;
- 50 percent of our firefighters involved in "technical rescue" lack formal training, but technical rescue involving unique or complex conditions is precisely the skill they would need to respond to a terrorist attack;
- There are other huge gaps in training—There has been no formal training for 21 percent of those involved in structural firefighting; for 27 percent of those involved in EMS work; and for 40 percent who are sent in to deal with hazardous materials;
- And we don't protect our firefighters as we should. One third of the protective clothing worn by firefighters sent into a burning building is more than 10 years old, and an estimated 57,000 firefighters lack any protective clothing at all;
- On a typical fire department shift, 45 percent of first responding firefighters lack portable radios; 36 percent lack self-contained breathing apparatus; and 42 percent answer an emergency call without a Personal Alert Safety System (PASS) device that is critical in locating an injured or trapped firefighter;
- Finally, at least 65 percent of cities and towns nationwide don't have enough fire stations to achieve widely recognized response-time guidelines. Those guidelines recommend that firefighters be on the scene of any situation within four minutes, 90 percent of the time.

In the next 2–3 months, NFPA will release a needs assessment on each of the 50 states, based on further analysis of the data collected for the national fire service needs assessment. We fully expect these reports to demonstrate that fire departments in every part of the Nation share in the national needs and require the help this grant program has been providing.

The Needs Assessment began before the horrific events of September 11, 2001, but because of the foresight of USFA and our fire service advisors, the survey included extensive attention to terrorism preparedness. When the Council on Foreign Relations began an exercise, under former Senator Warren Rudman, to develop cost estimates of terrorism preparedness for the entire first responder community at all levels of government, the Needs Assessment permitted NFPA to develop and substantiate the fire service portion of these cost estimates with unusual detail.

In its report released last year, the Council estimated that it would take $98.4 billion in additional funds above current spending (estimated at $26–76 billion) over the next five years, or $19.7 billion per year, to meet the needs of our first responders to handle the additional responsibilities of homeland security. The fire service portion of this, based on the Council's use of NFPA's analysis of the Needs Assessment Survey, was $26.5 billion in initial costs and $7.1 billion per year in on-going costs.

Chairman Boehlert, your legislation takes the next, appropriate step, and that is to provide the resources to update the original needs assessment. Now that FIRE Grant Program is in its fourth year, it is important to have empirical data to show how this program is addressing the needs the original study documented. This updated study would measure the impact of the grant program on the shortfalls identified by NFPA's original assessment.

In addition, H.R. 4107 protects the fire prevention and education portion of the FIRE Grant program. While it is only five percent of the total funding, fire prevention and education activities conducted by our fire departments, educators, and other community leaders address a pressing need. These programs often reach out to high-risk groups who disproportionably die in fires: children, older adults and the disadvantaged. Some disturbing statistics about these groups:

- Children five and younger and adults sixty-five and older have a death rate from fire and burns that is roughly twice the rate of the population as a whole.
- These two groups account for over 40 percent of all civilian fatalities.
- Fire risk is highest in rural areas and large urban areas—the same communities where poverty and other high-risk conditions are most widespread.

We cannot continue to ask our firefighters to do more with fewer resources. We would not expect the men and women in our armed services to defend our nation without proper training, equipment and staffing. But as the country braces for the unknown at home, our nation's firefighters, who are nearly always the first responders in any crisis, need more help in order to protect our citizenry or themselves.

Fire departments face many difficult decisions. We can no longer ask our fire departments to survive entirely on local tax revenue supplemented by potluck dinners, auctions and fundraisers. The FIRE Grant program is beginning to address the shortfalls, which we know exist.

The Federal Government must continue to provide adequate resources through the Assistance to Firefighters Grant Program and to support our firefighters to meet the many challenges they face every day. Your legislation will help to ensure that this program does just that. Thank you again for the opportunity to testify here today. I am happy to answer any questions you have.

BIOGRAPHY FOR JAMES M. SHANNON

On June 3, 2002, Jim Shannon was elected President and Chief Executive Officer of NFPA (the National Fire Protection Association) in Quincy, Massachusetts. From 1991 until his election he was Sr. Vice President and General Counsel. The NFPA is an international organization which develops codes and standards which are adopted by State and local jurisdictions throughout the United States and widely used both by the Federal Government and governments around the world. Prior to that, Mr. Shannon served as Attorney General of the Commonwealth of Massachusetts from 1987 to 1991. As Attorney General, he headed a department of 450 people including 175 attorneys and revamped the office to emphasize prosecution of white-collar crime, public corruption and narcotics cases. In addition, he chaired the Antitrust Committee of the National Association of Attorneys General and, as Attorney General, personally argued several cases on behalf of the Commonwealth in state and federal courts including the United States Supreme Court. From 1985 to 1987 Mr. Shannon was a Senior Partner at the law firm of Hale & Dorr in Boston, Massachusetts. Mr. Shannon began his political career with his election to the United States House of Representatives in 1978. He was the youngest Member of the 96th Congress and served in the House until 1985. A Member of the Ways and Means Committee for six years, he served on the Trade, Health and Social Security Subcommittees. He was the principal author of the Research and Development Tax Credit and of the *Disability Benefits Reform Act of 1984* (Public Law 98–460). A graduate of Phillips Andover Academy he received his B.A. from Johns Hopkins University and his J.D. from George Washington University. He and his wife Silvia have a daughter, Sarah.

National Fire Protection Association

Washington Office, 499 South Capitol Street, SW, Suite 518, Washington, DC 20003
Phone: 202-488-4428 • Fax: 202-488-4452 • www.nfpa.org

May 11, 2004

The Honorable Sherwood Boehlert
Chairman, Science Committee
2320 Rayburn Office Building
Washington, DC 20515

Dear Congressman Boehlert:

Thank you for the invitation to testify before the U.S. House of Representatives Committee on Science on May 12th for the hearing entitled ***H.R. 4107, The Assistance to Firefighters Reauthorization Act of 2004***. In accordance with the Rules Governing Testimony, this letter serves as formal notice of the federal funding that NFPA receives. Please see the attached table for a list of the federal funding that NFPA receives.

Sincerely,

John Biechman
Vice President
Government Affairs

Schedule of Federal Contracts/Grants Open as of 4/27/04

Contract Number	Title Contract Life	Agency	Contract Type	CFDA #	Agreement Amount
17140	Wildland/Urban interface '01-04 01/01/01-12/31/04 **01-CA-1113010120-048**	USDA/FS	Co-op. Agreement *Fed Share* *NFPA*	10.664 *94.39%* *5.61%*	$13,259,847 *$12,515,969* *$743,877*
17158	R.W. Pub Ed. Implementation Program 05/01/03-04/30/04 **EMW-2002-FP-00189**	FEMA	Grant	83.554	$750,000
17160	Admin. Org for Manufactured Housing 06/20/03-06/19/04 **C-OPC-21940**	HUD	Fixed/Cost Contract Phase II	N/A	$290,733
17162	Behavioral Mitigation of Smoking Fires 8/27/03-2/27/05 **EME-2003-CA-0310**	FEMA	Co-op Agreement	83.010.	$142,890
17165	Fire Mitigation Ed. Program 09/09/03-9/08/04 **EME-2003-GR-0396**	DHS/FEMA	Grant	97.001	$150,000
17167	Fire Fighter Fatality 8/05/03-6/30/04 **Subcontract #NFPA-2003-100.1**	C2	Subcontract (FEMA/USFA Prime)	97.ukn	$8,000
17168	2004 Home Fire Sprinkler Coalition 3/01/04-2/28/05 **EME-2004-GR-0148**	DHS/FEMA	Grant	97.998	$50,000
17169	Mitigation of the Rural Fire Problem in US 4/14/04-10/13/05 **EME-2004-CA-0187**	DHS/FEMA	Co-op Agreement	97.ukn	$147,853
			Total Fed Share Total NFPA Share		$14,055,445 $743,877
			Total Grant/Contract Value		**$14,799,323**

2004 Federal Government Seminar Contracts

Date	Client	Mtg Cd	Seminar	Amount
Apr 5-7	GSA - Administrative Support Group (3PAA)	XCN074	3-DAY LSC	$13,800
Jun 28-Jul 1	Federal Aviation Administration	XCN324	4-day NEC	$17,800
		Total Income from Federal Seminars		$31,600

Mr. SMITH OF MICHIGAN. Chief Stittleburg.

STATEMENT OF CHIEF PHILLIP C. STITTLEBURG, CHAIRMAN, NATIONAL VOLUNTEER FIRE COUNCIL

Chief STITTLEBURG. Thank you, Mr. Chairman. I likewise very much appreciate the opportunity to appear before you today. I am the Chairman of the National Volunteer Fire Council. As such, I represent the interests of over 800,000 men and women that protect our country in the volunteer ranks in the fire EMS service.

We likewise strongly support H.R. 4107, which I refer to as the FIRE Act. We are all aware of the history of the Act. Of particular importance is the fact that it was created prior to September 11, 2001. It was intended to bring every fire department up to a minimum level of readiness, and the reason that is significant is that fire departments must first be able to provide for their basic needs before you can expect them to be able to assume any wider role. Every year, the paid and volunteer services respond to about 21 million calls. They run the gamut from structural and wildland fires to EMS, Hazmats, search/rescue, clandestine drug labs, natural disasters and so forth, and so it is very apparent the importance that they are properly trained and properly equipped.

It is important to keep in mind that they protect the interstate highways, bridges, tunnels, railroads, power plants, refineries, critical infrastructure, and I would point out that a great deal of that infrastructure is located in rural areas and is protected by volunteer departments. This reauthorization bill retains all the important aspects of the previous program, and includes some improvements. For instance, it would continue the provision that National Fire Service organizations set the grant criteria. That is important to keep needs realistic. It also continues the peer-review process. That is important to keep requests realistic. It also creates some new language, part of which is to prevent discrimination against volunteers. It provides that fire departments can't prevent paid firefighters from acting as volunteers in other municipalities.

I would hasten to point out that very similar language is already included in the SAFER Bill, which was passed by Congress and signed into law last fall, so there is precedent for that language. Why is this language important to the volunteers? It is important because many career firefighters who are paid and serve in large departments often live in small communities adjoining that area and belong to volunteer fire departments there. They possess skills, experience and knowledge that are very important to us in the volunteer sector. They make up a very important part of the volunteer fire service.

I asked myself the question why would anyone object to language saying that volunteers should not be discriminated against. I have heard it raised in the context of health and safety issues that paid firefighters need a period of rest and recuperation after completing their 24 hours of service. However, they are not prohibited from engaging in other activities that may be strenuous, such as second jobs, strenuous or dangerous hobbies and things of that nature. I believe that Congressman Gordon, for instance, raised the issue that this isn't the correct place to be raising collective bargaining issues, and I would simply point out that of course, pending now

in Congress are H.R. 814 and S. 606 that would require the 18 states that currently do not allow public safety officers to collectively bargain to do so.

So this is an issue that is already out there. I think that this is entirely the correct place. We are talking about spending federal dollars. This is the ideal place to decide how they are spent. As I say, the SAFER Bill has already addressed that in that law. Also, I would point out that this is a time of renewed appreciation and emphasis on volunteerism. President Bush has emphasized it repeatedly. It is important that we protect the right to volunteer. It is important that we allow people to do good for their communities. Not only is that the right thing to do, but it makes great fiscal sense. Volunteer firefighters save this country approximately $40 billion a year because of the services they are able to provide. A strong volunteer fire service is good for the country. This bill is good for the entire fire service.

And I would point out that although part of the bill I would anticipate will actually work to the detriment of the volunteer fire service, we nonetheless still support it. In other words, Congressman Pascrell talked about the changes in limits that departments could apply for. I anticipate that will result in a shift of applications from the volunteer sector to the paid sector. But nonetheless, we still support this FIRE Act because it has proven to be effective. It delivers the money where it needs to go, directly to the fire departments. We don't have controversies of the states holding the money and won't give it to the county, or the county won't give it to the city or whatever. It goes to the fire department, where it needs to be. Also the reauthorization bill, of course, provides for nonprofit, non-hospital EMS organizations to be eligible and that likewise is important to us.

In closing, sir, I wish to thank you and the Committee for allowing us to present our views on this matter today. Thank you, sir.

[Statement of Mr. Stittleburg follows:]

PREPARED STATEMENT OF PHILIP C. STITTLEBURG

Mr. Chairman and Members of the Committee, my name is Chief Phil Stittleburg and I am Chairman of the National Volunteer Fire Council (NVFC). The NVFC represents the interests of the more than 800,000 members of America's volunteer fire and emergency services community, who staff nearly 90 percent of America's fire departments. I have served in the volunteer fire service for over 30 years and have been the Chief of the LaFarge Volunteer Fire Department in Wisconsin for the last 27 years. I have had experiences in all phases of the first responder community, including chemical and hazardous materials incidents, EMS, rescue and fire.

In addition to serving as NVFC Chairman, I have represented the NVFC on a variety of standards-making committees, including ones that set industry standards on firefighter health and safety. I also serve on the National Fire Protection Association and National Fallen Firefighters Foundation Board of Directors and I am an adjunct instructor for the National Fire Academy. I earn my livelihood as an attorney, which includes serving as an Assistant District Attorney on a half-time basis for the last 28 years. These positions give me an excellent opportunity to serve in a wide array of professions in the public safety arena.

According to the National Fire Protection Association (NFPA), nearly 75 percent of all firefighters are volunteers. In most years, more than half of the firefighters that are killed in the line of duty are volunteers. In addition to the obvious contribution that volunteer firefighters lend to their communities as the first arriving domestic defenders, these brave men and women represent a significant cost saving to taxpayers, a savings sometimes estimated to be as much as $40 billion annually.

On behalf our membership, I appreciate the opportunity to comment on the needs of America's volunteer fire service. More specifically, I would like to express our

strong support for H.R. 4107, the *Assistance to Firefighters Grant Reauthorization Act of 2004,* which will reauthorize the Assistance to Firefighters Grant Program, also known as the FIRE Act, through fiscal year 2007. In addition, this bipartisan legislation will make some changes to the program, which will build upon its tremendous effectiveness and success.

The events of September 11, 2001 made it clear to all Americans that the fire service is the first responder to all terrorist attacks this country may face. As America's domestic first responders, the fire service will be on the front lines of any incident and must be prepared to respond to and defend our citizens from the aftermath of a terrorist attack involving conventional weapons or weapons of mass destruction.

However, we cannot lose sight of the 21 million calls the fire service responds to annually involving structural fire suppression, emergency medical response, hazardous materials incidents, clandestine drug labs, search and rescue, wildland fire protection, and natural disasters. Many of these emergencies occur at federal facilities and buildings and on federal lands. In addition, these incidents can damage America's critical infrastructure, including our interstate highways, railroads, bridges, tunnels, financial and agriculture centers, power plants, refineries, and chemical manufacturing and storage facilities. We as a fire service are sworn to protect these critical facilities and infrastructure.

Often, local governments are unable to afford the extensive training and equipment that these challenges require. The Assistance to Firefighters Grant program assists local fire departments by providing a percentage of the needed funds to pay for these necessities, while not supplanting local responsibility to provide adequate fire and emergency medical services.

The Assistance to Firefighters Grant program has proven to be the most effective program to date in providing all fire departments—both large and small, volunteer, career and combination—not only with the tools they need to perform their day-to-day duties, but it has also enhanced their ability to respond to large disasters as well. As we move to prepare for terrorist incidents at home, we must first ensure that local fire departments have the basic tools they need to do their jobs on a daily basis.

This legislation will address these concerns by continuing to ensure that the program will meet the basic firefighting and emergency response needs of our fire departments, rather than becoming an additional anti-terrorism grant program. The Federal Government must not forgo its commitment to the basic needs of America's fire service in the name of Homeland Security.

The program has been successful because it is the only federal program that provides funding directly to fire departments. In addition, the program's success is directly attributed to the fact that members of the fire service have been involved in nearly every aspect of the program to ensure that it addresses our current needs. We have helped to set the criteria for each funding category, and have staffed panels to grade the applications through an excellent peer-review process.

Program Reauthorization

As I stated earlier, passage of H.R. 4107, the *Assistance to Firefighters Grant Reauthorization Act of 2004,* is a top priority for our organization. As written, the bill codifies many of the current program regulations that have made it so successful. The legislation would mandate the current peer-review process, guarantee national fire service organizations are represented in setting the criteria, and ensure that the program continues to address basic fire department needs.

The legislation also includes important volunteer non-discrimination language prohibiting a fire department that receives grant funds from discriminating against, or prohibiting its members from engaging in volunteer activities in another jurisdiction during off-duty hours. This clause, similar to language was included in the SAFER Bill that passed Congress last year, begins to address the growing concern we have about an individual's right to volunteer. Cities such as Hartford, West Hartford, East Hartford, Waterbury, Fairfield, New Britain, Connecticut and Ft. Wayne, Indiana currently prohibit their firefighters from volunteering.

We feel that these types of provisions are a violation of the basic First Amendment right of free association. It is very alarming that any city would try to a tell a firefighter how they should or should not spend their off-duty time, which is their own time, especially when they are spending that time doing good in their community. This comes at the same time there is a revived push for volunteerism across our country.

Moreover, many career firefighters who work in larger cities often live in smaller communities and belong to their local volunteer fire departments. These individuals should be able to provide their invaluable skills, knowledge and expertise to their

local department, which are responsible for protecting their own homes and family, without harassment and retribution from employers.

Some proponents of this type of prohibition contend that it is a health and safety issue and that firefighters must be given time off to recoup and relax. However, we have not heard anything about fire departments that bar their firefighters from strenuous second jobs in construction and other trades. In addition, there appears to be no fire departments that prohibit their firefighters from partaking in potentially dangerous hobbies like skiing or skydiving. Volunteer fire and EMS are the only activities that appear to be singled out.

I would like to also stress that this clause does not affect any local unions who may attempt to prevent their members from volunteering. It simply would give incentives to municipalities to allow their employees to volunteer in their hometown fire departments.

This bill not only protects volunteers, it will ensure increased access to funds for larger fire departments as well. While leaving the match for smaller departments unchanged, it lowers the non-federal matching requirement for fire departments that serve 50,000 people or more from 30 percent to 20 percent. In addition, the bill raises the cap on individual grants to $1 million for all departments, $2 million for departments that serve 500,000–1,000,000 people, and $3 million for departments that serve more that one million people. These clauses will clearly result in a shift of funds from smaller departments to larger ones.

In addition, the legislation would begin to make non-profit, non-hospital emergency medical service providers eligible to apply for grants. Many jurisdictions maintain separate fire and EMS departments. However, under current law, only emergency medical services that are part of fire departments are eligible for funding. To ensure that these agencies do not siphon off too much funding, the legislation caps the amount these entities may collectively receive to four percent of appropriated funds.

The bill will also direct the U.S. Fire Administration (USFA) to administer the program. The USFA, under the leadership of Chief R. David Paulison, has spent the last four years developing and refining the program and has clearly demonstrated the capability to efficiently distribute these funds to local fire departments. This is no surprise to us because the personnel at USFA know the fire service like no other agency and many of their personnel come from emergency services backgrounds themselves.

Finally, the legislation will commission a follow-up needs assessment to better track the programs benefits and authorize $900 million per year for the program through 2007. We urge the entire Congress to support this legislation so we can quickly pass it through Congress.

FY 2005 Program

I would also like to take this time to encourage Congress to support the program in the current fiscal year. On February 2, 2004 President Bush sent Congress a $2.4 trillion spending plan, which requests $500 million for the Assistance to Firefighters Grant Program in FY 2005. Although this is the same amount the administration requested in the FY 2004 budget, it is a cut of $250 million (33 percent) from the final amount that was appropriated by Congress.

While the budget calls for the grants to continue to be made directly to fire departments and awarded through a competitive, peer-review process, it calls for priority to be given to applications that enhance terrorism preparedness. It also only requests funding for the training, apparatus, and equipment sections of the FIRE Act, which leaves out funding initiatives for fire prevention and education, EMS, firefighter wellness/fitness, and station renovation.

The NVFC is not only concerned about the proposed cut from FY 2004 funding levels, but we are also worried about the potential shift in focus of the program exclusively to terrorism. This program was created before September 11, 2001 and is about bringing every fire department up to a base-line level of readiness, which in turn will prepare them for large-scale incidents. In addition, this budget request only strengthens our argument that Congress needs to take action to ensure the program is protected.

Considering that nearly $3 billion in applications were submitted for the current program year and also taking into account a variety of recent reports outlining the tremendous needs of America's emergency services, including the NFPA Needs Assessment Survey, the NVFC requests that this Congress fully fund the program at the $900 million level.

A History of Success

After this current grant cycle, the Assistance to Firefighters Grant program will have distributed nearly $2 billion to almost 16,000 fire departments across the country for apparatus, personal protective equipment, hazmat detection devices, improved breathing apparatus, wellness and fitness programs, fire prevention and education programs and inter-operable communication systems. This is the basic equipment our fire departments need to effectively respond to all hazards. In fact, fire service personnel from across the country are reviewing applications as we speak at the National Emergency Training Center in Emmitsburg, Maryland.

In FY 2003, the program received $750 million and awarded nearly 8,700 grants to fire departments. Mr. Chairman, as you know, your home state of New York received 354 grants totaling over $34.3 million. Ranking Member Gordon, Tennessee received 268 grants totaling nearly $20 million. There are no discrepancies as to the location of this funding. It is all in the hands of local fire departments. The program simply works. The Federal Government is not blaming the State government. The State government is not blaming the county and local governments.

Many of these departments who are receiving aid are rural volunteer fire departments that struggle the most to provide their members with adequate protective gear, safety devices and training to protect their communities. In these difficult times, while volunteer fire departments are already struggling to handle their own needs and finances, they are now forced to provide more services.

The funding problems in America's volunteer fire service are not just limited to rural areas. As suburbs continue to grow, so does the burden on the local fire and EMS department. Even though many of these departments have the essentials, they are unable to gain access to new technologies. At no other time have advances been greater in equipment to protect them and make their jobs safer. Yet because the newer technology is so expensive, many volunteer fire departments are forced to forgo the purchase of the new technology or use outdated equipment.

Conclusion

The Assistance to Firefighters Grant program is one of the most effective programs in the Federal Government because it provides local fire departments with the tools they need to respond to any incident they may encounter, no matter the origin of the emergency. It ensures local support through a matching requirement and allows firefighters themselves to play a large role in the process.

I would like to take this opportunity to thank you, Chairman Boehlert, Ranking Member Gordon and the leadership of the Congressional Fire Service caucus, including Representatives Bill Pascrell (D–NJ), Curt Weldon (R–PA), Steny Hoyer (D–MD), Nick Smith (R–MI), Robert Andrews (D–NJ), Chris Cox (R–CA), and Jim Turner (D–TX), for their strong leadership on this issue.

Mr. Chairman, I thank you for your time and your attention to the views of America's fire service, and I would be happy to answer any questions you may have.

BIOGRAPHY FOR PHILIP C. STITTLEBURG

Phil Stittleburg joined the volunteer fire service in 1972 and has served as Chief of the LaFarge (WI) Fire Department for 27 years. Phil is also legal counsel to the NVFC, the LaFarge Fire Department and the Wisconsin State Firefighters Association. Phil has represented the NVFC on numerous National Fire Protection Association (NFPA) standards making committees, including ones that set industry standards on firefighter health and safety. He served as the NVFC Foundation President for twelve years and is a current member of the NFPA Board of Directors. Phil is an adjunct instructor at the National Fire Academy and a regular contributor to *Fire Chief Magazine.*

Phil earns his livelihood as an attorney, which includes serving as an Assistant District Attorney on a half-time basis for the last 28 years. These positions give him an excellent opportunity to work in public safety and emergency services in both the law enforcement and fire service professions.

National Volunteer Fire Council
1050 17th Street, NW, Suite 490, Washington, DC 20036; 202/887-5700 phone; 202/887-5291 fax
www.nvfc.org email: nvfcoffice@nvfc.org

May 12, 2004

The Honorable Sherwood Boehlert
Chairman, Science Committee
2320 Rayburn Office Building
Washington, DC 20515

Dear Congressman Boehlert:

Thank you for the invitation to testify before the U.S. House of Representatives Committee on Science on May 12 for the hearing entitled ***H.R. 4107, The Assistance to Firefighters Reauthorization Act of 2004***. In accordance with the Rules Governing Testimony, this letter serves as formal notice of the federal funding the National Volunteer Fire Council receives regarding this topic.

- $295,000, EMW-2002-FP-00062, Federal Emergency Management Agency, FY '02

Sincerely,

Heather Schafer
Executive Director

Mr. SMITH OF MICHIGAN. Chief, thank you very much. Chief Mitchell.

STATEMENT OF CHIEF ERNEST MITCHELL, PRESIDENT, INTERNATIONAL ASSOCIATION OF FIRE CHIEFS

Chief MITCHELL. Good morning, Mr. Chairman and Members of the Committee. I am Ernest Mitchell, as mentioned, recently retired Chief for the Pasadena Fire Department after 33 years in the fire service, nearly six of which were as Chief in Pasadena. I do appear today as president of the International Association of Fire Chiefs, which represents the leadership and management of America's fire and emergency services.

In the invitation, we were asked to address H.R. 4107, better known as the FIRE Act, and we do believe that the FIRE Act is one of the most important relationships between the fire service and the Federal Government. On behalf of the IAFC, I commend you and this committee for taking a leadership role in this reauthorization. We consistently hear from our members that they have a great number of needs to be met. We are pleased to note, Mr. Chairman, that this bill would authorize a new survey to determine the current level of need in America's fire service. We are also very pleased that your bill would reauthorize a highly effective Federal Grant Program.

There are good reasons for the FIRE Act's success, and we believe that there are five that are pillars of the program. I want to emphasize those five today, to express three concerns that we have, and also to offer our support for the reauthorization of H.R. 4107. First is those funds go directly to local fire departments for the purposes intended. Second, grants are awarded on a competitive basis and not on a predetermined formula. We cannot appropriately equip this Nation's fire service on a one-size-fits-all formula.

The third pillar of the FIRE Act is that the grant applications are peer-reviewed. This means that experienced, knowledgeable fire service people are looking at fire service grants. The fourth point is that grants are supplemental only. They do not supplant local funds. The point of the FIRE Act is to raise the capacity of fire departments across this country, not to replace line items in local budgets. And the fifth and final pillar of the FIRE Act's success is that it requires a co-payment by the community, and to us that indicates a requirement for community buy-in to the idea of improving fire service, and therefore advancing public safety in this country.

But also perhaps the most prominent thing that unifies these five pillars of the FIRE Act is local control. Local fire chiefs, in consultation with firefighters and their community leaders, decide what is most important to the community. These requests are then reviewed by people from local jurisdictions across the country, and finally, the local community must buy in to the grant by providing matching funds and agreeing that federal dollars will not supplant regular local funding to the fire service.

I submit to you, Mr. Chairman, that this consistent level of local control lies at the very heart of the FIRE Act's success. We do have the three concerns. We are concerned that this local control is

being eroded. Perhaps one of the most obvious examples is the current emphasis by the Office of Domestic Preparedness on the fire services' response to chemical, biological, radiological, nuclear and explosive incidents. Congress has made it clear that the FIRE Act is intended to build the basic tools of firefighting in order to enhance our all-hazards response. We are concerned that ODP's administration on terrorism might undermine this overarching goal and begin a morphing or transformation of the FIRE Act into a terrorism response program.

We need to be clear that basic response capacity is the foundation of all that the fire service accomplishes. Mr. Chairman, I would like to thank you for including in your bill a provision to move the FIRE Act back within the jurisdiction of the United States Fire Administration. The IAFC supported placing the United States Fire Administration in charge of the FIRE Act in the initial authorization, and we support it now.

Our second concern related to the loss of local control is the proposed earmark of up to four percent of funding to volunteer emergency medical service agencies. The FIRE Act has largely avoided earmarks, preferring to let the strength of the individual grant applications speak for themselves. And while we feel that providing financial assistance to volunteer EMS agencies is an admirable and laudable goal, modifying the FIRE Act is not the best way to accomplish it. The FIRE Act is meant to improve the readiness and response of local fire departments. Maintaining this clearly defined purpose is critical to the long-term future success of the program. We continue to support the FIRE Act as a core fire service program.

And our final concern is about the so-called anti-discrimination clause that is being placed in the regulations. The IAFC believes that discrimination has no part in America's fire service, and we have worked hard to eliminate discrimination wherever it appears. About 18 months ago, we surveyed our members and discovered that a significant number of the respondents had been subjected to some form of inappropriate peer pressure, harassment or outright intimidation regarding their career of volunteer service. We challenged our members, the leaders of the fire service, to crack down on this inappropriate behavior that undermines in a profoundly damaging way individual freedom and the civic ties that pull our local communities together.

We support the right of all citizens to volunteer their time and talents to fire and emergency services. We believe all Americans have the right to volunteer. It is a noble calling and there should be no undue restrictions or reservations placed on these rights, regardless of a person's affiliation or association. However, we want to be very clear, Mr. Chairman, that despite the IAFC's strong position on this issue and my own personal support of the volunteer fire service, we do not believe that amending the FIRE Act is the best way to resolve this issue.

Ten key fire service organizations at the table agreed that the FIRE Act was not the place to resolve these—this and other sometimes divisive issues. The FIRE Act is meant to equip fire departments with the tools and training they need to do their jobs. Keeping this clause in the regulation, if it is allowed to stay there, also

has the potential to further erode local control that we believe is so important to the continued success of the FIRE Act. The language appears to be overly broad and has the potential to restrict local control.

In my own experience, I have the ability to annually review each employee's outside employment and activities in order to assess whether or not a conflict exists. I believe that option should also exist for volunteerism. Local policy recognizes individual rights, but it also allows for departmental review to protect the jurisdiction. As written, this language could limit local jurisdiction's ability to limit or control volunteerism where there is a need to do so based upon local conditions or circumstances. Local chiefs need the ability to deny employee participation in outside employee—employment or activities that may be in conflict with their primary employment.

I have not chosen to prevent firefighters from volunteering. However, if trends or data develop that indicate volunteering or some other activity was creating a burden upon my city, then I believe that it would be my duty to act in the best interest of my employer and move to rectify that hazard. My home state of California has a very high Workers' Compensation cost, and we need to choose to limit liability and manage our risk. And it would be unfortunate if a committee could not exert some preventative control over this, should they choose to, if a problem was indicated and without impacting our ability to achieve or receive FIRE Act Grant funding.

[The prepared statement of Mr. Mitchell follows:]

PREPARED STATEMENT OF CHIEF ERNEST MITCHELL, RET.

Mr. Chairman and Members of the Committee, I am Ernest Mitchell, recently retired chief of the Pasadena (CA) Fire Department. I appear today as President of the International Association of Fire Chiefs (IAFC), which represents the leadership and management of America's fire and emergency service.

America's fire and emergency service reaches every community across the Nation, covering urban, suburban and rural neighborhoods. Nearly 1.1 million men and women serve in 30,000 career, volunteer and combination fire departments across the United States. The fire service is the only entity that is locally situated, staffed, and equipped to respond to all types of emergencies. Members of the fire service respond to natural disasters such as earthquakes, tornadoes and floods as well as to manmade catastrophes, both accidental and deliberate. As such, America's fire service is an all-risk, all-hazard response entity.

The FIRE Act Grant Program Works

Mr. Chairman, in your invitation you asked witnesses to address H.R. 4107, your bill to reauthorize the Assistance to Firefighters Grant Program, better known as the FIRE Act. The FIRE Act is one of the most important relationships between the fire service and the Federal Government. On behalf of the IAFC, I commend you for taking a leadership role in this reauthorization.

We consistently hear from our members that they have a great number of needs to be met, ranging from pumpers to self-contained breathing apparatus to training. We are pleased to note, Mr. Chairman, that your bill would authorize a new survey to determine the current level of need in America's fire service. We are also very pleased that your bill would reauthorize a highly effective federal grant program.

Congressional, administration, and fire service officials alike have called the FIRE Act one of the very best federal grant programs. The U.S. Department of Agriculture (USDA) issued a program analysis in 2003, proclaiming that *the FIRE Act works.* In USDA's own words, the FIRE Act "has been *highly effective* in increasing the safety and effectiveness of grant recipients. . .99 percent of program participants are satisfied with the program's ability to meet the needs of their depart-

ment. . .[and] 97 percent of program participants reported positive impact on their ability to handle fire and fire-related incidents."[1]

There are good reasons for the FIRE Act's success, and they are the five pillars of the program.

First, funds go *directly* to local fire departments for the purposes intended. There is no opportunity for the money to get bottlenecked at intermediate levels as with so much other first responder funding.

Second, grants are awarded on a *competitive basis,* and not based on a pre-determined formula. We cannot equip this nation's fire service with a one-size-fits-all formula. Formulas cannot account for whether a particular community is a city with mostly high-rise buildings, or whether it is an area out west that is more susceptible to wildland fires. Formulas cannot account for local budgets, or the age and level of use of the equipment in each of this nation's 30,000-plus fire departments. If a fire chief can make a good case for a grant, the competitive process will acknowledge that.

The third pillar of the FIRE Act is that grant applications are *peer-reviewed.* That means fire service people are looking at fire service grants. Experienced and informed members of the fire service community know what kinds of equipment and training we really need.

The fourth point is that grants are *supplemental only;* they may not supplant local funds. The point of the FIRE Act is to raise the capability of fire departments across the country, *not* to replace line items in local budgets. A local community may not reduce the department's budget to offset a FIRE Act grant.

The fifth and final pillar of the FIRE Act's success is that it requires a *co-payment* by the community. This is really a requirement of community "buy-in" to the idea of improving the fire service and, therefore, advancing public safety. It is a clear demonstration of a community's partnership with the Federal Government to increase the capability of protecting this nation's critical infrastructure.

Local Control Must Be Maintained

Perhaps the most prominent theme that unifies the five pillars of the FIRE Act is local control. Local fire chiefs, in consultation with their firefighters and community leaders, decide what is most important to the community. These requests are then competitively reviewed by the people that are most familiar with the needs, local fire service representatives from across the country. Finally, the local community must "buy-in" to the grant by providing matching funds and agreeing that federal dollars will not supplant regular local funding to the fire department. I submit to you, Mr. Chairman, that this consistent level of local involvement and control lies at the very heart of the FIRE Act's sustained success.

We are concerned that this local control is being eroded. Perhaps the most obvious example is the current emphasis by the Office for Domestic Preparedness (ODP) on the fire service's response to chemical, biological, radiological, nuclear and explosive (CBRNE) incidents. As you are aware, formal management of the FIRE Act was transferred this fiscal year from the U.S. Fire Administration (USFA) to ODP. While ODP has committed to running the program in substantially the same manner as USFA, we are concerned about the strong emphasis on terrorism response. Acts of terrorism are just some of the many hazards to which America's fire service responds. Congress has made it clear that the FIRE Act is intended to build the basic tools of firefighting in order to enhance our *all-hazards* response.[2] We are concerned that ODP's emphasis on terrorism might undermine this overarching goal and begin the transformation of the FIRE Act into a terrorism-response program.

Mr. Chairman, I would like to thank you for including in your bill a provision to move the FIRE Act back within the jurisdiction of the USFA. The IAFC supported placing USFA in charge of the FIRE Act in the initial authorization, and we support

---

[1] U.S. Department of Agriculture Executive Potential Program Team 6, *Survey, Assessment, and Recommendations for the Assistance to Firefighters Grant Program,* Final Report, prepared for the U.S. Fire Administration, Federal Emergency Management Agency, January 31, 2003, p. 40 (emphasis removed).

[2] See, for example, appropriations report language for FY 2003: "The conferees have agreed to establish this new appropriations account for firefighter assistance grants [the Emergency Management Planning and Assistance account] so that there will be no doubt as to the importance of this program and to protect this program from being lost in the morass of the Department of Homeland Security" (H.R. Rep. No. 108–010, Title III (2003)).

In report language for FY2004, Congress said: "This committee. . .recommends the program remain in the Emergency Preparedness and Response Directorate in a separate appropriation so there is no doubt as to its importance, and to protect this program from being lost in the first responders grant programs" (H.R. Rep. No. 108–169, Title III (2004)).

it now. The USFA has very successfully managed this program, and we commend Administrator David Paulison for his outstanding leadership.

Our second concern related to the loss of local control is the proposed earmark of up to four percent of funding to volunteer emergency medical service (EMS) agencies. The FIRE Act has largely avoided earmarks, preferring to let the strength of individual grant applications speak for themselves. While we feel that providing financial assistance to volunteer EMS agencies is a laudable goal, modifying the FIRE Act is not the best way to accomplish it. The FIRE Act is meant to improve the readiness and response of local fire departments. Maintaining this clearly defined purpose is critical to the long-term success of the program. Setting aside earmarks for volunteer EMS agencies would erode this singular focus. Once the door has been opened to expand the list of eligible agencies, Congress would get requests to further expand the program from EMS agencies affiliated with hospitals, third service career agencies, and from private, for-profit corporations. The FIRE Act would then cease to be a core fire service program.

Our final concern is about the so-called "anti-discrimination clause." The IAFC believes that discrimination has no part in America's fire service and we have worked hard to eliminate discrimination wherever it appears. Eighteen months ago the IAFC surveyed our members and discovered that a significant number of them had been subjected to some form of inappropriate peer pressure, harassment, or outright intimidation regarding their service as volunteers. We support the right of a citizen to volunteer his or her time and abilities to a fire department. We challenged our members, the leaders of the fire service, to crack down on this inappropriate behavior that undermines, in a profoundly damaging way, individual freedom and the civic ties that pull our local communities together.

However, I would like to be clear, Mr. Chairman, that despite the IAFC's strong position on this issue and my own personal support of the volunteer fire service, we do not believe that amending the FIRE Act is the best way to resolve this issue. Representatives of 10 key fire service organizations addressed this topic in February, when we got together to discuss this reauthorization. We submitted a white paper to Congress that reflected the consensus we reached on what we think are the most important elements of this program. We discussed the issue of discrimination. The 10 organizations at the table agreed that the FIRE Act was not the place to resolve these sometimes divisive issues. The FIRE Act is meant to equip fire departments with the tools and training they need to do their jobs.

Conclusion

In conclusion, I would like to thank you, Mr. Chairman, for introducing this bill and for holding this hearing on a most important federal grant program. The FIRE Act is an endeavor for which the taxpayers and the Federal Government can—and should—be proud.

I will be happy to answer any of your questions.

BIOGRAPHY FOR ERNEST MITCHELL

Chief Mitchell has 30 years of fire service experience, 20 as a chief officer and the past 10 as fire chief. An IAFC member since 1987, he has served on both the Diversity and Program Planning Committees and was a member of the Fire Chief Designation Task Force and a participant in the 2000 Strategic Planning Process. A recipient of the 1999 IAFC President's Award for service, Mitchell earned Bachelor's and Master's degrees in public administration and is Past President of the Foothill Chiefs, Los Angeles Area Fire Chiefs and League of California Cities Fire Chiefs associations.

International Association of Fire Chiefs
4025 Fair Ridge Drive • Fairfax, VA 22033-2868
Telephone: 703-273-0911
Fax: 703-273-9363
Internet: www.iafc.org

VIA ELECTRONIC MAIL

May 10, 2004

The Honorable Sherwood Boehlert
Chairman
Committee on Science
U.S. House of Representatives
2320 Rayburn Office Building
Washington, DC 20515

Dear Chairman Boehlert:

Thank you for the invitation to testify on behalf of the International Association of Fire Chiefs (IAFC) before the U.S. House of Representatives Committee on Science on May 12th for the hearing entitled ***H.R. 4107, The Assistance to Firefighters Reauthorization Act of 2004***. In accordance with the Rules Governing Testimony, this letter serves as formal notice of the federal funding the IAFC has received in support of our research. Please find a detailed description for Fiscal Years 2003 and 2004 attached.

Sincerely,

Chief Ernest Mitchell, Ret.
President

Attachment

/hgs

International Association of Fire Chiefs
Schedule of Federal Grants - In order of Start Date
As of December 31, 2003

Grant ID Number	Name of Grant	Granting Agency	Funding Cycle	Total Award Amount	Amount Disbursed Prior to 2003	2003 Grant Revenue
Grant No: EME-2003-SA-0286	Fire Act IV	US Department of Homeland Security / FEMA	07/31/03 - 06/30/04	98,780	-	66,034
Grant No: EME-2001-CA-0351	Wellness-Fitness 2003	Federal Emergency Management Agency	07/28/03 - 09/26/04	74,990	-	3,156
Contract No: NBCH03003	Department of the Interior Co-Op	Department of the Interior & Department of Agriculture	07/01/03 - 09/30/04	129,300	-	11,717
Grant No: EMW-2002-FP-00442	Fire Prevention	Federal Emergency Management Agency	05/01/03 - 04/30/04	819,363	-	42,371
Contract No: 03EASPHEP030084	Smallpox / HHS	Department of Health and Human Services	11/01/02 - 04/10/03	18,965	6,656	10,300
Grant No: EME-2002-CA-0203	HazMat 2003	Federal Emergency Management Agency	09/20/02 - 09/29/03	110,000	12,110	97,890
Grant No: EME-2002-SA-0319	Fire Act III	US Department of Homeland Security / FEMA	07/31/02 - 06/30/03	92,319	67,546	19,334
Grant No: EME-2001-GR-0421	Native American and Alaskan Native Fire Prevention Outreach Program	Federal Emergency Management Agency	01/01/02 - 03/01/03	199,818	116,740	83,078
Grant No: 2001-GT-CX-0002	Public Safety Reponse to Terrorism Conference II (OJP Terrorism)	US Department of Justice	09/25/01 - 02/01/03	427,189	344,208	82,981
Grant No: EME-2001-SO-0034	Wellness-Fitness 2001	Federal Emergency Management Agency	05/24/01 - 05/23/03	50,000	3,622	42,906
			FEDERAL TOTAL	**2,020,724**	**550,882**	**459,767**
SubAward No: #Z956102	Cap WIN	University of MD	01/01/03 - 04/30/04	200,000	559	101,476
			TOTAL (INCLUDING PASS THRU GRANTS)	**2,220,724**	**551,441**	**561,243**

International Association of Fire Chiefs
Schedule of Federal Grants - In order of Start Date
As of March 31, 2004

Grant ID Number	Name of Grant	Granting Agency	Funding Cycle	Total Award Amount	Amount Disbursed Prior to 2004	2004 Grant Revenue
Grant No: EME-2004-CA-0116	HazMat 2004	US Department of Homeland Security / FEMA	02/11/04 - 02/10/05	75,000	-	5,227
Grant No: EME-2003-SA-0286	Fire Act IV	US Department of Homeland Security / FEMA	07/31/03 - 06/30/04	98,780	66,034	14,188
Grant No: EME-2001-CA-0351	Wellness-Fitness 2003	Federal Emergency Management Agency	07/28/03 - 09/26/04	74,990	3,156	4,656
Contract No: NBCH03003	Department of the Interior Co-Op	Department of the Interior & Department of Agriculture	07/01/03 - 09/30/04	129,300	11,717	26,541
Grant No: EMW-2002-FP-00442	Fire Prevention	Federal Emergency Management Agency	05/01/03 - 04/30/04	573,203	42,371	9,658
			FEDERAL TOTAL	**951,273**	**123,278**	**60,270**
SubAward No: #Z956102	Cap WIN	University of MD	01/01/03 - 04/30/04	200,000	102,035	22,917
			TOTAL (INCLUDING PASS THRU GRANTS)	**1,151,273**	**225,313**	**83,187**

Chairman BOEHLERT. Thank you, Chief Mitchell. For clarification, let me just say that you mentioned the four percent on EMS. Four percent is a maximum, so it is not a set-aside. It just says that EMS appropriations for whatever grant level cannot exceed four percent of the total amount. With that, Mr. O'Connor.

STATEMENT OF MR. KEVIN B. O'CONNOR, ASSISTANT TO THE GENERAL PRESIDENT, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS

Mr. O'CONNOR. Thank you, Mr. Chairman and Members of the Committee. My name is Kevin O'Connor, and it is both an honor and privilege for me to represent the 263,000 men and women of the International Association of Fire Fighters who provide fire, rescue and EMS protection to over 80 percent of the Nation's population.

Mr. Chairman, I proudly served for over 15 years as a firefighter EMT in the Baltimore County Fire Department, one of the finest combination departments in the Nation. Since 2000, I have led our association's government and public policy division. Today's testimony is bittersweet for me and my members. Our union has enthusiastically supported the Assistance to Firefighters Grant Program, or FIRE Act as it is more commonly referred to, since the concept was in its embryonic stages, and we will continue to do so. I recall very vividly as a young firefighter sitting around the kitchen table bemoaning the lack of federal resources we received, contrasted to law enforcement and education.

Our needs and responsibilities were as great, but at the end of the day, we received rhetoric and not resources. This program began to change that unfortunate reality. Our friends on both sides of the aisle embrace the assistance program, and when it was finally authorized, the bill had nearly 300 co-sponsors. While he is not here today, as my good friend Congressman Curt Weldon is fond of saying, we took partisanship out of the fire service. Authorizing the FIRE Act and promulgating its rules was a collective and cooperative effort from day one. All parties, both governmental and fire service, career and volunteer, management, labor demand a consensus, and for four years, we worked as one.

The IAFF anticipated working on reauthorization, which is sorely needed, I might add, in the same spirit of cooperation. All parties agree that as constituted, the program shortchanged many larger jurisdictions. Appropriately, this legislation begins to address that malady by increasing the maximum grant award to $3 million, which makes the program more attractive and meaningful to our larger fire departments. Additionally, this proposal calls for reducing the match from 30 to 20 percent for larger jurisdictions. We view this as a very good start. Many of our nation's most understaffed, under-trained and maximally extended fire departments, such as Philadelphia, Cleveland, Buffalo and many others face fiscal exigencies that make finding matching dollars difficult, if not impossible.

The IAFF finds no empirical evidence that suggests that larger jurisdictions are financially able to pay a larger share of matching dollars than smaller towns. We believe that the match should be the same for all jurisdictions. The IAFF applauds the sponsors of

this legislation for attempting to address these concerns. Even with their limited trepidations on the match issue, the IAFF would happily champion this proposal. Sadly, we cannot. While we support reauthorization, there is language included in this bill which causes us to vehemently oppose it. The provision entitled Protection of Volunteers from Discrimination is the basis of our opposition to this bill in its current form.

My purpose today is not to debate the merits of the provision, which I believe was very well intended in the minds of its proponents. Our specific opposition is incorporated in our written testimony, which has been provided. However, I do hasten to caution this committee on two separate and independent grounds. First, the purpose of this program was to provide necessary grants to fire departments based on need, nothing more. By creating a bar, any bar, to a jurisdiction seeking a grant in our minds diminishes this program. With respect to this specific provision, it will impact approximately ten fire departments throughout the entire Nation.

Quite honestly, we believe that we are moving to Def-Con Five to address a very, very limited issue. It is opening a Pandora's Box which frankly should remain closed. Consider this. There are fire departments that don't comply with OSHA or NFPA standards. There are fire departments that serve alcohol on fire department premises. There are places that elect company officers who lack appropriate training. Should we deny these fire departments grants? I think not. Grants should be based on need, period. No strings, no arbitrary bars.

Second, and equally deserving to the IAFF, for 10 years, we have lobbied this honorable body to secure collective bargaining rights for firefighters, and for 10 years, Congress has demurred. Now this legislation contemplates using the FIRE Act to infringe upon the scope of bargaining in state and local subdivisions. In our view, it is ludicrous and it is hypocritical. The fact is that Congress had absolutely nothing to do with the enactment of these local ordinances. Now the legislation proposes limiting rights under local statutes that were established without Congressional assistance and are not under the auspices of Congress.

From our many discussions with Congressional staff, this action is unprecedented. Many Members of Congress of both parties who favor state's rights have told us very pointedly that collective bargaining is a local issue. With that in mind, I ask for one of two resolutions. First, simply take this language out of the bill. Incidentally, all three major fire service organizations seated at this table jointly opposed including the provision in the original form of the bill. That includes the IAFF, the IAFC and in the early stages, the National Volunteer Fire Council. Or secondly, in the alternative, amend the FIRE Act by specifying that jurisdictions that don't provide collective bargaining are also ineligible to receive grants.

In closing, I thank the Committee for its time and attention. I sincerely hope that we can work through these issues and find common ground to reauthorize this necessary and very vital program. With that, thank you very much for your time, and I would be pleased to entertain any questions.

[The prepared statement of Mr. O'Connor follows:]

PREPARED STATEMENT OF KEVIN B. O'CONNOR

Mr. Chairman. My name is Kevin O'Connor, and I serve as Assistant to the General President of the International Association of Fire Fighters. Before joining the IAFF staff, I spent over 15 years working as a firefighter in Baltimore County, Maryland, both as a volunteer and paid professional. I had the opportunity to the serve as President of the Baltimore County Professional Fire Fighters Association and the Professional Fire Fighters of Maryland.

I appear before you today on behalf of General President Harold A. Schaitberger, and the 263,000 men and women of the IAFF. The IAFF is by far the largest fire service organization in the Nation, and our members protect over 80 percent of the United States population.

I appreciate this opportunity to share our views on reauthorizing the Assistance to Firefighters Grant program, more commonly known as the FIRE Act. The FIRE Act was a true landmark in the history of the fire service. Prior to its passage, the Federal Government had never fully acknowledged a responsibility to help protect the health and safety of its citizens from fires and other emergencies. With this initiative, the Federal Government for the first time became a partner with localities and with America's fire service.

The program has been a model of efficiency. By sending funding directly to local fire departments using a peer-review process, the FIRE Act has distributed over $1 billion in just three years. There have been more than 15,000 grants awarded to fire departments across the Nation. These grants have purchased equipment, provided desperately needed training, enhanced firefighter wellness, and educated children and others about fire safety. Americans are safer today as a result of this program.

But improvements are clearly needed. When the program was first developed, there was a fear that smaller communities and volunteer fire departments would not be able to compete with large municipalities for grants. As a result, several provisions were added to the legislation to ensure that small jurisdictions received a fair share of the funding. The IAFF fully endorsed these provisions, and worked with the National Volunteer Fire Counsel to address issues of fairness.

Based on the experience of the last four years, we now know that those initial fears were unwarranted, and the protections added to the legislation have had a detrimental impact on larger municipalities. Fire departments that are composed entirely of professional firefighters protect roughly half of the U.S. population, yet last year they received only 17 percent of the funding.

Together with the other national fire service organizations, we have put together a proposal to begin to address some of these inequities. We are grateful to you, Mr. Chairman, for including some of the recommendations in your legislation reauthorizing the FIRE Act.

With the improvements to the program contained in H.R. 4107, we had hoped to be able to come here today to endorse the legislation. Sadly, we cannot. The inclusion of an ill-conceived anti-labor provision in the legislation has forced us to oppose the bill as currently written. We hope that this language will be removed in due course or an amendment added which provides similar restrictions on jurisdictions that do not provide bargaining rights for firefighters and EMS workers. Resolving this one issue will enable us to fully embrace your legislation reauthorizing the FIRE Act.

Before addressing the provision that is the source of our objections, allow me to offer some comments about several other provisions in the legislation.

Size of Grants

One of the most important provisions designed to protect smaller jurisdictions in the original law was a cap placed on the size of grants. By limiting the size of any single grant to $750,000, the authors hoped to increase the number of grants that would be awarded. Many smaller grants were viewed as better than a few larger ones.

There were two flaws in this reasoning. The first is simply the notion that the same cap should apply to all jurisdictions regardless of size. Larger fire departments require more funds, and the cap proved to be a disincentive for major cities to participate in the program.

The second flaw is that the cap fails to consider the different organizational structures of volunteer fire departments and professional fire departments. Volunteer departments are often comprised of a single fire station, while professional departments are more likely to have multiple stations. As a result of these different systems, the FIRE Act has a built-in bias favoring volunteer fire companies.

Consider, for example, my jurisdiction of Baltimore County. The county operates a combination fire service. There are 33 volunteer fire companies. While independent, they still fall under the command of the Baltimore County Fire Chief. The career service consists of 25 stations. In terms of response, the career service provides the bulk the service. Last year, the 33 volunteer companies responded to 48,159 fire and EMS calls, while the 25 career stations responded to 128,610 fire and EMS calls. Yet, under current law, the career side of the Baltimore County Fire Department is eligible to receive a single grant of $750,000, while the volunteer sector in Baltimore is eligible to receive grants totaling more than $24 million.

Clearly, the cap on the size of grants must be raised and linked to population served. We are appreciative of the language in H.R. 4107, which addresses this need by creating three levels of grants linked to population, with the largest cities eligible for up to $3 million.

Although we believe this is a step in the right direction, we feel obliged to note that it is just a step. The fire departments in America's largest cities protect millions of people, while some smaller fire departments number their constituencies in the hundreds. Allowing the largest areas to apply for only three times more funding in the face of such vast disparities in need is a problem we believe will need further attention in the years ahead.

Local Match

Another provision of the law intended to protect smaller jurisdictions is a lower local match for communities of less than 50,000 people. Currently, larger jurisdictions must match 30 percent of the federal funds, while smaller communities need only a 10 percent match. The 30 percent match has proven to be problematic for many communities. For example:

> In Austin, Texas, the City Manager told the local firefighters union that he will never apply for a FIRE grant because he views the 30 percent match as excessive.
>
> In Philadelphia, Pennsylvania, the city was forced to decline a FIRE grant it had already been awarded because it could not come up with the matching requirement.
>
> In Cincinnati, Ohio, the city was only able to afford the 30 percent match for a flashover simulator it had requested by reducing funding for other fire service needs. As a result, the city has been unable to afford to use the simulator in training exercises. Tragically, a Cincinnati firefighter lost his life in flashover while this technology sat idle in a nearby warehouse.
>
> In Bethlehem, Pennsylvania, the City Council was poised to vote unanimously to decline a FIRE grant it had been awarded because it could not afford the 30 percent match. At the urging of the local firefighter union, the Council agreed to postpone the vote to give the firefighters a chance to find an alternative. Ultimately, the firefighters were able to convince City Council to float a bond to pay the matching requirement. It was the second consecutive year a special bond was necessary to receive FIRE Act funding.

H.R. 4107 begins to address this problem by reducing the local match for larger areas from 30 percent to 20 percent. While we thank you and applaud this step, we encourage a further reduction to create parity and place all fire departments on a level playing field.

The rationale given for the lower match for smaller communities is that smaller communities have fewer resources. While that may be generally true, smaller communities also have fewer emergency response needs, and therefore apply for smaller grants. We are aware of no evidence that shows that smaller communities have fewer resources on a percentage basis when compared to larger areas.

Moreover, the notion that smaller means poorer is simply not true in many cases. There are affluent rural areas and very poor urban ones.

We are even aware of some volunteer fire departments that have more financial resources than urban professional fire departments. While they are likely the exception, some volunteer fire companies have proven extraordinarily adept at fundraising. Conversely, elected officials in some larger municipalities are either unable or unwilling to provide additional resources to fire departments due to severe budget shortages and demands for increased spending on a variety of other public needs.

Significantly, we have been unable to identify any other federal grant program that has different matches based on population. Such a rigid formula has been deemed inapt for federal assistance in other areas, and we urge that the FIRE Act similarly adopt the generally used practice of a single rate. If different matches are

warranted, we urge that the distinction be based on more relevant criteria than population.

Coordination of Grants in Combination Departments

One of the challenges facing combination fire departments that incorporate independent volunteer fire companies is assuring that the different components coordinate their efforts and resources. While these issues ultimately need to be resolved at the local level, the lack of coordination has implications for FIRE grants.

In many communities with combination departments, the overarching career department and the independent volunteer departments fail to share information about their FIRE grant applications. As a result, neighboring communities find themselves competing rather than cooperating for equipment and training to meet local needs.

To help remedy this situation, we believe that grant requests that emanate from any department that is part of a broader fire department command structure should be required to coordinate their grant request through the broader authority. This would enable the Chief of a department like Baltimore County to ensure that volunteer companies within the county are not requesting funds for something the county can better provide.

Expansion of the FIRE Act to EMS Providers

Like the other fire service groups, we have reservations about the provision of H.R. 4107 that expands the FIRE Act to agencies other than fire departments. While we understand and appreciate the argument to include EMS providers in jurisdictions where fire departments do not provide EMS, we are concerned that expanding the program to non-fire departments will open the door for other public safety agencies, such as police departments and private sector response organizations.

And while we agree that EMS should be a major focus of the FIRE Act, we wish to note that the majority of emergency medical services in our nation are provided by fire departments. The FIRE Act already funds and enhances pre-hospital patient care.

If you choose to retain this language in the bill, the one amendment we urge you to consider is to remove the limitation that only volunteer EMS providers are eligible. While not many in number, there are public, professional, single role EMS agencies, and there simply is no reason to deny them access to this funding solely because they choose to hire and pay professional paramedics rather than ask people to work for free.

Administering Agency

One area where we have a slight difference of opinion from some of our allies in the fire service is the issue of which agency should administer the program. But let me be clear: we agree that the U.S. Fire Administration has done an extraordinary job of running this program, and we have no objections to returning the program to USFA.

The only area of disagreement is whether USFA is the only agency that can effectively and efficiently administer the program. We believe the model and procedures developed by USFA can be replicated, and we have received repeated assurances from Secretary Tom Ridge, ODP Director Suzanne Mencer and others that whatever agency runs the FIRE Act will do so in the same manner as USFA. We have no reason to doubt their word.

The criticisms of ODP are that they lack experience with providing funding directly to fire departments and that their emphasis on terrorism preparedness is ill-suited to the FIRE Act. These beliefs stem from ODP's traditional role, but we believe the agency is capable of broadening its mandate.

In many ways, we find this debate somewhat ironic because when we first began lobbying in support of creating the FIRE Act one of the objections leveled at the legislation was the USFA had no experience in providing grants, and that the agency's history suggested it was ill-prepared to take on a program of this magnitude. Like the concerns expressed about ODP, these criticisms of USFA were legitimate. But we responded that we had faith that USFA would rise to the challenge, and we are pleased to report that it has done so spectacularly. We similarly have faith in ODP's commitment and abilities.

From the IAFF's perspective, how well the program is run and what the funding is used for are more important than which agency administers it.

Non-Discrimination Against Volunteer Firefighters

The reservations we have regarding the foregoing issues, however, would not prevent us from endorsing an otherwise positive piece of legislation. Our reluctant op-

position to H.R. 4107 is based entirely on the inclusion of an ill-conceived extraneous provision referred to as "Protection of Volunteers from Discrimination."

This provision would bar a fire department from receiving FIRE Act funding if it contains in its collective bargaining agreement a clause prohibiting its firefighters from serving as volunteer firefighters in another jurisdiction. While a perhaps well-intentioned effort to increase the number of volunteer firefighters, the actual impact of this proposal would be detrimental and far-reaching. As currently crafted, it is nothing less than an assault on the rights of the Nation's professional firefighters, and the process by which bargaining rights have been won for thousands of firefighters.

I would like to begin my discussion of this issue by offering some background. First, it is important to note that very few fire departments in the Nation, perhaps less than 10, have such clauses in their contracts. Most of them have been in place for several years, and have never been a source of any controversy.

Why would a fire department have such a clause in their bargaining agreements? While the issues may vary from place to place, I believe the most typical answer can be found in the agreement between the City of West Allis, Wisconsin and the firefighters union in the city. The West Allis example is especially helpful to understand this issue because the contract language includes a clear explanation of the provision's intent. Allow me to quote from it:

> *"For the reasons stated below the Chief of the West Allis Fire Department shall prohibit employees of the West Allis Fire Department from performing firefighting duties for municipalities operating a paid or volunteer fire department other than the City of West Allis.*
>
> 1. *The provision of fire protection services to the public is a dangerous occupation requiring highly trained, capable personnel using appropriate methods and equipment under the direction of experienced supervisors. As such, the performance of fire protection duties without the requisite training, methods, equipment or supervision may threaten the health and well being of employees and the public.*
> 2. *Employees who perform fire protection duties on a voluntary basis or as the result of outside employment are subject to increased exposure to hazardous conditions that may result in a greater incidence of illness or injury. Consequently, the performance of such duties for other municipalities may have a direct bearing on employee's ability to perform fire protection duties for the City of West Allis.*
> 3. *State statute has established a presumptive relationship between an employee's fire suppression duties and heart and lung disability the employee may develop. The City of West Allis and its taxpayers are financially liable for the employee's duty disability benefits, and must be confident that such disabilities are the result of the employee's work for the City of West Allis and not for other municipalities."*

In short, the City of West Allis has chosen to bar its firefighters from serving as firefighters in other jurisdictions—either on a paid or volunteer basis—to protect the health and safety of the firefighters and protect the city's taxpayers against unnecessary financial liabilities. For similar reasons, the City of West Allis also prohibits firefighters from smoking off duty.

While I am not entirely clear why the city's desire to protect its firefighters and taxpayers is so objectionable, from our perspective whether such a prohibition is good public policy or not is beside the point. There are much broader issues at stake, and we ask that you carefully evaluate the serious implications of the language contained in H.R. 4107 before moving forward on this issue.

First and foremost, placing a restriction on issues contained in collective bargaining agreements must be viewed as part of the larger issue of collective bargaining rights. As you know, Mr. Chairman, the Federal Government does not grant firefighters in our nation the right to bargain collectively. Where bargaining does occur, it exists because firefighters have won the right at the State or local level.

For nearly ten years, legislation has been pending before Congress to rectify this inequity and grant every firefighter in the Nation the right to discuss workplace issues with their employer. We are grateful, Mr. Chairman, for your strong support of this legislation. Unfortunately, despite support from clear majorities in both the House and Senate, Congressional leaders have blocked action on the legislation.

So the provision in H.R. 4107 contains something of a cruel paradox. On the one hand, the current position of the Federal Government is that it is outside the reach of federal authority to grant firefighters bargaining rights; while on the other hand,

this legislation would have the Federal Government restrict what we can bargain over in those places where we have won the right.

We have to ask: is firefighter bargaining a federal issue or not? The double standard inherent in restricting bargaining issues without also granting bargaining rights is egregious and unsupportable.

But this is not the sole reason why the provision of H.R. 4107 needs to be removed before the legislation can go forward. The language also sets two very dangerous precedents.

First, the language would mark the first time Congress has attempted to impose a restriction on fire department policies in order to be eligible for a FIRE grant. Currently, the only requirement is that a department has a legitimate need. Once we begin the process of placing restrictions on how fire departments choose to manage themselves, we are leading down a very thorny path.

I do not mean to imply that the Federal Government has no legitimate interest in fire department policies. Indeed, there are many, many fire department policies that we believe may warrant federal intervention. Our question, however, is whether the FIRE Act is the appropriate venue to address these issues.

For example, many fire departments fail to comply with OSHA standards for safe fire ground operation. This failure clearly jeopardizes the lives of firefighters, and we believe every department should come into compliance with these basic safety standards. Many fire stations have bars that serve alcohol to firefighters and others. We believe alcohol should never be present in a working fire station. And, as noted above, hundreds of fire departments in this nation refused to grant rank and file firefighters the opportunity to discuss with management their concerns about their own health and safety.

We believe all of these issues are as important, if not more so, than whether a small handful of fire departments have clauses barring people from volunteering in other jurisdictions. We have not, however, previously advocated using the FIRE Act to address these important matters because the program was never intended to compel changes in local Fire Department policies.

Singling out this one restriction for inclusion in the FIRE Act breaches a wall of separation, and invites federal micro-managing of fire departments. Does this extraneous issue truly warrant a radical redefinition of the FIRE Act's purpose?

The final area of concern is that the language establishes yet another precedent with implications far beyond the reach of the FIRE Act or, in our view, even this committee's jurisdiction. Since this issue arose, we have been researching other federal grant programs, and we have yet to find a single instance in which a limitation was imposed on a federal grant based on language contained in collective bargaining agreements. While there are numerous limitations placed on federal grants, we are not aware of any other attempts to redefine the scope of bargaining.

The potential implications for this precedent are staggering. Shall Congress address the complex issue of health insurance coverage by denying federal funds to employers whose health benefits are deemed inadequate? Shall we compel more teacher involvement in student activities by cutting off education funding because a teacher contract limits the number of evening events teachers can be required to attend without additional compensation?

The issue of how to define the scope of permissible bargaining is extraordinarily controversial, and the debate has raged for decades. The notion of removing that debate from the context of labor law and addressing it through grant limitations is a breathtaking reach. I can only conclude that the sponsors of the provision failed to fully comprehend the magnitude and unprecedented nature of the language.

I hope you agree, Mr. Chairman, that this issue is far more complex than merely protecting the rights of people to volunteer. It is for these reasons, that when the national fire service organizations met to discuss a draft version of your proposal, we unanimously agreed to request that the provision be stricken. Even the National Volunteer Fire Council joined in expressing opposition to the proposal.

We are, of course, aware that NVFC has changed its position and now supports maintaining the language. Let me stress that I do not raise this point to criticize NVFC for changing their position. The internal dynamics of organizations are often such that we can oppose something in draft form, but once a bill is introduced we are compelled to take a different stand. I would have done the same if the language were something benefiting my members. But that does not detract from the fact that NVFC, along with the rest of the fire service, opposed inclusion of the language.

Allow me to make one final point on this issue before concluding my remarks. There apparently has been some confusion regarding the similarity between the language in H.R. 4107 and the language contained in the SAFER Act authored by you, Mr. Chairman, and passed by Congress last year. It has been incorrectly claimed

that the language contained in H.R. 4107 is virtually identical to language we agreed to in SAFER.

In fact, the language in H.R. 4107 is much broader than the language in SAFER. The SAFER provision protecting volunteer firefighters against discrimination does not affect collective bargaining agreements or fire department policies. The restriction is attached solely to the individual firefighter hired with federal funds.

The language in SAFER is a restriction on the use of federal funds. The language in H.R. 4107 is a restriction on the *recipient* of federal funds. These two concepts are so divergent as to preclude legitimate comparisons. It is fallacious for anyone to suggest the language of H.R. 4107 is the same language contained in SAFER.

Mr. Chairman, for all the foregoing reasons, I respectfully request that the so-called non-discrimination provision of H.R. 4107 be removed before moving forward with this legislation. The FIRE Act has had a history of support that has united not only the fire service, but Members of Congress of both parties. We are optimistic that with the removal of this provision, we can return to this spirit of harmony and unity, which has been a hallmark of this important program.

I thank you for your consideration, and would be happy to answer any questions you may have.

BIOGRAPHY FOR KEVIN B. O'CONNOR

Kevin O'Connor currently serves as Assistant to the General President of the International Association of Fire Fighters, a labor union representing over 260,000 members across the United States and Canada.

In his capacity, Mr. O'Connor supervises the IAFF's Governmental Affairs and Public Policy Division, which consists of three constituent departments: Legislative Affairs, Public Relations and Political Affairs. The Legislative Affairs Department develops policy objectives for the International and engages in lobbying efforts before Congress and various regulatory agencies. Political Affairs constructs an overall strategy to evaluate, endorse and assist candidates favorable to the IAFF in federal, State and local elections. The Department also oversees FIREPAC, a federally registered Political Action Committee, which contributed over seven million dollars through a combination of hard and soft money in the last election cycle. The Public Relations Department serves a dual role. The primary responsibility of the department is publishing the *International Fire Fighter,* a bi-monthly magazine with a distribution of 270,000 copies, and the *IAFF Leader,* an issues-oriented newsletter for the affiliate leadership of the association.

Previously, Mr. O'Connor served concurrently as president of the Maryland State and District of Columbia Professional Fire Fighters and the Baltimore County Fire Fighters Association, Local 1311, with a collective membership of 7,500. Before ascending to President, Kevin served as Trustee, Legislative Agent, Vice President and Secretary-Treasurer. He held the position of Vice President and Chairman of the Legislative and Economic Development Committees of the Maryland State and District of Columbia AFL–CIO as well as serving as a Director of the Baltimore Port Council. For twelve years, Kevin was a Trustee and Chair of the two billion dollar Baltimore County Employees Retirement System. He served as Chair of the Baltimore County Health Care Review Committee, which determined and negotiated all health and insurance benefits for that jurisdiction's 12,000 employees. Mr. O'Connor was a gubernatorial appointee and Commissioner on both the Maryland Economic Development Commission and the Maryland Fire Rescue Education and Training Commission. He also served as a Director of the Baltimore based First Mariner Bank Corporation.

Kevin proudly served for fifteen years as a firefighter/EMT in the Baltimore County Fire Department, where he saw duty both as a line firefighter and as aide to the Chief of the Department. He received a commendation for bravery for a rescue during a multiple alarm apartment fire. Mr. O'Connor majored in Political Economy at Washington and Lee University and graduated from the Harvard Trade Union Program.

He was honored by the State of Israel Bonds as Outstanding Labor Leader of 1999. Upon assuming his role at the IAFF, Mr. O'Connor was awarded life membership and the title of President Emeritus of the Baltimore County Fire Fighters Association, Local 1311 and the Maryland State and District of Columbia Professional Fire Fighters.

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS®

HAROLD A. SCHAITBERGER
General President

VINCENT J. BOLLON
General Secretary-Treasurer

May 11, 2004

The Honorable Sherry Boehlert, Chairman
House Committee on Science
Washington, DC 20515

Dear Mr. Chairman:

In accordance with House rules, I am pleased to disclose federal funding received by the International Association of Fire Fighters in conjunction with our testimony before your committee.

On May 12, 2004, an IAFF representative will testify on the Reauthorization of the Assistance to Firefighters Grant program, better known as the FIRE Act. The IAFF last year received a grant from FEMA under this program in the amount of $750,000 for fire fighter wellness/fitness initiatives (EMW 2002 FP00245).

If you have any questions about this information, please feel free to contact me.

Sincerely,

Barry Kasinitz
Director of Governmental Affairs

1750 NEW YORK AVENUE, N.W., WASHINGTON, D.C. 20006-5395 • (202) 737-8484 • FAX (202) 737-8418 • WWW.IAFF.ORG

DISCUSSION

Chairman BOEHLERT. Thank you very much, Mr. O'Connor. Let me start by apologizing that—for being late to this meeting. I was engaged in the Committee on Intelligence with General Taguba and Undersecretary of Defense for Military Intelligence Cambone on a very serious matter involving the War on Terrorism. But this subject matter here today involves the domestic war on terrorism in a way that you all are all too familiar with, and we are determined, this committee and every single Member on this committee is determined to make certain that we renew one of the most popular and necessary programs that this, or previous Congresses, have ever been identified with, and we will do that.

There are few matters that would keep me away, and that is why I apologize at the opening. I will submit my statement for the record and we will go right directly to the questions and I will give the honor of having the first questions to my distinguished colleague and Ranking Minority Member while I get assembled at my post here.

Mr. Gordon.

Mr. GORDON. Thank you, Mr. Chairman. As I had mentioned earlier, the FIRE Act includes a provision that for the first time in the FIRE Grants Program would impose an eligibility condition on fire departments applying for grants. Under this proposed language, only fire departments that allow their members to volunteer at another department during off hours could receive FIRE Grants. This seems a little odd to me in that this policy would be so important that it would constitute the sole eligibility criterion for fire departments to participate in FIRE Grants. And as Mr. Stittleburg or Chief Stittleburg noted earlier, there is legislation in Congress pending concerning collective bargaining. This would be a much better place to put that.

Also if I could just point out to Chief Stittleburg, he had mentioned how there was a precedent with the SAFER Act. Well, there is a difference here, a significant difference in that the SAFER Act is a hiring program, and so it is tied to personnel matters. It is also restricted to the individual firefighter who is hired by the SAFER Grant and does not require the department change negotiated agreements with other personnel, and this Act deals not with personnel but with equipment. So I think there is a significant difference there.

So it looks to me like what is happening here is that—and let me point out one other thing. I was looking through this Needs Assessment, which is a pretty comprehensive proposal and a lot of work has gone into it. Nowhere in this proposal is there anything mentioned about this criterion. So it looks to me like we have got a problem or rather a solution that is looking for a problem. As was pointed out, there are only about ten fire departments nationwide that have this prohibition, and I know I think the reasons for that, but Mr. O'Connor, why don't you tell us a little bit more about why a fire department might do this? Again, everyone here wants to encourage the volunteer fire departments and volunteerism. But apparently, there have been some departments that have found legitimate reasons to have this criterion.

Would you tell us about that, please?

Mr. O'CONNOR. Thank you, Mr. Ranking Member. First let me begin by stating two things. One, you correctly point out the difference between the SAFER language and the language that is contained in the FIRE Act. And I might also add that with respect to the collective bargaining bill, there is language in that provision as well that was worked out with the National Volunteer Fire Council that does protect the rights of volunteers. But specific to the question in hand concerning why fire departments would take an action to prohibit folks from volunteering, first, the places that we have been able to ascertain throughout the country that have these provisions, they were not asked for by our local union affiliates in those jurisdictions. They were provisions that were requested by management.

And the reason for that, and in my written testimony, we offer the example of West Allis, Wisconsin, is that there are provisions across the country were presumptive laws are in place, meaning that if firefighters develop heart attacks, certain forms of cancer that it is presumed to be job connected. Various departments have taken the initiative because of these laws to place limits on what firefighters can do. In these ten departments, one of the limitations is volunteering. However, there are also no smoking prohibitions, as well as mandatory fitness clauses as well that the risk managers in those jurisdictions wish to employ to limit the financial risk to that jurisdiction.

I might also add, as Chief Mitchell pointed out and in my department as well, our fire chief did in fact have the ability to restrict part-time employment. For example, in Baltimore County, you were not allowed to work in the licensed beverage industry, for example, or if you worked in something—some of the construction trades that were deemed to be too dangerous, the fire chief had the ability to stop you doing that effort. So it is all about risk management, as far as we can ascertain.

Mr. GORDON. Thank you.

Chairman BOEHLERT. Thank you. Mr. Connor, just a question comes immediately to mind. How many times has the union disciplined firefighters for volunteering?

Mr. O'CONNOR. We have had language in our constitution and bylaws which, through my research, goes back to when our organization was first formed in 1918, and throughout the course of probably the last 15 years, we can come up with maybe seven or eight incidences where people were actually placed in terms of a trial board. But in our entire 80-plus year history, there has never been an IAFF member suspended from the IAFF in the United States for volunteering. We have had some issues north of the border, but they involve part-time employment and not pure volunteering.

Chairman BOEHLERT. Okay. Thank you very much for that. So it would indicate that the problem is not as some people would portray it, being very real and have to deal with very real examples in our everyday life, but it is perceived that it might occur sometime in the future. And therefore, you are trying to be preemptive in addressing it. Do you want to respond? Yeah.

Mr. O'CONNOR. Yeah. If I can continue, certainly that threat exists. I mean, you know, I can't sit before this committee and say

that the language is not in our constitution and bylaws. But I can say that, empirically, if you look at the evidence, it is not something that has constituted a major problem, either within our organization in terms of disciplining people within the IAFF, or alternatively, in terms of jurisdictions placing this in collective bargaining agreements, or more importantly, local union affiliates of the IAFF choosing to try to negotiate this provision.

Chairman BOEHLERT. All right. Thank you very much. Let me ask Mr. Mitchell where in the Department of Homeland Security structure is ODP? And my understanding is that the Administration is in the process of moving ODP out of the Board of Transportation and Security directorate and merging it with the Office of State and Local Preparedness. What is the status of that move and why was a change made, and what if any implications will this have for the Assistance to Firefighters Grant Program?

Chief MITCHELL. Well, the move as you indicated, Mr. Chairman, is—that is the Secretary's intent. I think a formal announcement on that consolidation and transfer will be forthcoming soon. I couldn't give an exact date, but I would assume in the very near future. As far as the impact on the operations of this program, I don't believe it will have any direct effect whatsoever. The functions and authorities of ODP as the primary grant-making agency will continue. I think it is just an effort to consolidate the office of state and local government coordination and our office, which we collaborate on a regular basis anyway, and to create what the Nation's public safety community has asked for since the late 1990s as a one-stop shop where they can find what resources are available to assist local governments to enhance their public safety capabilities to respond to terrorism and to other general public safety daily activities.

So I would propose that there will be no change whatsoever on the day-to-day operations of this or any other program that ODP administers.

Chairman BOEHLERT. Mr. Paulison, and you too, Mr. Mitchell, describe the level of coordination between your two shops in administering the program this year, as well as a transition in responsibility. Mr. Paulison, you are first up on that.

Mr. PAULISON. My number one goal when we were starting to make the transition happen is to make sure that the FIRE Grants were as successful during the transition, after the transition, as they were before the transition. So the level of cooperation was significant. We were in lock step with the Office of Domestic Preparedness at every step of the way, with not only Andy Mitchell but Sue Metzger, who oversees that entire organization. There has been excellent cooperation on both sides, both sides committed that the goal is to make sure that the grants would proceed as they have been in the past and be as successful as they have been in the past. And we have put our personalities aside. We have put our personal agendas aside and made it happen. So I am very pleased with the transition and with the cooperation.

Chairman BOEHLERT. Mr. Mitchell.

Mr. MITCHELL. Well, I would certainly echo that, Mr. Chairman. I mean, Dave and his staff have just been outstanding. I mean, they are—it has been as pleasant an enterprise as you could imag-

ine under the circumstances, and I would certainly assume, and I don't see any reason to doubt this, that this current level of collaboration and cooperation will continue in the future. We don't see this as a beginning and an ending process. We see this as really the first step in an ongoing collaboration with David and his staff on this and other programmatic aspects that we deal with that deal with the fire services.

Chairman BOEHLERT. So you want to retain the heart and soul of the present structure?

Mr. MITCHELL. Yes, sir. I mean, we are not going to change anything. I mean, we made that commitment—I mean, the Secretary has made that commitment in appropriations hearings and others. We will continue the program as it is administered currently. We will continue to use the peer-review process. We used the exact——

Chairman BOEHLERT. Well——

Mr. MITCHELL. Even housed it in the same place this year.

Chairman BOEHLERT. It said, rough paraphrase, that success has many fathers. Failure is an orphan, and I claim partial credit for the parentage in this program because I was an earlier pusher along with a number of my colleagues in the Congress on both sides of the aisle. But one of the great attributes of this program is that quite frankly, the grubby hands of the politicians—we don't have our fingerprints all over this. It—where the firefighters themselves and organizations involved that set the criteria. There is a peer-review process where the selection is made, and I like the fact that you can't have some influential Member of Congress call up and say I want a grant for this or that. That is not the way the system works, nor should it.

So this has done enormous good across the country, and I want it to continue with its journey on the same path, with the same basic thrust and the grants going direct to the departments and we are determined to make certain that happens, or we will get that through this Congress. So we will have a seamless continuation at the end of this fiscal year and the program won't go awry at the beginning of the new fiscal year. There will be a program.

Mr. Smith—and Mr. Smith, thank you very much for assuming the chair because first of all, you got it the old-fashioned way. You have earned it. You have been a real leader in these programs, and I want to thank you publicly for all that you have done. Mr. Smith.

Mr. SMITH OF MICHIGAN. Let the record show, Mr. Chairman, that I did a good job substituting for you in the effort.

And, you know, as Chairman of the Research Subcommittee that oversees the United States Fire Administration, in the year 2000, after meeting with fire departments, I wrote the mandatory language to the Defense Appropriation Bill, and then I took it to important Congressmen like Steny Hoyer and Curt Weldon, and of course you, Mr. Chairman, as well as Mr. Pascrell and Mr. Andrews, and we met with some of the fire services. We perfected the language and we introduced it. It got passed into law. It started out as $100 million a year. This legislation moves it up to $900 million a year, very appropriate, still way under-funded compared to what we do for law enforcement in those rural communities.

Mr. O'Connor, it seems like I hear you saying—I mean, the current FIRE Grant Program expires at the end of this year. Do I un-

derstand you to say that you would rather have no FIRE Bill than passing this bill, as written?

Mr. O'CONNOR. No. As I said in my testimony and my written statements, we will continue to support authorization. But we find this language does—very, very offense and we would like to see it removed.

Mr. SMITH OF MICHIGAN. And Mr. Mitchell, you thanked Mr. Paulison for the cooperation that he has given you in administering this program. It is my hope that the bill as written will pass and that a year from now, Mr. Paulison will thank you for your cooperation for the—returning this administration back to USFA.

I see a great danger in the potential challenges in the future of having FIRE Grant money to combat terrorism, and as the potential for increased threat of terrorism comes, then if the program is operated in the same department, the temptation is going to be taken away, it seems to me. At least there is a danger there of why this program was funded, and that's what Mr. Shannon and his organization showed is the tremendous need for basic firefighting equipment and training throughout the United States, and hopefully, that can be a continued dedication and to insure that a little more wall of separation in terms of how it is administered and hopefully, your staff, Mr. Paulison, will be returned to the USFA to continue the good administration of this program.

I would like to say that just to encourage all of the firefighting organizations, we have the chance that the issue on volunteerism not become so adamant that it disrupts the tremendous cooperation that we have. As you know, there is strong feeling that some of these volunteer departments are tremendously helped by full-time career individuals that can give some of the advice to these small—maybe smaller departments where they are volunteering in their home district.

So it is a strong feeling with some of us that they should be allowed to have done that, and I appreciate the—maybe the goal of the full-time departments, the union departments to expand union activities maybe with some of the volunteer fire departments. But I hope this doesn't come to the point of being such a conflict that it will disrupt the tremendous cooperation we have had, because we have got a unique opportunity right now it seems to me where public opinion is so strongly supportive of our volunteer efforts and our full-time efforts that they are going to cooperate.

And we need more cooperation and support at the local level, at the state level, and with this bill, we will move ahead at the federal level. In conclusion, I guess my question is to you, Mr. Shannon, and that is what—in terms of need of those fire departments, how much should—how far should the Federal Government go in helping with those needs, as opposed to the local municipalities and State Government? What is a correct balance, in your mind?

Mr. SHANNON. I think that is the key question that is at the core of this whole discussion, Mr. Smith. I would just say a couple of things about that. One is we are in a very unprecedented point in history because this is the first time in history where Washington has said to the fire service look, there is an international threat out there that you have to be prepared for, as well. It isn't enough that you just address the fire needs of your local community. You have

got to be prepared for biological attack and nuclear attack and you have got to train for incidents that you didn't expect to have to face.

And what the Needs Assessment pointed out was the fact that if you took basic kinds of terrorist threats and asked the fire departments are you ready to deal with this—and I am not just talking about smaller communities. But big cities, smaller communities, urban communities, rural communities, there is a lack of preparedness because the resources are not available. So really view the FIRE Act—I hope that the FIRE Act is here forever. I hope this Grant Program is here forever because I think it is going to be needed forever.

But at this point in history, the principal purpose of this is to help to get these fire departments up to the point where they can address this need that we have said they have to be prepared to address. So I think it is crucial—if we are going to get there, I think there is going to be a continuing need for support from the Federal Government, but at this point in history, I think that the level of funding that we are looking for in this legislation, $900 million is indisputable.

Mr. SMITH OF MICHIGAN. And Mr. Mitchell, we—you are going to submit your detailed suggestions for the bill in writing. We will be taking this bill up in the next few weeks in my—the Subcommittee on Research, and then I think the Chairman intends that we move it rapidly to the Floor, so we will consider and review all of your suggestions on this bill. With that, Mr. Chairman, thank you.

Chairman BOEHLERT. Thank you very much, and now we are going to pause just a moment to welcome a good friend and a strong supporter of the firefighters, the distinguished Minority Whip of the House, Mr. Hoyer, who is also a Vice-Chairman or Co-Chairman of the Congressional Fire Services Caucus and one who has been with us on a bipartisan basis from the beginning, fighting in the trenches, and this is the positive result we have; a great program that is being used very wisely to the benefit of the American people.

With that, let the Chair recognize Mr. Hoyer, then we will resume questioning.

Mr. SMITH OF MICHIGAN And for photographs, would somebody put Mr. Hoyer's sign in front of him?

Mr. HOYER. We Irishmen stick together. Mr. Chairman——

Chairman BOEHLERT. You——

Mr. HOYER. Oh, okay. I am fine.

Panel 3:

STATEMENT OF HON. STENY H. HOYER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. HOYER. Mr. Chairman, Mr. Smith, Mr. Moore, Mr. Gutknecht, thank you very much for giving me this opportunity to testify before the Committee. Let me say that I appreciate the Chairman's remarks and I, much more than that, I appreciate the Chairman's leadership. I appreciate Chairman Smith's leadership on these issues. We of course all work for Curt Weldon. We all under-

stand that, but the fact of the matter is Rob Andrews, Bill Pascrell—Bill Pascrell, I think should be noted, was really the principal cajoler and pusher and, in his own inimitable style, threatner of all of us that we can get this done. We can put—as Jim Shannon said, put very substantial money into a FIRE Grant Program.

I appreciate the opportunity to share with you my views on H.R. 4107. I would also like to express my gratitude to, as I said, Chairman Boehlert, for his extraordinary leadership as Co-Chair of the Fire Service Caucus. We have had the opportunity to work through the years, along with Mr. Smith, Mr. Andrews, Curt Weldon, Mr. Pascrell and others. Senator Sarbanes of course on the Senate side and Senator McCain have been giants in terms of this program, as has Senator Biden and others.

As Co-Chairs of the Congressional Fire Service Caucus, we have worked together and with the fire service during the past several months to craft what I think is a very good piece of legislation. It is not exactly what everybody would like, but it is close enough to be I think one of the most bipartisan bills we are going to pass in this Congress. I am extremely proud of the bill we have introduced. You know, not only reauthorizes, but also makes some significant improvements in the program. I know you have already heard from the distinguished panel of witnesses. I have heard sort of the tail-end of the testimony that they have given, and you have heard about the specific impact, with the provisions like increasing the size of awards and reducing local matching we will have on this program and on the volunteers, as well as career departments.

So rather than cover the ground again, which I am very supportive of all the provisions, I will focus my remarks on two specific issues that are particularly important to me, which may not have been referenced, although I understand may have been referenced by the Chief, and I will mention that, as well. And that—they are the particularly—the Grant Program and expanding eligibility to include separate, nonprofit emergency medical services, or EMS squads. Both the jurisdiction, which has been spoken to as to who is going to oversee, and I liked Mr. Smith's remarks, so that we are going to be congratulating Mr. Paulison on his outstanding leadership on this program in the years ahead.

The 2004 program guidance for the FIRE Grant Program makes clear that the Department of Homeland Security will make grants to enhance the safety or effectiveness of firefighting, rescue and EMS functions. Specifically, EMS departments are eligible to receive funding for equipment ranging from defibrillators, decontamination systems to basic and advanced life support equipment, so that currently on the program, if they are in the fire department, they can get a grant. The problem is, of course, in some small percentage both in career EMS departments and volunteer EMS departments, they are a separate entity and have been adjudged not to be eligible.

I am pleased that my colleagues that they would—they should be eligible and I am also pleased and was very supportive of limitations on that, because we want this to continue to be a departmental program. As you know, the vast majority of EMS squads in the U.S. are part of a local career or volunteer fire departments, as I have said. Under current law, they are eligible, but separates

are not. I am going to skip over and we will include that in my testimony.

Last year—now skipping to the second subject of jurisdiction of who runs this program. And this is not a criticism of the Homeland Security or the Department that is now given the authority. But over the objection of many of us, jurisdiction over the Assistance to Firefighters Grant was moved from the United States Fire Administrator to the Department of Homeland Security's Office of Domestic Preparedness. We believed it was working very well. And Mr. Chairman, I think we can all be proud of the fact, as you observed correctly, that it has not been a political program. It has not been a Steny Hoyer or Sherwood Boehlert could pick up the phone and say give X dollars to our department.

That is not what this was set up for. It was to make a peer-review system that gave to those most in need where we would have the most effect on the safety of our people. I think it has worked that way. ODP is, of course, the Federal Government's lead agency "responsible for enhancing the capacity of state and local jurisdictions to respond to and mitigate the consequences of incidents of domestic terrorism." That is a specific but very broad-based assignment. While this, of course, one of the most critical challenges our government faces today, and for what—one for which I have consistently sought increased levels of funding, it is not the intent or objective of the FIRE Grant Program, which is more specific.

The program was created by Congress and has in fact been administered by USFA as a source of federal funding designed to bring our nation's career and volunteer firefighters to a baseline of readiness to respond to all hazards. During the past three years, we have provided the most basic firefighting and emergency response needs, ranging from turnout gear and breathing apparatus to improved firefighter training and physical fitness programs.

I am concerned, as all of us were who drafted this bill, that under the jurisdiction of the Office of Domestic Preparedness, the FIRE Grant Program may lose this focus on preparing departments for all hazards, and instead become focused on meeting the Homeland Security needs of our first responders. Again, this is not a criticism of ODP that oversees this. It is, however, a strong belief that we all shared that the focus would be better in the Fire Administration. Back in this fiscal year 2005 budget proposal, when talking about the FIRE Grant Program, the President specifically recommends that ODP, and I quote, "place greater emphasis on the unique role of federal funds, particularly for terrorism and preparedness," so that in the budget presentation, it shifts the focus that we had when we adopted the FIRE Grant from a general to the specific on terrorism.

In light of these concerns and taking into account USFA's outstanding record of administering this program—and as you know, Mr. Chairman, we gave Mr. Paulison an award this year for the outstanding job that he and his office are doing as a result, we have urged and I hope that we adopt the transferring back of this program under his jurisdiction. I firmly believe that by doing so, we will guarantee that it remains designed to meet the everyday needs of men and women serving our nation in the fire service. We ask far too many of them to risk their lives in our defense every

day, with insufficient training in some instances and inadequate equipment in some instances, and we have an obligation, a duty, a responsibility to provide them with the necessary resources to perform their jobs as safely and effectively as possible.

That was our intent in the FIRE Act. We think that it will be carried out under the administration of the United States Fire Administration and Mr. Paulison, and I am pleased to have had this opportunity to testify before you and look forward to working as soon as possible—and I know that the Chairman and Chairman of the Subcommittee will bring this legislation to the Floor as soon as possible, to seeing this pass and have the President sign it as quickly as possible, and I thank the Chairman for his time.

[The prepared statement of Mr. Hoyer follows:]

PREPARED STATEMENT OF REPRESENTATIVE STENY H. HOYER

Mr. Chairman, Members of the Committee, I appreciate the opportunity to share with you my views on H.R. 4107, which reauthorizes the Assistance to Firefighters Grant Program through fiscal year 2007.

I would also like to express my gratitude to Chairman Boehlert, Curt Weldon, and Nick Smith, who along with Bill Pascrell and Rob Andrews, have demonstrated such leadership on issues of importance to our nation's fire and emergency services personnel.

As co-chairs of the Congressional Fire Services Caucus, we have worked together, and with the fire service, during the past several months to craft this important legislation.

I am extremely proud of the bill we have introduced, which not only reauthorizes, but also makes significant improvements to, the enormously successful Assistance to Firefighters Grant Program.

I know you have already heard from the distinguished panel of witnesses about the specific impact that provisions like increasing the size of awards and reducing the local matching requirements will have on career and volunteer departments across the country.

So rather than cover that ground again, I will focus my remarks on two specific issues that are particularly important to me—jurisdiction over the grant program and expanding eligibility to include separate, non-profit emergency medical service—or EMS—squads.

The 2004 program guidance for the Fire Grant Program makes clear that the Department of Homeland Security will make grants "to enhance the safety or effectiveness of firefighting, rescue, and EMS functions."

Specifically, EMS departments are eligible to receive funding for equipment—ranging from defibrillators and decontamination systems to basic and advanced life support equipment—training—for hazmat and mass casualty response, advance rescue and EMT certification—and even ambulances and rescue vehicles.

There is no question that this training and equipment will ultimately save lives by better preparing EMS personnel to respond to the scene of a fire, automobile accident, or other manmade or natural disasters.

Unfortunately, this training and equipment is not currently available to all EMS departments across the country.

Mr. Chairman, as you know, the vast majority of EMS squads in the U.S. are part of the local career or volunteer fire department. And under current law, these departments are eligible to receive grants for the types of training and equipment I outlined earlier.

But there are as many as 3,000 communities across the country, primarily small towns, many in rural areas, that maintain EMS and rescue squads that are separate and distinct from the local fire department. Let me be clear—these EMS departments do not represent a redundant capability in these communities.

The fact is that they perform vital rescue and life saving missions that are not carried out by the local fire departments. But they are currently ineligible for much-needed assistance for no other reason than the manner in which the community has organized its firefighting and emergency response departments.

Mr. Chairman, we have an obligation to ensure that every community is served by properly trained and adequately equipped emergency services personnel, not just those communities that have combined fire and EMS departments.

I am pleased that H.R. 4107 expands eligibility to include these separate EMS squads, thereby resolving one of the few shortcomings in the Fire Grant Program.

Another flaw in the Fire Grant Program addressed by H.R. 4107 is the new location of the program within the Federal Government.

Since the program's first year of funding in 2001, the U.S. Fire Administration, ably led by David Paulison, has been widely praised for the effective and efficient manner in which it has administered the funds and awarded grants to the most deserving applicants.

During the past three years USFA has made nearly 17,000 grants totaling more than $1.1 billion—without yet having begun to distribute the $750 million appropriated by Congress for fiscal year 2004.

But those FY04 dollars will not be administered by the Fire Administrator, despite its proven record of management over this program.

Last year, over the objections of many of us in Congress, jurisdiction over the Assistance to Firefighters Grant Program was moved from the U.S. Fire Administrator to the Department of Homeland Security's Office of Domestic Preparedness.

ODP is the Federal Government's lead agency "responsible for enhancing the capacity of State and local jurisdictions to respond to, and mitigate the consequences of, incidents of domestic terrorism."

While this is of course one of the most critical challenges our government faces today, and one for which I have consistently sought increased levels of funding, it is not the intent or objective of the Fire Grant Program.

This program was created by Congress, and has in fact been administered by USFA, as a source of federal funds designed to bring our nation's career and volunteer firefighters to a baseline of readiness to respond to all hazards.

During the past three years we have provided the most basic firefighting and emergency response needs—ranging from turnout gear and breathing apparatus to improved firefighter training and physical fitness programs.

I am very concerned that under the jurisdiction of the Office of Domestic Preparedness, the Fire Grant Program may lose this focus on preparing departments for all hazards, and instead become focused on meeting the homeland security needs of our first responders.

In fact, in his fiscal year 2005 budget proposal, when talking about the Fire Grant Program, the President specifically recommended that ODP "place greater emphasis on the unique role of federal funds, particularly for terrorism preparedness."

In light of these concerns, and taking into account USFA's outstanding record of administering this program, H.R. 4107 returns jurisdiction over the Assistance to Firefighters Grant Program to the U.S. Fire Administration.

I firmly believe that by doing so we will guarantee that it remains designed to meet the every day needs of the men and women serving our nation in the fire service.

We ask far too many of them to risk their lives in our defense everyday with insufficient training and inadequate equipment, and we have an obligation to provide them the necessary resources to perform their jobs as safely and effectively as possible.

Chairman Boehlert, Members of the Committee, thank you again for the opportunity to provide my views on H.R. 4107, and I look forward to working with you to ensure passage of this legislation.

DISCUSSION

Chairman BOEHLERT. Thank you very much for your testimony and thank you very much for your leadership. We appreciate it. And I understand you have to go to another important engagement. Now the Chair will recognize for questioning Mr. Moore.

Mr. MOORE. Mister—or Congressman Hoyer, I really do, and I mean this, appreciate the bipartisan nature in which this committee specifically operates, and I think it is—for the 5½ years I have been in Congress, it has always been that way and I really appreciate that, and I think the American people appreciate that, as well. But sometimes there are legitimate issues that come up that are expressed and I want to raise one here.

I did receive a letter from the International Association of Fire Fighters, the General President, expressing concern about H.R.

4107 and supporting overall the intention of H.R. 4107 and the intention of this bill. But also about a provision that has, he says, "forced us to oppose the legislation as currently drafted." And what he says here, and I just want to read a portion of this. "We are especially concerned about the provision because it purports to have an innocuous goal; insuring that provisional firefighters who choose to volunteer in another jurisdiction during their off-duty hours are not discriminated against," and he says, "In reality, the legislation is a direct assault on the collective bargaining rights of Nation's firefighters." And in the beginning of his letter, he says he represents 265,000 professional firefighters.

My question to you or the other members of the panel is, is there a way to resolve this concern consistent with the provisions of the bill?

Mr. HOYER. This was a provision that was not my provision, but it is a provision that I am comfortable with. I want to say that. I know that I have differences with Kevin O'Connor, of course, my close friend from Maryland, Former President of our State Association, leader in Baltimore County, and I have had discussions with Mr. Schaitberger, also my very good friend, on this issue, and he feels strongly about it. I understand that. The answer to your question is there are other ways to mitigate that. I would hope that there would be discussions about that.

This was not, and I underline, not directed at the union. I am a very strong, committed, unwavering supporter of collective bargaining rights for our firefighters and for others, as well, but particularly in this instance for our firefighters. Having said that, this is not directed at the union but at jurisdictions, as you——

It just doesn't mention the union. Now I think Mr. Schaitberger would say perhaps if he were here that is a distinction without a difference to the extent that it impacts on union policy. There is a provision in the International Association of Fire Fighters' constitution that a paid career person in one jurisdiction cannot volunteer in another. I understand that provision. Frankly, I—and as I have told Mr. Schaitberger, the problem—and Mr. O'Connor, the problem I have is that many of the people in my area—I am covered by Mechanicsville. That is my volunteer fire department. They keep my house safe and they have a rescue squad that is willing—I had a very bad accident four or five years ago, and they came on scene.

A number of them have gone to work either in Prince George's County or the District of Columbia as career firefighters, and they started out as 16 year olds working in the Hollywood or the Mechanicsville Volunteer Fire Department, and they want to continue that activity. And that is what that provision speaks to. But I understand it is controversial. I am very sympathetic to the interest of the union obviously taking jobs away from fellow union members by volunteering. It is not something that can be promoted by the organization.

In addition, Mr. Schaitberger does raise an issue as it relates to jurisdiction, and that is the liability issue, Workmen's Compensation, and other insurance issues related to an injury as a volunteer impacting on the career benefits that may not then be available. I think those are legitimate issues. I don't have interest to all of

them, but I would answer to the gentleman that I am supportive of the bill, as written.

Mr. MOORE. Thank you, Mr. Hoyer, and I do want to say I learned a long time ago, there are at least two sides to every issue, and sometimes, many more. And so I think it is helpful to have this discussion and I appreciate your comments. Anybody—any of the other witnesses have a comment there, I would just like to hear from you. Yes, sir. Chief?

Chief STITTLEBURG. Yes, sir——

Mr. SMITH OF MICHIGAN. [Presiding] Chief, before you start, Steny, did you want to be excused?

Mr. HOYER. Let me just stay for a couple of minutes, and then I have to go back to my own—another Committee, then—but I thank you very much for that——

Mr. SMITH OF MICHIGAN. Okay.

Mr. HOYER.—thoughtfulness.

Mr. SMITH OF MICHIGAN. Chief.

Chief STITTLEBURG. Mr. O'Connor has passionately presented the position of his organization, but when asked very pointedly, is this a deal-breaker as far as the FIRE Act is concerned, his answer was no. Let me assure you that from our standpoint, the answer likewise is no. The FIRE Act is much too important to be lost over any individual provision. Having said that, I can assure you we are as passionate in our position as Mr. O'Connor is in his. Congressman Gordon a little earlier distinguished this bill from the SAFER Act, which as you know has very similar language, and he tried to distinguish it by saying that well, the SAFER Act actually is a hiring bill and therefore is different from this. And I would suggest to you, sir, that to the volunteer fire service, the FIRE Act also very much is a hiring bill in the sense that being able to provide volunteers and protect the right to volunteer is indeed a hiring or a personnel preservation issue with us also.

Mr. HOYER. Mr. Chairman, before I leave, and I will leave and I thank you for the opportunity to do so, let me say to both Mr. Schaitberger, who is not here, but to Mr. O'Connor and to Chief Stittleburg of the volunteers, both of these organizations have been extraordinary in their willingness to work together obviously with differences, but nevertheless, with the larger good in mind. Everybody wins under this bill, but that does not mean that everybody got what they wanted. We understand that. But I want to thank both Harold Schaitberger and Chief Stittleburg and the volunteers and everybody else for their willingness to sit down at the table and come to agreement, realizing that there are—still remain differences, but that the overall good, as you point out, is one that we all want to attain.

Thank you very much, sir.

Chief STITTLEBURG. Thank you.

Mr. SMITH OF MICHIGAN. And Steny, just—I think it should be reinforced that the bipartisanship on this FIRE Grant legislation and the fact that at our meetings, it was—both Republicans and Democrats tried to grasp onto what is the kind of legislation that we might move forward. So it seems to me that it would be a real shame, not only to have any hard feelings between the volunteers

and the full-time, but also that it—the danger of becoming a partisan issue.

Mr. HOYER. Thank you.

Mr. SMITH OF MICHIGAN. Mr. Hoyer, thank you very much, and we will proceed with questions, Mr. Mitchell, if we can, and any question that is asked to you, what we do in most of my committees, you are not obligated to answer the question asked, but you can say what you want to say to convey to the Committee. And with that, I am going to go to Mr. Gutknecht.

Mr. GUTKNECHT. Well, thank you, Mr. Chairman, and this has been a very interesting discussion, and I want to thank all of you for coming.

I am a Member of the Budget Committee and, you know, we could all give lots of stories in our local districts of how much good these grants have done, and I have been at a number of my fire halls, both those who are managed by full-time professionals and those who are run by volunteers, and I have to tell you in every case, these have been well received. And I think they are going to make a real difference. I will say this though, and I am going to vote for this bill, and I understand that there are differences on certain policies and so forth that are included.

But I do want to make this point, and that is that on the Budget Committee, we are now wrestling with how do you cram, you know, $1.9 trillion worth of requests into a $1.7 trillion package? And so I hope you won't be, you know, disappointed if you don't get the full appropriation that this bill may call for, and that is not in any way to say that all of those dollars won't be—or wouldn't be well spent. It is just that we have an awful lot of requests, and one of them that we are dealing with right now is that more and more of our shareholders out there are saying that they want us to do a better job of balancing the budget. So I appreciate all that you do. You—the testimony and the discussion has been fascinating. I want to thank you for coming.

I just want to let you know that it is not because we don't believe in this program. It is just that we are—we have got an awful lot of competing interests out. We are looking at the Federal Budget, and we are going to do the best we can. Thank you very much.

Mr. SMITH OF MICHIGAN. Mr. Sherman.

Mr. SHERMAN. Thank you. I want to join Mr. Moore in his concern about the one provision. It seems like a very undue imposition by this Congress on the policies of local fire departments. If the City of Los Angeles, in conjunction and discussion with surrounding communities, decides to have a policy that says if you work for our fire department, you shouldn't volunteer for another one, who in Washington is qualified to come into my county and say that is bad fire policy? It may be good in some areas. It may be bad in others.

But for those defending that provision to tell my county what to do, most of whom have never been there and certainly have never been there to evaluate our fire protection needs seems absurd, and I would hope that anybody who has some respect for our federal system will ultimately vote to remove that provision. I see that Mr. O'Connor is here, and perhaps you can address this controversial provision in what is otherwise a pretty non-controversial bill.

Mr. O'CONNOR. Well, as I stated in my testimony and I believe the question in response to Congressman Smith, we really do look at this as a process-type issue. I mean, this is clearly in the realm of public debate and it should remain in the realm of public debate, and historically, we have addressed it in two other pieces of legislation. One authorization, which was enacted into law last year, the SAFER Act, which has been oft-referenced, and secondly, our collective bargaining bill. And clearly, it is an issue in which we have had multiple conversations with the National Volunteer Fire Council and frankly have addressed some of their concerns in those two pieces of legislation.

Our concern here is that we do think it is treading down a very perilous path in the fact that this program was done very, very cooperatively over the years, and I—we really do feel it was based sorely on need. There are many pressing issues that the IAFF would like to take into account in legislation. However, we have done this bill, the FIRE Act, the Assistance to Firefighters Grant Program as a consensus document. And moving down this road to take one singular provision that is offensive to any of the stakeholders we really feel opens Pandora's Box.

What is next? Do we come back next year? Do we try to put an imposition that departments have to comply with the National Fire Protection Association or OSHA? There is a lot of very good public policy concerns here and this is certainly one of them, and I, you know, understand Chief Stittleburg's passion on this issue, as we have our position, but we just don't think this is the appropriate vehicle for the reasons you articulated.

Mr. SHERMAN. I agree with you that this is not the bill for us to settle such a controversial issue, and I don't think the Federal Government is the right agency to determine how these matters would be dealt with on something that really should be local. I mean, our colleague, Mr. Hoyer, can describe what goes on in Maryland, but even he, with his great interest in this issue, knows very little about the L.A. Fire Department. Speaking of the L.A. Fire Department, I see that the maximum grant is $3 million. The people of Los Angeles represent well more than one percent of this country, and yet by that limit are limited to no more than $\frac{1}{3}$ of one percent of the total grants, as I understand it.

Am I correct in assuming that the most the L.A. Fire Department could get, even if we got the full appropriation—our colleague from the Budget Committee warned us that may not happen, and I am sure appropriators would tell us the same. But if we had the full—even if we had the full $900 million appropriated, is there any—can the City of Los Angeles Fire Department apply for more than one grant, or in some other way hope to get even one percent of the total money granted under this bill?

Mr. PAULISON. The $3 million that is proposed in legislation is an increase from $750,000, so——

Mr. SHERMAN. Yes. I know the old bill was much worse——

Mr. PAULISON.—And the——

Mr. SHERMAN.—for the—and it is a local decision. We could have 19 separate fire departments in the City of Los Angeles. As a matter of fact, throughout Southern California, we have organized ourselves chiefly in fire departments and—we—chiefly in cities of

100,000 people or less. But some of us in Southern California have decided to live in one big city, or in my region have been prohibited from succeeding to form their own separate city, and from that—so you are just saying that this bill isn't as bad as current law on that issue. But my city, representing over one percent of the population, will be limited to less than ⅓ of one percent of the money.

Mr. PAULISON. You know, part of the issue, as the Budget Congressman said earlier is we have a limited amount of money, and if we did it by—strictly by population and percentage, then New York and L.A. and Houston and Chicago would take all the money.

Mr. SHERMAN. No. We would take one percent. It is——

Mr. PAULISON. You know, we are trying to spread it as evenly as we can across the country because even when New York was under attack, it was all the smaller departments that came in and ran those calls during that two-month period while the New York Fire Department handled that particular incident. So we need to make sure that all departments in the country are up to speed, whether it is a small volunteer department in—outside of Ohio, or——

Mr. SHERMAN. Those of us who live in cities that represent more than ½ of one percent of the Nation's population are in the minority here in this House, and in the—and may not be successful. But to say that on a per capita basis, my city is less needy or that on a per-firefighter basis, my firefighters are less worthy is simply not true——

Mr. SMITH OF MICHIGAN. Mr. Sherman——

Mr. SHERMAN.—and I——

Mr. SMITH OF MICHIGAN.—would you yield just——

Mr. SHERMAN. I will yield.

Mr. SMITH OF MICHIGAN.—for a second?

Mr. SHERMAN. Yeah.

Mr. SMITH OF MICHIGAN. The other thing that might be thrown into the hopper on this is the fact that L.A. and these other big cities where we are talking about $500 million a year in this program, we have now authorized over $6 billion for the Homeland Security for first responders, and so the opportunity for those larger departments to have some of that money where smaller——

Mr. SHERMAN. Yes.

Mr. SMITH OF MICHIGAN.—departments would——

Mr. SHERMAN. No. There are many—this is just one of many different proposals. It will be odd to go back to my constituency, which includes the City of Burbank and the City of Los Angeles, both of whom face very similar Homeland Security needs and have big things that could be attacked by PR-savvy terrorists, and we are up against PR-savvy terrorists, and explain that on a per-capita basis. Burbank is eligible for its full share and more and Los Angeles will be limited to less than ⅓—but as you point out, this is only one bill.

Chairman BOEHLERT. Thank you very much, and——

Mr. SHERMAN. Thank you.

Chairman BOEHLERT.—the gentleman's time has expired, but let me point out that—re-emphasize what Chairman Smith said. There are a number of other avenues for my department in New York City and for Los Angeles to travel down to get resources they

desperately need. But I am reminded of that fateful day, and I will tell you, volunteers from all over America came to New York and did everything humanly possible to contribute to the aftermath to do so much for so many.

So look at—gentlemen, thank you all for being resources for this committee. We really appreciate it, and it warms the cockles of my heart to see you sitting together at the table, all smiling and in general agreement on a very important program. We are going to do it. Thank you.

Mr. O'CONNOR. Thank you, sir.

Chairman BOEHLERT. Adjourned.

[Whereupon, at 12:07 p.m., the Committee was adjourned.]

Appendix 1:

Answers to Post-Hearing Questions

ANSWERS TO POST-HEARING QUESTIONS

Responses by Andrew T. Mitchell, Deputy Director, Office of Domestic Preparedness, Department of Homeland Security

Questions submitted by Chairman Sherwood L. Boehlert

Q1. Recently, allegations of fraud in the program have brought into question the procedures in place for verifying the accuracy and veracity of grant applications. It is my understanding that in the FY 2003 grant cycle, a number of fire departments submitted boilerplate language to describe departmental needs, responsibilities and whether adequate funding was available to address them, possibly indicating the use of third-party grant writing services. What is the status of the DHS Inspector General's investigation into this matter and what steps is ODP taking to ensure that something like this doesn't happen again this year? Do more program funds need to be allocated to administrative costs to better safeguard against such fraud?

A1. ODP is aware of the Inspector General's ongoing investigation into the use of boilerplate application language in the FY 2003 grant cycle. We are unable to speak for the DHS Office of the Inspector General (OIG) on its investigations and appreciate the Committee's understanding that it may be inappropriate for ODP, having assumed responsibility for the AFG program in FY 2004, to facilitate resolution of this question. We request that the Committee direct questions with respect to OIG investigations directly to the OIG.

We maintain that there is nothing wrong with using boilerplate or template language in an application, as long as the information provided is accurate. We rely heavily on the applicants' certification that the application submitted is factual. If we suspect, or if allegations are made, that an application is not accurate, we perform our own review to assess the application in question. If our review warrants it, we do not hesitate to bring a questionable application to the attention of the DHS Inspector General.

During the FY 2003 application review process, review panelists noticed that some applicants were using the same technical language—language we determined was provided by a vendor—in their narratives. We queried the automated application database for a phrase that we identified as repetitive and pulled applications in which it was used. We then convened a special panel to review these specific applications. The conduct of this special panel was vetted through FEMA's grants management and FEMA's general counsel. This process was used last year when similar circumstances arose. Finally, we do not believe that additional funding to protect against fraud is needed.

Q2. Last year, the Department of Homeland Security's Office of Inspector General reviewed the Assistance to Firefighters Grant Program and made the following recommendations to improve the program:

1) Require greater detail to determine a fire department's financial need;

2) Require applicants to declare other federal funding sources to avoid potential duplication of assistance;

3) Promote mutual aid and regional approaches to enhance inter-operability;

4) Improve monitoring of grant recipients to ensure expectations and responsibilities are met;

5) Developing performance measures to asses the program's long-term effect;

6) Use needs assessment findings as an additional tool to define program priorities and eligibility criteria; and

7) Clarify the distinction between the Fire Prevention and Safety program and the Fire Prevention program category of the AFGP.

What steps is ODP taking to respond to each of these recommendations?

A2. ODP has determined that it generally is in agreement with the original reply of the U.S. Fire Administration to the FEMA IG.

With respect to each of the seven points raised—

1) The Department will, beginning in FY 2005, require AFG applicants to provide information disclosing sources of funding that may impact financial need; specifically, capital, reserve or trust funds that may generate income or provide capital for major purchases. These sources of funding would not be reflected in detailed operating budgets.

2) We had at the time of the IG report already instituted a regiment in our awards process in which we would ask departments to assert that no duplicate funding streams existed for their request. We have since included this question in the application as well. With respect to WMD/terrorism items—training or equipment—we have asked state homeland security offices to corroborate the AFG applicant's assertions.
3) We ask applicants to indicate in their application whether mutual aid or inter-operability is an aspect of their application, and we instruct peer reviewers to the cost benefit of such aspects to an applicant's request. Technical review addresses issues in which certain items, for example communications equipment, may be outside of state's adopted inter-operability parameters.
4) We believe our monitoring efforts are comprehensive and effective. Strategically, we want all of our grantees to understand what is expected of them and what they can expect of the program office staff. All grantees are monitored during the award performance period. This monitoring is accomplished through site visits, performance reporting, requests for funds, and telephone calls to the stations. Regional offices carry out 75–80 percent of this effort. Their proximity to the grantees facilitates issue resolution.
5) We agree with this effort completely. An agreement has been put into place with the HHS Centers for Disease Control and Prevention to assess the effectiveness of the fire prevention awards. A broader effort to assess the results of the grants within the grantee fire department's capabilities to respond safely and effectively is being implemented.
6) We believe that, while the survey tool crafted by the NFPA and USFA provides a useful resource to the effort to set funding priorities and other criteria, the annual, assembly of fire service representatives to identify these is more responsive to emergent requirements and alternative criteria. Thus, while maintaining the survey assessment can contribute to this effort, it should never supplant it.
7) In our annual "Lessons learned" meeting with the criteria development group, we have addressed this issue, and proposals have been developed, though not finalized. At this point, we believe the best method of achieving this distinction is to separate fire prevention application period, for both Fire Departments and private or public non-profits.

Q3. Where in the DHS structure is ODP? My understanding is that the Administration is in the process of moving the ODP out of the Border, Transportation, and Security Directorate and merging it with the Office of State and Local Preparedness. If this is accurate, what is the status of this move, why was the change made, and what, if any, implications will this have for the Assistance to Firefighters Grant Program?

A3. As the Secretary recently announced, ODP and the Office for State and Local Coordination (OSLGC) have been consolidated to create the Office for State and Local Coordination and Preparedness (OSLGCP). The consolidated office will be located within the Office of the Secretary, and the Assistance to Firefighters Grant Program Office will be a distinct program office, whose sole purpose is the management of AFGP. Thus, the consolidation will have no effect on the operation of the AFG program, which will continue to be managed with the same cycle of activities and administrative actions.

Questions submitted by Representative Lynn Woolsey

Q1. The Department of Homeland Security IG recommends that fire departments that apply for Fire Grants be required to provide detailed information on their operating budgets for the two years prior to their grant application. The IG believes this will permit a more complete evaluation of financial need and provide a way to validate that an awardee complies with the requirement to maintain its previous level of operating expenditures related to the purpose of the grant request. What is your view of this recommendation? Do you intend to carry it out, and if not, what are the reasons?

A1. We share the concern of the U.S. Fire Administrator about this recommendation that we should require applicants "to provide detailed information on their operating budgets from the previous two years." This recommendation assumes that all of our applicants formulate budgets and/or have details of expenditures readily available. The reality is that much of the AFG customer-base is using less struc-

tured budgetary systems. Some volunteer departments rely on their checkbook for accounting and control purposes. As the USFA pointed out to the IG's office, the "detailed" information that could be obtained from departments whose financial statements are their checkbook balances is clearly limited. As the IG's report points out, we ask each applicant to provide us with its operating budget net of personnel costs. It is our assertion that technical evaluation panelists, who are familiar with fire and fire operations, can take this figure and compare it to the number of firefighters in the department, the numbers and types of apparatus, the number of stations or facilities, the level of fire and rescue activity, the population served, and size of the area protected and determine if the fire department can operate effectively or if the department has financial needs. We should not and cannot presume these same technical evaluation panelists would have the accounting experience to be able to interpret an income statement or a balance sheet and determine financial need as effectively.

Q2. The Department of Homeland Security IG suggests that increased monitoring is needed for Fire Grants that are awarded and recommends that the number of site visits to awardees be increased. At present, the IG indicates that site visits are made only four to seven percent of grantees on a randomized basis. What is your view of the IG's recommendation? Do you intend to carry it out, and if not, what are the reasons?

A2. We are continuing to make or monitoring efforts more effective to address findings of both the Inspector General and the Office of Management and Budget's Program Assessment Rating Tool. Strategically, we want all of our grantees to understand what is expected of them and what they can expect of the program office staff. All grantees are monitored during the award performance period. This monitoring is accomplished through site visits, performance reporting, requests for funds, and telephone calls to the stations. Regional offices carry out 75–80 percent of this effort. Their proximity to the grantees facilitates issue resolution.

ANSWERS TO POST-HEARING QUESTIONS

Responses by Chief Philip C. Stittleburg, Chairman, National Volunteer Fire Council

Questions submitted by Chairman Sherwood Boehlert

Q1. Does prohibiting paid firefighters from volunteering lower the liability of a municipality? To what extent are volunteer firefighters insured through their volunteer departments against injuries or other accidents that may result in claims?

A1. Many proponents of anti-volunteer provisions at the municipal level cite their concern that families will not be able to collect benefits because the firefighters may be injured or killed while volunteering outside the jurisdiction of their employer. In reality, almost every state in the country provides some combination of workers' compensation coverage, life and disability benefits, and educational benefits for volunteer firefighters. In addition, many departments have other supplemental accident and/or disability insurance through private insurance carriers to cover their members.

In contrast, other strenuous activities and employment often undertaken by career firefighters during off-duty hours, such as work in the various trades or recreational sports, very rarely provide any benefits to firefighters and their families if they are injured or killed. Moreover, it would be one thing if a fire department prohibited its employees from engaging in *any* strenuous outside activity. However, this is never the case. Volunteer firefighting is singled out as a banned activity.

Finally, our organization is unaware of a situation where prohibiting paid firefighters from volunteering would have any effect on the liability of a municipality.

ANSWERS TO POST-HEARING QUESTIONS

Responses by Chief Ernest Mitchell, President, International Association of Fire Chiefs

Questions submitted by Chairman Sherwood Boehlert

Q1. How does the IAFC believe the issue of discrimination against volunteers should be resolved?

A1. As I discussed in my testimony, the IAFC believes that this issue should be resolved at the local level by individual fire chiefs.

I share your concern over discrimination against anyone. This is an important issue and our position is clear—ordinarily a firefighter should be able to volunteer in another jurisdiction when he or she is off duty. However, the anti-discrimination provision in H.R. 4107 appears to be overly broad and has the potential to adversely impact local control. There may be times when it would be appropriate to limit a firefighter's ability to engage in other employment or volunteer activities, namely when those activities are placing a burden upon the city or county.

As a fire chief, I have had the ability to annually review each employee's outside employment in order to assess whether or not a conflict existed. I believe that option should also exist for volunteerism. Local policy recognizes individual rights, but it also allows for departmental review. I have not chosen to prevent firefighters from volunteering; however, if trends or data developed that indicated volunteering or some other activity was creating a burden upon the city, then I believe it would be my duty to act in the best interest of my employer and move to rectify the hazard. I might choose to limit outside activity if I saw a pattern of injury that likely did not happen during duty hours, or if the activity were adversely affecting the firefighter's attendance record.

My home state of California has very high worker's compensation costs and we need to maintain the right to exercise local authority to control those costs. I have personally been involved with one incident whereby a career firefighter was responding to his volunteer assignment in his personal vehicle and had a very serious automobile accident that ended his career. After many surgeries and much rehabilitation and therapy, he simply could not return to duty. Subsequently, after much litigation, he received a service disability retirement—at the expense of the city he was employed by at the time of the accident. That is California's worker's compensation law.

It would be unfortunate if a community could not exert some preventive control over this type of situation. The ability to manage risk through local control of outside employment and volunteering are essential tools when communities are faced with reducing and limiting their costs. Doing so should not have the potential to then adversely impact those jurisdictions' ability to receive FIRE Act grant funding that is needed to better protect that community and its firefighters. The IAFC certainly does not support discrimination; however, we are compelled to protect the local fire chief's right to manage his/her fire department by utilizing sound management principles, including risk reduction and management.

Q2. Does the IAFC have any policies in place to protect members from such pressure and harassment or otherwise address this practice?

A2. The IAFC does not have any policies in place. However, our Human Relations Committee has begun to focus on the issue, and has joined with its counterpart at the International Association of Fire Fighters to try to come up with reasonable solutions to the problem of discrimination. The IAFC's government relations staff will gladly keep you appraised of the committee's progress if you would like.

ANSWERS TO POST-HEARING QUESTIONS

Responses by Kevin B. O'Connor, Assistant to the General President, International Association of Fire Fighters

Questions submitted by Chairman Sherwood Boehlert

Q1. You noted in your testimony that your union has over 260,000 firefighters as members. Approximately how many of these also volunteer during their off-duty hours?

A1. We do not keep any records on this matter, and have no way of knowing for certain. I can safely say it is not uncommon. And while I do not have precise numbers, I suspect that the IAFF has more volunteer firefighter members than the National Volunteer Fire Council (and consequently is more likely to be aware of their views).

Q2. In your testimony, you argue that the "Protection of volunteers from discrimination" provision would interfere with collective bargaining. How many existing collective bargaining agreements are you aware of that bar paid firefighters from volunteering? Would the IAFF still oppose the provision if language were inserted into the bill to provide for a "grandfather exemption" from the provision for departments with these agreements?

You also stated that these agreements "were not asked for by our local union affiliates in those jurisdictions. They were requested by management." Does this mean that the IAFF national leadership and its locals are not pursuing, and do not plan to pursue such language in similar collective bargaining negotiations around the country?

A2. We do not know for certain how many of our contracts have such clauses. In recent weeks we have been seeking this information, and have found a few we were unaware of previously. My best guess is that some form of this language may be found in one or two percent of all firefighter contracts.

Additionally, we surmise that some prohibitions against volunteering will be found in local ordinances and/or fire department rules and regulations, rather than collective bargaining agreements. This is because either a local pension system or fire department wishes to implement such a policy as a managerial function and not as an item to be bargained.

Grandfathering in existing contracts does not address the fundamental issue that the federal grants should not be used to limit the scope of bargaining under labor laws. I must reiterate that our objection to this provision in the FIRE Act has little to do with the specific clauses being discussed. Rather, we do not believe the FIRE Act should be used to deny firefighters bargaining rights and we do not believe the FIRE Act should dictate local fire department policies.

I think it is noteworthy that subsequent to the hearing, U.S. Fire Administrator Dave Paulison announced his opposition to this language. Paulison, who has done an extraordinary job of promoting the volunteer fire service in our nation, concurred that the FIRE Act is simply an inappropriate vehicle to address these issues.

Finally, let me assure you that the IAFF national leadership has never advocated the inclusion of these clauses in contracts, and we have no intention of doing so. Where these clauses have arisen, it has been in response to local problems and local threats to public safety. We trust our local people and the local fire chief to make this determination for them.

Q3. The IAFC conducted a survey of over 1000 fire departments entitled, "Harassment, Peer Pressure, and Volunteer Firefighters." The survey found that 269 of them (25 percent) have experienced recent pressure or harassment toward firefighters to limit their serving as volunteers in other departments. Does the IAFF have any policies in place to protect members from such pressure and harassment or otherwise address this practice?

A3. I find it very difficult to comment on a survey without knowing much more about it. What questions were asked? Who answered them? An example of the problems arising from an attempt to speculate can be found in the question you are posing. You state that 25 percent of fire departments experienced harassment. But who is making this claim? Are these the chiefs of paid fire departments claiming harassment is going on under their watch? If so, have they received complaints from the firefighters or is this just their perception? Or are these volunteer chiefs who are reporting on the harassment they believe is occurring in nearby paid fire departments?

Based on my experience with this issue over the past several years, I can assure you that these are crucial distinctions. I have found it very surprising that volunteer fire chiefs routinely decry the harassment that paid firefighters are supposedly enduring on their paid jobs, yet we have rarely heard any paid firefighter complain of this harassment. Our members are not the least bit shy about expressing their displeasure when they disagree with their elected union leaders. We hear complaints on a range of issues on a regular basis. This issue is simply not among them. In fact, in some jurisdictions we hear the opposite complaint: paid firefighters being harassed by volunteers. So, without knowing more about who has completed these surveys, I would caution against reading too much into them.

Finally, it is important to keep in mind that personality conflicts are inevitable in any workplace setting. The IAFF has chosen to deal with such conflicts on a case-by-case basis and not attempt to involve Congress in resolving issues that are local in nature.

Q4. You indicated at the hearing that IAFF discrimination of members who serve as volunteer firefighters is not common, stating, "there has never been an IAFF member suspended from the IAFF in the United States for volunteering." However, the aforementioned survey conducted by the IAFC found that in many instances, newly hired career firefighters are denied membership in IAFF until they stop volunteering on off-duty hours. Is this practice a policy of, or supported by, the IAFF?

A4. The IAFF on a national level has never denied membership to a person who serves as a volunteer. While our Constitution states that charges MAY be brought against a member who is volunteering on their off duty hours, the IAFF does not investigate whether or not individuals volunteer, nor do we have an application form that requests this information. I do not dispute that there may be instances where this has occurred in some localities, but without knowing more about the specifics of the case, I cannot comment.

I do know that some volunteer fire companies have engaged in actions that are designed to hinder fire department operations and reduce public safety. We have asked our members not to support such organizations. But we believe these are not the majority of volunteer fire companies, and therefore have not taken any actions on the national level.

But your question raises a very significant issue that was not addressed at the hearing. Since this issue arose, we have inquired whether the "discrimination" referenced in H.R. 4107 included issues of IAFF membership. You and other sponsors of this legislation attended a meeting earlier this year at which representatives of the National Volunteer Fire Council argued strenuously that this language has no bearing on IAFF membership at all, and solely affects fire department policies and legally enforceable contracts. No one attending the meeting disputed this interpretation.

The fact that you are now raising the issue of IAFF membership policies gives us serious pause and opens up a whole other dimension of this issue. The idea of using federal funding to coerce a private organization to change its internal governance structure is deeply troubling. Union governance is already heavily regulated by the Labor Management Relations Act which requires us to adhere to the highest levels of democracy (demands that are not placed, by the way, on other fire service organizations).

To now utilize federal grants as a way to address union governance outside the scope of labor law is an extraordinary expansion of federal intervention into the affairs of private organizations.

We respectfully request that before moving forward with this legislation, a legal interpretation be sought as to whether the so-called "discrimination" language in H.R. 4107 pertains only to fire department policy or also to union membership rules. The answer to that question would have potentially far reaching consequences.

Let me conclude my answer by clarifying that membership in the IAFF is no way connected to an individual's employment status. Even if the IAFF were to deny membership to a firefighter—because that individual volunteered, or was a member of the Communist party, or refused to follow proper parliamentary procedure at meetings (each of which can be the basis for an internal charge)—that person's status as a firefighter would not be affected, nor would their compensation or benefits be impacted. A firefighter could spend their entire career in any fire department in the Nation and rise to the very top position without ever being an IAFF member. Frankly, this is a non-issue and one that certainly should not occupy the time and energy of the United States Congress.

Questions submitted by Representative Lynn Woolsey

Q1. I do not believe we should be using the FIRE Act to address local fire department policies. The FIRE Act should be used solely for providing Federal assistance to local Fire Departments, not for overturning provisions of local collective bargaining agreements. Can you explain why a fire department might choose to prohibit its paid firefighters from serving as volunteer firefighters in another jurisdiction?

A1. First, let me respond by explaining the manner in which the IAFF operates in relationship to our local affiliates. Our union empowers our affiliates to make a wide range of policy decisions on the local level. This policy includes political endorsements, setting union dues, establishing membership standards and categories, bargaining contracts, and a host of other issues. As a result, in our nearly 3,000 affiliates there is a wide array of differences on these issues—much the same as State and local laws vary considerably from jurisdiction to jurisdiction.

Since the IAFF is not directly involved in local negotiations, we have no first hand knowledge of the history or purpose of these provisions. But from what we can ascertain, the issue of prohibiting firefighters from volunteering is largely financial in nature. Many jurisdictions provide pension benefits based upon certain "presumptions." Essentially, it is accepted that if a firefighter contracts various ailments—heart, lung, infectious or communicable diseases, or certain types of cancer—that those illnesses were caused by the individual's service as a firefighter. That person is then afforded a disability pension, which is significantly more generous than a standard or service pension. As a result, jurisdictions want to ensure that the individual is not exposed to potential risks outside of employment. Clearly, an individual working as a paid firefighter and volunteering off-duty has greater exposure to a variety of hazards. To avoid that liability, jurisdictions sometimes are inclined to restrict volunteering.

I must add that the "wellness" approach is not simply applied to volunteering. Many jurisdictions also prohibit firefighters from smoking—on- or off-duty—and insist on mandatory fitness standards. This is all done to limit liability.

Q2. Your testimony states that if the volunteer language is retained that Congress should also require local fire departments to grant collective bargaining rights. Can you explain why you think these issues are linked?

A2. Our view is predicated on a simple premise: what Congress had no part in establishing they should have no part in eliminating. State or local government implemented all of the bargaining ordinances across the Nation. We do not feel that Congress should limit the scope of bargaining on the local level by threatening to withhold funding for vital grant programs.

For several Congresses, the IAFF has supported the Public Safety Employer-Employee Cooperation Act. In this Congress it is designated as H.R. 814. Unfortunately, the bill has not moved. The IAFF has worked with both parties as well as all components of the fire service to craft legislation that is sensitive to many concerns—including the issue of volunteering. In fact, if enacted, the bill would specifically prohibit unions and management falling under the Act's jurisdiction to negotiate contracts that prohibit firefighters from volunteering on their off-duty hours.

There is an important distinction to be drawn. If Congress extends a right to a group of public safety employees (collective bargaining), it has a right to establish rules, procedures and limitations on the process and scope of bargaining. In our view, if Congress doesn't extend a right, it ought not attempt to limit rights granted by another entity. Since Congress has demurred from acting on this issue, it should not, now, insert itself into the bargaining arena to influence policy decisions at the local level of government.

Q3. Your testimony states that the proposed language in the FIRE Act is different from similar language that was included in the SAFER law passed last year. Can you explain this difference?

A3. Quite simply, the restriction in SAFER was a restriction on the *use* of federal funds. It applied only to the individual hired with federal money, and did not limit the policies or practices of the fire department. The language in H.R. 4107 is a restriction on the *recipient* of federal funds. It would preclude certain fire departments from applying for any type of FIRE grant, whether or not the grant had anything to do with personnel issues.

The distinction between a restriction on the use of federal funding and a restriction on the recipient of federal funds is a significant one, and has been the source of heated controversial in other programs. It is misleading to argue that the language in SAFER and the language in H.R. 4107 are comparable.

Appendix 2:

Additional Material for the Record

I

108TH CONGRESS
2D SESSION

H. R. 4107

To reauthorize the Assistance to Firefighters Grant program under section 33 of the Federal Fire Prevention and Control Act of 1974, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 2004

Mr. BOEHLERT (for himself, Mr. PASCRELL, Mr. WELDON of Pennsylvania, Mr. HOYER, Mr. SMITH of Michigan, Mr. ANDREWS, Mr. COX, Mr. TURNER of Texas, and Mrs. LOWEY) introduced the following bill; which was referred to the Committee on Science

---

A BILL

To reauthorize the Assistance to Firefighters Grant program under section 33 of the Federal Fire Prevention and Control Act of 1974, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Assistance to Firefighters Grant Reauthorization Act of 2004".

SEC. 2. FINDINGS.

Congress finds that—

(1) there are 1,100,000 firefighters serving in over 30,000 fire departments in the United States;

(2) fire departments responded to nearly 1,700,000 fires in 2002;

(3) every 19 seconds a fire department responds to a fire somewhere in the United States;

(4) in 2003, 110 firefighters died in the line of duty;

(5) fires resulted in the deaths of 3,380 civilians in 2002;

(6) nationwide there is a civilian fire death every 156 minutes;

(7) in 2002, 18,425 people sustained injuries from fires;

(8) in 2002 there was an estimated $10,337,000,000 in property damage caused by fires, including $6,055,000,000 worth of property loss to residential properties;

(9) for communities with populations between 10,000 and 1,000,000, it is estimated that approximately ¼ of emergency responders on a shift lack radios, and this percentage increases as community size decreases;

(10) an estimated one-third of firefighters per shift are not equipped with self-contained breathing apparatus (SCBA);

(11) nearly half of all self-contained breathing apparatus units are at least 10 years old;

(12) nearly half of firefighters on a shift lack personal alert system (PASS) devices;

(13) an estimated 57,000 firefighters lack personal protective clothing;

(14) one-third of personal protective clothing is at least 10 years old;

(15) half of all fire engines are at least 15 years old;

(16) only one-fourth of fire departments have the ability to communicate with Federal, State, and local partners;

(17) only one-fourth of fire departments have thermal imaging cameras;

(18) only one fire department in 28 has mobile data terminals;

(19) only one fire department in 50 has advanced personnel location equipment;

(20) only one fire department in 23 has equipment to collect chemical or biological samples;

(21) an estimated 42 percent of the population is protected by fire departments that do not have a program for free distribution of home smoke alarms;

(22) an estimated 48 percent of the population is protected by fire departments that do not have a juvenile firesetter program;

(23) an estimated 27 percent of the population is protected by fire departments that do not have a fire safety education program based on a national curriculum;

(24) only 11 percent of fire departments can respond to a technical rescue involving emergency medical services at a building collapse with local personnel, and nearly half of all departments consider such an incident outside their scope;

(25) only 13 percent of fire departments can respond to a hazmat incident involving emergency medical services with local personnel, and two-fifths of all departments consider such an incident outside their scope;

(26) only 26 percent of fire departments can respond to a wildland/urban interface fire affecting 500 acres with local personnel, and one-third of all departments consider such an incident outside their scope; and

(27) only 12 percent of fire departments can handle mitigation of a developing major flood with local personnel, and a majority of fire departments consider such an incident outside their scope.

SEC. 3. AMENDMENTS.

Section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) is amended—

(1) by striking "Director" each place it appears and inserting "Administrator";

(2) in subsection (b)(1)(A), by inserting "and volunteer emergency medical service squads" after "fire departments";

(3) in subsection (b)(1)(B), by inserting "and firefighter safety research and development" after "fire prevention";

(4) in subsection (b)(3)(F), by inserting "and volunteer emergency medical service squads that are not affiliated with a fire department, hospital, or for-profit entity" after "fire departments";

(5) in subsection (b)(4)—

(A) by inserting "AND FIREFIGHTER SAFETY RESEARCH AND DEVELOPMENT" after "PREVENTION" in the paragraph heading;

(B) in subparagraph (A)(ii)—

(i) by inserting "that are not fire departments and" after "community organizations";

(ii) by inserting "and firefighter research and development programs," after "fire safety programs and activities,"; and

(iii) by inserting "and research to improve firefighter health and life safety" after "fire prevention programs"; and

(C) in subparagraph (B), by striking "to children from fire" and inserting "to high risk groups from fire, as well as research programs that demonstrate the potential to improve firefighter safety";

(6) in subsection (b)(6)—

(A) in subparagraph (A)—

(i) by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)"; and

(ii) by striking "30 percent" and inserting "20 percent"; and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) FIRE PREVENTION AND FIREFIGHTER SAFETY GRANTS.—There shall be no matching

1 requirement for a grant described in paragraph
2 (4)(A)(ii).";
3 (7) in subsection (b)(10)—
4 (A) by amending subparagraph (A) to read
5 as follows:
6 "(A) RECIPIENT LIMITATIONS.—A grant
7 recipient under this section—
8 "(i) that serves a jurisdiction with
9 500,000 people or less may not receive
10 grants in excess of $1,000,000 for any fis-
11 cal year;
12 "(ii) that serves a jurisdiction with
13 more than 500,000 but not more than
14 1,000,000 people may not receive grants in
15 excess of $2,000,000 for any fiscal year;
16 and
17 "(iii) that serves a jurisdiction with
18 more than 1,000,000 people may not re-
19 ceive grants in excess of $3,000,000 for
20 any fiscal year.
21 The Administrator may award grants in excess
22 of the limitations provided in clause (i) or (ii)
23 to a recipient that serves a population close to
24 the relevant threshold, upon a showing of suffi-
25 cient need.";

1 (B) by redesignating subparagraph (B) as
2 subparagraph (C);
3 (C) by inserting after subparagraph (A)
4 the following new subparagraph:
5 "(B) DISTRIBUTION.—Notwithstanding
6 subparagraph (A), no single recipient may re-
7 ceive more than one half of one percent of the
8 funds appropriated under this section for a sin-
9 gle fiscal year."; and
10 (D) by adding at the end the following new
11 subparagraph:
12 "(D) VOLUNTEER EMERGENCY MEDICAL
13 SERVICE LIMITATION.—Not more than 4 per-
14 cent of the funds appropriated to provide grants
15 under this section for a fiscal year may be
16 awarded to volunteer emergency medical service
17 squads.";
18 (8) in subsection (b), by adding at the end the
19 following new paragraphs:
20 "(13) ANNUAL MEETING.—The Administrator
21 shall convene an annual meeting of non-Federal fire
22 service experts, including representatives from a
23 wide range of fire service organizations, to rec-
24 ommend criteria for awarding grants under this sec-

1 tion for the next fiscal year and recommend any nec-
2 essary administrative changes to the grant program.
3 "(14) GUIDELINES.—(A) Each year, prior to
4 making any grants under this section, the Adminis-
5 trator shall publish in the Federal Register—
6 "(i) guidelines that describe the process for
7 applying for grants and the criteria for award-
8 ing grants; and
9 "(ii) an explanation of any differences be-
10 tween the guidelines and the recommendations
11 made pursuant to paragraph (1).
12 "(B) The criteria for awarding grants shall in-
13 clude the extent to which the grant would enhance
14 the daily operations of a fire department and the im-
15 pact of such a grant on the protection of lives and
16 property.
17 "(15) PEER REVIEW.—The Administrator shall,
18 after consultation with national fire service organiza-
19 tions, appoint fire service personnel to conduct peer
20 review of applications received under paragraph (5).
21 In making grants under this section, the Adminis-
22 trator shall consider the results of such peer review
23 evaluations.
24 "(16) PROTECTION OF VOLUNTEERS FROM DIS-
25 CRIMINATION.—A fire department receiving funds

1 provided under this section shall not discriminate
2 against, or prohibit its members from engaging in,
3 volunteer activities in another jurisdiction during
4 off-duty hours."; and
5 (9) in subsection (e)(1), by striking "2002
6 through 2004" and inserting "2005 through 2007".
7 **SEC. 4. REPORTS.**
8 (a) STUDY ON NEED FOR FEDERAL ASSISTANCE TO
9 STATE AND LOCAL COMMUNITIES TO FUND FIRE-
10 FIGHTING AND EMERGENCY RESPONSE ACTIVITIES.—
11 The Administrator of the United States Fire Administra-
12 tion shall—
13 (1) reconduct the study required under section
14 1701(b) of the Floyd D. Spence National Defense
15 Authorization Act for Fiscal Year 2001, in conjunc-
16 tion with the National Fire Protection Association,
17 to—
18 (A) define the current role and activities
19 associated with the fire services;
20 (B) analyze the extent to which grant
21 awards fulfill the goals of applicants; and
22 (C) provide a needs assessment to identify
23 shortfalls;

1 (2) express the needs assessment under sub-
2 paragraph (A)(iii) on a national and State-by-State
3 basis; and
4 (3) measure the impact the Assistance to Fire-
5 fighters Grant program under section 33 of the Fed-
6 eral Fire Prevention and Control Act of 1974 has
7 had in meeting the shortfalls identified in the origi-
8 nal report conducted under such section 1701(b).
9 (b) TIME FOR COMPLETION OF STUDY; REPORT.—
10 The Administrator shall complete the study under sub-
11 section (a), and submit a report on the results of the study
12 to Congress, not later than 18 months after the date of
13 the enactment of this Act.
14 (c) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the United States
16 Fire Administration $300,000 for fiscal year 2005 to
17 carry out the study required by subsection (a).

○

U.S. Department of Homeland Security Views on H.R. 4107, Assistance to Firefighters Reauthorization Act of 2004

The following are the Department of Homeland Security's views on the House-introduced H.R. 4107, the "Assistance to Firefighters Grant Reauthorization Act of 2004" (Boehlert)

Item 1:

Section 2 (Findings), paragraph (22)

As currently written, the finding that "an estimated 48 percent of the population is protected by fire departments that do not have a juvenile fire-setter program" sounds like children are being trained to "set fires." Is this the name of a fire prevention program? If so, there should be a statement to that effect.

We recommend that the bill identify the juvenile fire-setter program and add a description of its purpose (e.g., ". . .that do not have a Juvenile Fire-setter Program designed to train children not to play with fire:").

Item 2:

Section 3 (Amendments), paragraph (1)

As drafted, H.R. 4107 would reauthorize the Assistance to Firefighters Grant (Fire Act grants) Program within the U.S. Fire Administration. This is inconsistent with: (a) the action taken by the Appropriations Committees of the House and Senate in the DHS FY 2003 Appropriations Act; (b) Secretary Ridge's January 26, 2004, letter, in which he announced the consolidation of ODP and the Office for State and Local Government Coordination to form the new Office for State and Local Government Coordination and Preparedness; and (c) the President's FY 2005 budget request, in which placed the Assistance to Firefighters Grant Program (or Fire Act grants) within ODP.

We recommend placing all authority for the Assistance to Firefighters Grant Program under the general authority of the Secretary, Department of Homeland Security (DHS). This is appropriate given the Secretary's overall responsibility for DHS, its components, and programs. Placing authority under the Secretary preserves the Secretary's discretion to administer this program consistent with the Secretary's and Administration's goals and objectives. Therefore, all references in the bill to "the Administrator" should be struck and replaced with "the Secretary of the Department of Homeland Security."

Notwithstanding the foregoing, if Congress makes the determination to keep the FIRE Act grants program in the U.S. Fire Administration within FEMA, we believe that this should be done directly with language requiring this rather than through the indirect references to the Administrator throughout the FIRE Act grants statute.

Regardless of who is ultimately granted authority to award the grants, we believe that technical amendments to the FIRE Act grants statute should be made at the same time that technical amendments are made to all of the provisions of the Fire Prevention and Control Act.

Item 3:

Section 3, paragraph (2)

Currently, the only Emergency Medical Service (EMS) Squads eligible under the assistance to firefighters grant program are those that are components of a fire department. Section 3(2) would expand the group of eligible grant recipients to include "volunteer emergency medical service squads." However, DHS believes that eligibility for EMS Squads should extend to all EMS Squads, whether career or volunteer, that are public or private not-for-profit entities performing a recognized public safety function. To that end, we suggest that Section 3(2) be amended by striking the word "volunteer" and replacing it with the term "public or private not-for-profit." This change in the statute would afford DHS the flexibility to make the appropriate regulatory requirements to implement the intent of this change. Additionally, to ensure that the statute references fire departments and EMS squads in a parallel fashion, DHS suggests that the terms "public or private not-for-profit" be inserted prior to the words "fire departments" in Section 3(2).

Further, the purpose of the grants should mirror this extension. Therefore, a new section should be added to Section 3, which reads, "in subsection (b)(1)(A), by inserting "emergency medical service" after "public."

Item 4:

Section 3, paragraph (4)

Same comment as above under Item Number 3.

Item 5:

Section 3, paragraph (7)(A)

Section 3(7)(A) would raise the cap for Assistance to Firefighters Grants from the current maximum of $750,000 per jurisdiction to three different maximums ($1 million, $2 million, and $3 million) based on the population of the jurisdiction that a grant recipient serves. However, under the President's FY 2005 budget request, assistance to firefighters grant awards to jurisdictions with a population less than 500,000 are maintained at a maximum of $750,000 and the cap for jurisdictions of 500,000 or more is raised to $2 million. The funding levels proposed in this section should be consistent with the President's budget request. Moreover, if the cap is to be raised, then an adjustment of the match requirement should be considered as some communities have found it difficult to meet the current requirements at the $750,000 levels.

In addition, section 3(7)(A) would allow grants to be awarded in excess of the dollar limits for "a population close to the relevant threshold, upon a showing of sufficient need." The "close to the relevant threshold" standard is vague. Permitting waivers of the limits "in the Secretary's discretion" may be a less litigation-prone standard.

Item 6:

Section 3, paragraphs (13) and (15)

Paragraph (13) would provide for an annual meeting of non-federal experts to recommend criteria for awarding grants; paragraph (15) would provide for peer review. Both of these groups are already established in practice and, as such, it is not clear that these provisions are necessary. To the extent that this language remains in the bill, DHS recommends adding clarifying language that these groups are seeking the views and opinions of the participating individuals only and are not seeking consensus positions. Such clarifying language would avoid raising Federal Advisory Committee Act concerns and maintain consistency with current practices.

Item 7:

GENERAL COMMENT regarding H.R. 4107

DHS suggests that the proposed language below be added to H.R. 4107 in view of the fact that a substantial percentage of the American public have disabilities (over 40 million by Congress' 1990 estimate, with the number climbing as the baby boomers reach retirement age) and that such persons may require accommodations in order to use emergency services. In addition, that language would remind the firefighting community to plan ahead and to integrate planning for people with disabilities into their preparedness efforts.

Proposed language: "Emergency readiness for persons with disabilities could be improved by making grant money available under this program for fire departments and first responders that are preparing to assist persons with disabilities, either with day to day fire and rescue services, or in dealing with an attack or a catastrophic emergency."