

Calendar No. 488

111TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 111-235

FIRE GRANTS REAUTHORIZATION
ACT OF 2010

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 3267

TO IMPROVE THE PROVISION OF ASSISTANCE TO FIRE
DEPARTMENTS, AND FOR OTHER PURPOSES



JULY 28, 2010.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

89-010

WASHINGTON : 2010

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

JOSEPH I. LIEBERMAN, Connecticut, *Chairman*

CARL LEVIN, Michigan	SUSAN M. COLLINS, Maine
DANIEL K. AKAKA, Hawaii	TOM COBURN, Oklahoma
THOMAS R. CARPER, Delaware	SCOTT P. BROWN, Massachusetts
MARK L. PRYOR, Arkansas	JOHN McCAIN, Arizona
MARY L. LANDRIEU, Louisiana	GEORGE V. VOINOVICH, Ohio
CLAIRE McCASKILL, Missouri	JOHN ENSIGN, Nevada
JON TESTER, Montana	LINDSEY GRAHAM, South Carolina
ROLAND W. BURRIS, Illinois	
EDWARD E. KAUFMAN, Delaware	

MICHAEL L. ALEXANDER, *Staff Director*

KEVIN J. LANDY, *Chief Counsel*

JASON T. BARNOSKY, *Professional Staff Member*

BRANDON L. MILHORN, *Minority Staff Director and Chief Counsel*

JESSICA L. BAETJER, *Minority Professional Staff Member*

TRINA DRIESSNACK TYRER, *Chief Clerk*

Calendar No. 488

111TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 111-235

FIRE GRANTS REAUTHORIZATION ACT OF 2010

JULY 28, 2010.—Ordered to be printed

Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 3267]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 3267) to improve the provision of assistance to fire departments, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	1
III. Legislative History	7
IV. Section-by-Section Analysis	7
V. Evaluation of Regulatory Impact	11
VI. Congressional Budget Office Cost Estimate	11
VII. Changes in Existing Law Made by the Bill, as Reported	13

I. PURPOSE AND SUMMARY

S. 3267 reauthorizes appropriations for the Assistance to Firefighters Grants and the Staffing for Adequate Fire and Emergency Response grants program. The bill also makes changes to both programs, most significantly by amending the formula for allocating funding to fire departments from the Assistance to Firefighters Grants and by adding a number of provisions to promote greater accountability in both programs.

II. BACKGROUND AND NEED FOR THE LEGISLATION

S. 3267 reauthorizes two grant programs designed to enhance the ability of fire departments to protect the public from fires and other hazards: the Assistance to Firefighters Grants (AFG) and the

Staffing for Adequate Fire and Emergency Response grants program (SAFER). These programs help protect the health and safety of the public and firefighters by offering competitive grants directly to fire departments, emergency medical services (EMS) organizations, and other organizations. Since 2001, the two programs have provided more than \$6 billion in funding directly to fire departments and other organizations across all 50 States, the District of Columbia and Puerto Rico. Both AFG and SAFER are administered by the Department of Homeland Security's (DHS's) Federal Emergency Management Agency (FEMA), which relies on the United States Fire Administration (USFA), one of its component entities, for subject matter expertise.

Congress created the AFG grant program in 2000 as part of the FY2001 National Defense Authorization Act¹ and reauthorized the program in 2004 as part of the Ronald W. Reagan National Defense Authorization Act for FY2005.² The provisions governing the program are codified in section 33 of the Federal Fire Prevention and Control Act of 1974 (FFPCA), 15 U.S.C. §2229. Also known as "FIRE grants" in reference to the short title of the original legislation proposing the grants (the Firefighter Investment and Response Enhancement Act),³ the AFG program sought to provide much needed assistance directly to local fire departments to support those departments' lifesaving and safety efforts. Recipients can use AFG awards for a number of purposes, including to purchase firefighting equipment or vehicles or to fund training, wellness and fitness programs. Section 33 of the FFPCA also authorizes the use of funds to support fire prevention and safety programs as well as firefighter safety research and development. Grants for these purposes have developed into a distinct program within AFG known as the Fire Prevention and Safety (FP&S) grant program.

The AFG program focuses primarily on providing equipment and training. Departments nationwide, however, also face challenges with hiring, recruitment, and retention of qualified personnel. The USFA's 2002 *Needs Assessment of the U.S. Fire Service*, for example, found that many departments lacked the minimum number of firefighters needed to safely fight structure fires.⁴ In response, Congress created the SAFER program in 2003, authorizing grants for two purposes: (1) hiring additional firefighters to help ensure departments have adequate staffing and (2) recruitment and retention of volunteer firefighters.⁵

Both AFG and SAFER have proven effective in awarding necessary assistance and building preparedness. A 2003 U.S. Department of Agriculture assessment, for example, commended AFG for effectively improving the readiness and capabilities of firefighters.⁶ And in 2009 the Government Accountability Office (GAO) reported that AFG and SAFER successfully met key statutory and program

¹P.L. 106-398.

²P.L. 108-375.

³S. 1941, S. 1899, and H.R. 1168 (106th Congress).

⁴U.S. Fire Administration, *A Needs Assessment of the U.S. Fire Service*, FA-240, December 2002, p. iv.

⁵SAFER was signed into law as part of the FY2004 National Defense Authorization Act (P.L. 108-136). It is codified as section 34 of the FFPCA, 15 U.S.C. §2229a.

⁶U.S. Department of Agriculture, Executive Potential Program Team 6, Survey, Assessment, and Recommendations for the Assistance to Firefighters Grant Programs, January 31, 2003. This study was conducted as part of the USDA's Leadership Development Executive Potential Program.

requirements while distributing funds to fire departments struggling to meet their responsibilities.⁷ Analysis from the AFG program office supports these conclusions, finding that between FY2004 and FY2006 firefighter injuries increased 6.1 percent nationally but decreased 6.2 percent in communities that received AFG funding. Over the same time period, civilian casualties decreased only 3.26 percent nationally but fell more than three and a half times that—11.4 percent—in communities that received AFG funding.

Fire departments nationwide have an acute need for AFG and SAFER grants. As of 2006, for example, the USFA estimated that 60 percent of fire departments lacked sufficient self-contained breathing apparatus to equip all firefighters on a shift and that 65 percent did not have enough portable radios.⁸ The USFA similarly found in 2007 that volunteer departments faced serious challenges in finding and keeping the members needed to sustain their services.⁹

These shortcomings occur as the demands placed on fire departments have increased and their responsibilities expanded. In recent decades, for example, fire departments have increasingly assumed responsibility for medical emergencies, with medical aid responses by fire departments tripling from 1980 to 2007.¹⁰ Post-9/11, fire departments have also been asked to take on additional, front line roles in the preparedness for and response to terrorism and other homeland security threats.

Not surprisingly, each year the grants sought under the AFG and SAFER programs far exceed the available funds. In FY2009, fire departments and other entities applied for a total of \$4.42 billion in AFG and SAFER grants—more than five and a half times the \$775 million available.

Given the great need for and success of the AFG and SAFER programs, the Committee has concluded that both programs warrant reauthorization. S. 3267 would do just that, extending the programs through FY2015, and thereby enabling FEMA to continue providing fire departments with much-needed resources. The bill maintains both programs' general competitive grant structure and purposes but also makes some changes to both programs to better address current realities and reflect lessons learned since the programs were first enacted.

Allocation of funds

S. 3267 makes several changes to how AFG grant funds are allocated to provide for a more equitable distribution of funding. When the AFG program was originally enacted, there was concern that typically larger, more urban career departments would dominate the process and lay claim to a disproportionate share of the funds. The law therefore included a guarantee that volunteer and so-called “combination” departments (which include both career and volunteer firefighters) would receive a percentage of grant funds no

⁷GAO, *Fire Grants*, passim.

⁸U.S. Fire Administration, *Four Years Later—A Second Needs Assessment of the U.S. Fire Service*, FA-303, October 2006, p. vi and vii.

⁹U.S. Fire Administration, *Retention and Recruitment for the Volunteer Emergency Services: Challenges and Solutions*, FA-310, May 2007, passim.

¹⁰GAO, *Fire Grants: FEMA Has Met Most Requirements for Awarding Fire Grants, but Additional Actions Would Improve Its Grant Process*, GAO-10-64, October 2009, p. 2.

less the percentage of the population they protect. For FY2009, for example, this meant that volunteer departments could receive no less than 22 percent of the available AFG funds and that combination departments could receive no less than 33 percent. These minimums, of course, also act as a ceiling for career departments, guaranteeing that they can receive no more than 45 percent of the available funding.

Career departments did not end up receiving disproportionate funding in comparison to combination or volunteer departments. In FY2008, for example, career departments protected an estimated 45 percent of the population, combination departments protected 34 percent, and volunteers protected 21 percent.¹¹ Yet 19 percent of AFG funds went to career departments, 27 percent went to combination departments, and 48 percent went to volunteer departments. As Table 1 illustrates, this distribution pattern is largely consistent with previous years.

TABLE 1: PERCENTAGE OF AFG FUNDS AWARDED BY DEPARTMENT TYPE, FY2002–2008

	Career	Combination	Volunteer	Paid on call/stipend
FY2008	19	27	48	6
FY2007	15	29	49	6
FY2006	12	25	56	6
FY2005	18	24	52	5
FY2004	17	23	56	5
FY2003	17	22	62	0
FY2002	21	24	54	0

Source: GAO and FEMA

S. 3267 adjusts the funding allocations to respond to the experience of the last 8 years, establishing a minimum allocation of 25 percent of the available funds for each of the three types of departments—career, combination, and volunteer departments. The remaining 25 percent of the funding is available to be awarded to any type of department or to certain other organizations. This calibrated change reflects a more balanced approach to the allocation of AFG grants. It is intended to provide for an equitable distribution that is better aligned with risk, with career departments getting a minimum share of funding more closely commensurate with the larger portion of the population that they protect, while at the same time ensuring that all types of departments are guaranteed a fair share of funding and that all departments have an opportunity to compete for resources.

Grants to individual departments are to continue to be competitively awarded within this framework. Largely reflecting current FEMA practice, S. 3267 directs FEMA to consider several factors when distributing funding, including the findings of the peer review process described below; the extent to which a grant will reduce deaths, injuries, and property damage by reducing the risk of fire and other hazards; the extent of the need of a department as well as the need to protect the nation as a whole; and the call volume received by a department. The Committee believes that this competitive process, incorporating a range of risk factors, will help

¹¹National Fire Protection Association, *U.S. Department Profile Through 2007*, November 2008, p. 18.

ensure that grant funds go where they are most needed and will be most effective.

To ensure appropriate emphasis on fire prevention and safety measures, which are vulnerable to neglect amid the pressure on fire departments to meet basic needs for equipment and staff, S. 3267 also raises the minimum amount of funding required to be dedicated to FP&S grants from 5 percent to 10 percent of the available funding. As is the case under current law, FP&S funds grants may be awarded not only to fire departments but also to other state, local, and tribal organizations as well as to nonprofit organizations. Nonprofit organizations must be recognized for their experience and expertise in fire prevention or fire safety to be eligible to receive FP&S grants. Previous nonprofit recipients of FP&S grants include such groups as the International Association of Arson Investigators and certain chapters of the American Red Cross. In addition, S. 3267 for the first time authorizes FP&S grants to support joint programs between national fire service organizations and institutions of higher education, including the establishment of fire safety research centers.

With respect to EMS funding, the bill retains the existing requirements that fire department-based and nonaffiliated EMS organizations¹² must receive no less than 3.5 percent of available funds, with the caveat that non-affiliated EMS organizations may receive no more than 2 percent of the total available funds.¹³

Finally, S. 3267 specifies that FEMA can use up to 5 percent of appropriated funds for administrative costs. Though nominally an increase from the existing language of the statute, this amount is consistent with the instructions in the Department of Homeland Security appropriations acts each of the last several years and reflects the costs associated with the program's extensive peer review process and provision of technical assistance to grant applicants. The administrative funds are intended to be taken off the top of the appropriated amount, and all further percentages to be allocated are based on the remaining available funds.

Accountability

S. 3267 puts in place a number of provisions designed to promote accountability. Given the fiscal challenges the United States will face in the years ahead, the Committee believes that it is especially important to ensure that grant funds are used effectively. The accountability measures included in S. 3267 will help direct federal resources where they are truly needed and able to make a measurable contribution to fire safety and prevention and to national preparedness.

To this end, S. 3267 requires the establishment of performance assessment systems for AFG and SAFER. These systems must include quantifiable metrics that allow FEMA to evaluate whether the grants are achieving their intended purposes. FEMA must also submit reports to Congress on the effectiveness of these programs.

¹²S. 3267 retains the existing FFPCA definition of a nonaffiliated EMS organization as "a public or private nonprofit emergency medical services organization that is not affiliated with a hospital and does not serve a geographic area in which the Administrator of FEMA finds that emergency medical services are adequately provided by a fire department."

¹³Funding for fire department-based EMS and FP&S funding provided to volunteer, combination, or career fire departments would be counted toward the 25 percent minimum share of total grant funding that each type of department is guaranteed.

In addition, S. 3267 prohibits any funding appropriated for AFG and SAFER from being earmarked. The Committee intends for all funding under the programs to be allocated competitively and for the intended purposes of these programs.

As another means of promoting accountability, S. 3267 continues to require that, in most instances, grant applicants agree to match a percentage of the funds sought. In some cases, S. 3267 adjusts the level of match required in current law, and the bill, in recognition of the current economic straits faced by many state and local governments, permits the FEMA Administrator increased flexibility to waive the match in appropriate circumstances. Nonetheless, the Committee believes that the match requirement is an important element of these grant programs. By requiring an investment from fire departments or local governments, matches encourage applicants to propose high-quality projects to which they are seriously committed. In this way, grant projects become a partnership between federal and state and local officials.

S. 3267 also codifies the peer review process that has been used successfully throughout the life of the AFG and SAFER programs to identify the most worthwhile of the tens of thousands of grants applications submitted. In reviewing applications, FEMA carries out a three-stage review. Applications first pass through an automated scoring process in which they are ranked relative to funding priorities identified in the grant guidance. A peer review panel composed of active fire service professionals then reviews them. Finally, FEMA subject matter experts conduct technical evaluations. In addition to putting this process into statute S. 3267 would also codify a practice that FEMA reports it has increasingly used during the peer review panel, whereby personnel from career departments to review AFG applications from career departments, combination personnel to review combination department applications, and volunteer personnel to review volunteer department applications. The Committee believes that this practice has strengthened the review process, ensuring that departments have their applications evaluated by individuals with the best understanding of their challenges and needs, and that grant funds go to the most deserving and effective destinations.

Additional changes

S. 3267 makes two changes to just the SAFER program. First, it simplifies the program's match requirement, which currently escalates over four years, from a required 10 percent match in the first year to a 70 percent required match in the fourth year. S. 3267 replaces this structure with a 25 percent match over three years. This change will make it easier for fire departments to budget and reduce the risk that they will be unable to meet the match in later years.

Second, S. 3267 provides the FEMA Administrator with the ability to waive SAFER requirements, such as the match, in cases of demonstrated economic hardship. It directs the FEMA Administrator to publish guidelines for determining what constitutes economic hardship. The Committee believes that this provision will help ensure that departments in struggling communities continue to be able to apply for funding while limiting the waiver only to those in the most difficult circumstances.

Finally, S. 3267 puts in place a sunset provision. After October 31, 2015, the changes S. 3267 made will no longer apply. Unless Congress acts to renew the changes, sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974, with some minor exceptions, will revert to as they were before the enactment of this bill. The sunset provision is designed to force Congress to evaluate the changes S. 3267 makes before reauthorizing the fire grants. If the changes are found to be ineffective, the programs will either revert to their earlier structures or Congress will need to enact new provisions. To assist Congress in this assessment, FEMA is required to submit reports a year before the sunset would take effect that include recommendations on whether the changes made by S. 3267 to AFG and SAFER should be extended. In addition, the bill requires GAO to conduct an assessment of the changes made by S. 3267, evaluating their impact on the effectiveness, relative allocation, accountability and administration of the grants awarded.

III. LEGISLATIVE HISTORY

Senators Dodd, Collins, Lieberman, McCain, and Carper introduced S. 3267 on April 27, 2010. The bill was referred to the Senate Committee on Homeland Security and Governmental Affairs. The Committee considered S. 3267 on April 28, 2010 and ordered it reported favorably by voice vote with an amendment by Senator Levin, which was also adopted by a voice vote. The amendment directed that in developing guidelines for waivers for certain grant requirements the FEMA Administrator consider whether an area has a high unemployment rate relative to the national rate. Present for the vote on S. 3267 were Senators Lieberman, Akaka, Carper, Pryor, McCaskill, Burris, Kaufman, Collins, Coburn, McCain, and Graham. Present for the vote on the Levin Amendment were Senators Lieberman, Levin, Akaka, Carper, Pryor, McCaskill, Burris, Kaufman, Collins, Coburn, McCain, and Graham.

The House of Representatives passed a bill (H.R. 3791) on November 18, 2009 that reauthorized the AFG and SAFER programs.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides the bill's short title, Fire Grants Reauthorization Act of 2010.

Section 2. Amendments to definitions

This section updates the definitions section of the Federal Fire Prevention and Control Act (15 U.S.C. § 2203). For example, it changes the title of the head of FEMA from Director to the current title Administrator and aligns the definition of State with that used in the Homeland Security Act.

Section 3. Assistance to firefighters grants

This section replaces the existing language in Section 33 of the Federal Fire Prevention and Control Act (15 U.S.C. § 2229), making both substantive and technical changes to that section.

Subsection (a) amends the definitions that apply in Section 33 of the Act. This subsection includes a definition of combination fire

departments that provides that departments with paid-on-call firefighting personnel in addition to volunteer personnel are to be considered combination departments for the purposes of this section.

Subsection (b) gives the FEMA Administrator, acting in consultation with the U.S. Fire Administrator, the authority to award Assistance to Firefighters Grants (AFG) and Fire Prevention & Safety Grants (FP&S). It also requires the Administrator to establish specific criteria for grant recipients and to provide assistance with application preparation to grant applicants.

Subsection (c) authorizes the FEMA Administrator to award AFG grants on a competitive basis to fire departments to protect the public and firefighting personnel from fire, fire-related and other hazards and to award grants to emergency medical service (EMS) organizations and to state fire training academies for certain purposes. In addition, the subsection also specifies the maximum grant awards for fire departments serving communities of various sizes, increasing the existing caps on these grants, particularly for departments that serve larger communities with the proviso that no recipient may receive more than 1 percent of the total available grant funding. This subsection also sets out the permissible uses for AFG grants.

Subsection (d) authorizes the FEMA Administrator to award FP&S grants on a competitive basis to fire departments to assist fire prevention programs and firefighter health and safety research and development programs. The FEMA Administrator may also award grants to national, state, local, tribal and nonprofit organizations other than fire departments that are recognized for their experience and expertise in fire prevention or fire safety, and to support joint programs between national fire service organizations and institutions of higher education, including the establishment of fire safety research centers. In addition, the subsection provides for a maximum amount of \$1.5 million for a grant under this section (an increase from the \$1 million limit in existing law) and specifies the permissible uses of FP&S grants.

Subsection (e) describes the elements required in grant applications under this section. It also provides for joint or regional applications from two or more entities for shared equipment or vehicles in order to promote regional cooperation and avoid duplicative efforts among neighboring communities.

Subsection (f) directs the FEMA Administrator to appoint fire service and EMS personnel to conduct peer reviews of applications under this section.

Subsection (g) directs the FEMA Administrator to consider a variety of factors in awarding grants, including the recommendation of the peer reviews conducted under subsection (f); the degree to which an award will reduce risks associated with fire-related and other hazards; the needs of an applicant and the need to protect the country as a whole; and the volume of calls received by an applicant. It also requires the FEMA Administrator to ensure that volunteer, career and combination fire departments each receive at least 25 percent of the available grant funds.

Subsection (h) requires that not less than 3.5 percent of available grant funds be awarded for emergency medical services; that a maximum of 2 percent of available grant funds be awarded for non-fire-department-based EMS organizations; that a minimum of 10

percent be awarded for FP&S grants; that a maximum of 3 percent be awarded to state fire training academies; and that no more than 25 percent of the available grant funds be used to assist in the purchase of vehicles.

Subsection (i) sets out factors the FEMA Administrator must consider in awarding certain grants under this section. It also directs the FEMA Administrator to take actions to prevent the unnecessary duplication of grant awards received through other federal programs.

Subsection (j) requires that applicants for AFG grants match grant awards with non-federal amounts equal to at least 15 percent of the grant award, except that fire departments that serve communities between 20,000 and 50,000 people would be required to provide a match of 10 percent and departments that serve communities with 20,000 people or fewer would be required to provide a 5 percent match. For FP&S applicants, a 5 percent match is required. This subsection also requires applicants to maintain their related expenditures at not less than 80 percent of the average amount of such expenditures in the two years prior to receiving the grant. The FEMA Administrator can waive or reduce these requirements in cases of demonstrated economic hardship. The FEMA Administrator must publish guidelines for determining what constitutes economic hardship.

Subsection (k) provides that each year, before awarding grants, the FEMA Administrator has to publish guidelines in the Federal Register describing the application process and the criteria that will be used for selecting grant recipients. It also requires the FEMA Administrator to convene a meeting of qualified members of national fire service and EMS organizations each year to obtain recommendations regarding the criteria for awarding grants under this section.

Subsection (l) provides for the calculation of equipment costs.

Subsection (m) provides that the nonprofit Alaska Village Initiatives is eligible to apply for and receive a grant on behalf of Alaska Native villages.

Subsection (n) requires applicants seeking funding for training that does not meet or exceed applicable national voluntary consensus standards to submit an explanation to the FEMA Administrator as to why that training better serves the needs of the applicant than training that meets such standards.

Subsection (o) provides for the audit of grant recipients to ensure funds are expended for the intended purposes; requires the FEMA Administrator to develop and implement a performance assessment system, including quantifiable metrics, to evaluate the extent to which the grants awarded are furthering the purposes of the section; requires grant recipients to submit annual reports to the FEMA Administrator describing the use of grant awards; and requires the FEMA Administrator to submit annual reports to Congress evaluating the effectiveness of the grants.

Subsection (p) authorizes appropriations of \$950 million for each of fiscal years 2011 through 2015, adjusted for inflation each year. It also allows FEMA to use up to 5 percent of appropriated funds for program administration. The section prohibits congressional earmarks of the funds appropriated for this program.

Section 4. Staffing for adequate fire and emergency response

This section makes amendments to section 34 of the Federal Fire Prevention and Control Act (15 U.S.C. § 2229a).

Subsection (a) reduces the term of SAFER grants from four years to three years, and provides that the applicant's cost share shall be 25 percent each year.

Subsection (b) makes a technical correction to clarify that national, state, local and tribal organizations that represent the interests of volunteer firefighters are eligible for recruitment and retention grants.

Subsection (c) limits the amount of funding provided in any year for hiring a firefighter to 75 percent of the usual annual cost of a first-year firefighter in the applicant department.

Subsection (d) provides the FEMA Administrator with authority to waive or reduce certain requirements in cases of demonstrated economic hardship, and requires the FEMA Administrator to publish guidelines for determining what constitutes economic hardship.

Subsection (e) requires the FEMA Administrator to establish a performance assessment system, including quantifiable performance metrics, to determine whether the grants awarded are furthering the purposes of this section.

Subsection (f) requires the FEMA Administrator to submit a report to Congress one year prior to the expiration of the authorization of appropriations for this section on the effectiveness of the grants in meeting the objectives of the section and making and including any recommendations for changes to the law.

Subsection (g) provides for definitions consistent with those added to section 33 of the Federal Fire Prevention and Control Act by Section 3(a) of this bill.

Subsection (h) authorizes appropriations of \$950 million for each of fiscal years 2011 through 2015, adjusted for inflation each year. It also allows FEMA to use up to 5 percent of appropriated funds for program administration. The section prohibits congressional earmarks of the funds appropriated for this program.

Subsection (i) replaces "Administrator" with "Administrator of FEMA" throughout Section 34 of the Federal Fire Prevention and Control Act (15 U.S.C. § 2229a).

Subsection (j) changes the title of Section 34 of the Federal Fire Prevention and Control Act (15 U.S.C. § 2229a) to "Staffing for Adequate Fire and Emergency Response."

Section 5. Sunset and revival

This section sunsets most of the changes to Sections 33 and 34 of the Federal Fire Prevention and Control Act on October 1, 2015. At that time, in the absence of further action by Congress, the provisions will revert back to the provisions that were in effect on the day before the Fire Grant Reauthorization Act of 2010 Act was enacted.

Section 6. Report

This section requires that no later than September 30, 2014, GAO is to submit a report to Congress assessing the effect the changes made by this Act have had on the effectiveness, relative allocation, accountability and administration of the grants awarded. It also requires GAO to evaluate the extent to which the

changes made by the Act have enabled recipients to mitigate fire, fire-related, and other hazards more effectively.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact. The Congressional Budget Office states that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

MAY 26, 2010.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3267, the Fire Grants Reauthorization Act of 2010.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Daniel Hoople.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 3267—Fire Grants Reauthorization Act of 2010

Summary: S. 3267 would authorize appropriations totaling about \$10 billion for the U.S. Fire Administration (USFA) to aid in preventing and responding to fires and other related hazards. CBO estimates that implementing the legislation would cost about \$6.5 billion over the 2011–2015 period and \$3.4 billion thereafter, assuming appropriation of the necessary and specified amounts. Enacting this legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures would not apply.

S. 3267 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 3267 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

	By fiscal year, in millions of dollars—					
	2011	2012	2013	2014	2015	2011-2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Assistance to Firefighters Grants:						
Estimated Authorization Level	950	980	1,004	1,030	1,060	5,024
Estimated Outlays	48	524	778	940	1,004	3,294
Fire Grants:						
Estimated Authorization Level	950	980	1,004	1,030	1,060	5,024
Estimated Outlays	20	430	730	988	1,060	3,228
Total Changes:						
Estimated Authorization Level	1,900	1,960	2,008	2,060	2,120	10,048

	By fiscal year, in millions of dollars—					
	2011	2012	2013	2014	2015	2011-2015
Estimated Outlays	68	954	1,508	1,928	2,064	6,522

BASIS OF ESTIMATE

Assistance to Firefighters Grants (AFG)

S. 3267 would authorize the appropriation of \$950 million in 2011 for the USFA to award grants to fire departments, state fire-training academies, and other organizations. In 2010, the Congress provided \$390 million for this purpose (see Public Law 111–83). In addition, the bill would authorize appropriations over the 2012–2015 period equal to the amount authorized in the previous year, adjusted for the year-over-year increase in the Consumer Price Index, for the same purpose. CBO estimates that those amounts would total about \$4 billion over the 2012–2015 period, for a total authorization level of \$5 billion over the next five years.

Established in 2000, the Assistance to Firefighters Grant program provides funding to train personnel, modify facilities, and obtain equipment, protective gear, emergency vehicles, training, and other resources to respond to fire and related hazards. S. 3267 would expand program eligibility to include state fire training academies and would increase minimum funding for fire prevention and safety programs from 5 percent to 10 percent of the total appropriated amount. Additionally, the legislation would decrease the matching requirement for grantees from 20 percent to 15 percent.

Based on historical spending patterns, CBO estimates that implementing the AFG program under the legislation would cost about \$3.3 billion over the 2011–2015 period and about \$1.7 billion thereafter, assuming appropriation of specified and estimated amounts.

Fire Grants

S. 3267 would authorize the appropriation of about \$950 billion in 2011 for the USFA to award grants to fire departments. In 2010, the Congress provided \$420 million for this purpose (see Public Law 111–83). In addition, the bill would authorize appropriations over the 2012–2015 period equal to the amount authorized in the previous year, adjusted for the year-over-year increase in the Consumer Price Index, for the same purpose. CBO estimates that those amounts would total about \$4 billion over the 2012–2015 period, for a total authorization level of \$5 billion over the next five years.

Established in 2003, the Staffing for Adequate Fire and Emergency Response (SAFER) grant program provides funding to hire additional firefighters and to recruit and retain volunteer firefighters. S. 3267 would reduce the term of a SAFER grant from four years to three years. Additionally, the legislation would limit grant funding to 75 percent of the cost of hiring a firefighter for the duration of the grant. Under current law, grants cover 90 percent of the cost of a new hire in the first year and gradually decreases to 30 percent in the fourth year. The bill would allow USFA to waive the cost share, as well as the existing requirement to retain additional personnel hired under the grant for at least a year, during periods of economic hardship.

CBO estimates that implementing the SAFER program under the legislation would cost about \$3.2 billion over the 2011–2015 period and \$1.7 billion thereafter, assuming appropriation of the specified and estimated amounts.

Pay-As-You-Go considerations: None.

Intergovernmental and private-sector impact: S. 3267 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. Those governments would benefit from grants and technical assistance provided under the programs authorized in the bill. Any costs of those governments would be incurred voluntarily as conditions of federal assistance.

Previous CBO estimate: On November 2, 2009, CBO transmitted a cost estimate for H.R. 3791, the Fire Grants Reauthorization Act of 2009, as ordered reported by the House Committee on Science and Technology on October 21, 2009. The pieces of legislation are similar; however, S. 3267 would authorize appropriations for a different time period and for an amount that CBO estimates would be \$271 million more than H.R. 3791. The cost estimates reflect those differences.

Estimate prepared by: Federal costs: Daniel Hoople; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

VII. CHANGES TO EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 3267 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TITLE 15—COMMERCE AND TRADE

CHAPTER 49—FIRE PREVENTION AND CONTROL

SEC. 2203. DEFINITIONS.

As used in this Act, the term—

(1) “Academy” means the National Academy for Fire Prevention and Control;

(2) “Administration” means the United States Fire Administration established pursuant to section 2204 of this title;

(3) “Administrator” means except as otherwise provided the Administrator of the United States Fire Administration, within the Federal Emergency Management Agency;

(4) **“Director”** means the Administrator of the Federal Emergency Management Agency; *“Administrator of FEMA” means the Administrator of the Federal Emergency Management Agency;*

(5) “fire service” means any organization in any State consisting of personnel, apparatus, and equipment which has as its purpose protecting property and maintaining the safety and welfare of the public from the dangers of fire, including a private fire-fighting brigade. The personnel of any such organiza-

tion may be paid employees or unpaid volunteers or any combination thereof. The location of any such organization and its responsibility for extinguishment and suppression of fires may include, but need not be limited to, a Federal installation, a State, city, town, borough, parish, county, *Indian tribe*, fire district, fire protection district, rural fire district, or other special district. The terms “fire prevention”, “firefighting”, [and “firecontrol”] and “*fire control*” relate to activities conducted by a fire service;

(6) “*Indian tribe*” has the meaning given that term in section 4 of the *Indian Self-Determination and Education Assistance Act* (25 U.S.C. 450b) and “tribal” means of or pertaining to an *Indian tribe*;

[(6)] (7) “local” means of or pertaining to any city, town, county, special purpose district, unincorporated territory, or other political subdivision of a State;

[(7)] (8) “place of public accommodation affecting commerce” means any inn, hotel, or other establishment not owned by the Federal Government that provides lodging to transient guests, except that such term does not include an establishment treated as an apartment building for purposes of any State or local law or regulation or an establishment located within a building that contains not more than 5 rooms for rent or hire and that is actually occupied as a residence by the proprietor of such establishment;

(9) “*Secretary*” means, except as otherwise provided, the *Secretary of Homeland Security*;

[(8)] (10) [“State” means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Trust Territory of the Pacific Islands and any other territory or possession of the United States; and] “*State*” has the meaning given the term in section 2 of the *Homeland Security Act of 2002* (6 U.S.C. § 101).

[(9)] (11) “wildland-urban interface” has the meaning given such term in section 6511 of title 16.

SEC. 2204. UNITED STATES FIRE ADMINISTRATION.

(a) ESTABLISHMENT.—There is hereby established in the Department of Commerce an agency which shall be known as the United States Fire Administration.

(b) ADMINISTRATOR.—There shall be at the head of the Administration the Administrator of the United States Fire Administration. The Administrator shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for level IV of the Executive Schedule pay rates (5 U.S.C. § 5315). The Administrator shall report and be responsible to the [Director] *Administrator of FEMA*.

(c) DEPUTY ADMINISTRATOR.—There shall be in the Administration a Deputy Administrator of the United States Fire Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate now or hereafter provided for level V of the Executive Schedule pay rates (5 U.S.C. § 5316). The Deputy-Administrator shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during

the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

SEC. 2206. NATIONAL ACADEMY FOR FIRE PREVENTION AND CONTROL.

(a) ESTABLISHMENT.—The [Director] Administrator of FEMA shall establish, at the earliest practicable date, a National Academy for Fire Prevention and Control. The purpose of the Academy shall be to advance the professional development of fire service personnel and of other persons engaged in fire prevention and control activities.

(b) SUPERINTENDENT.—The Academy shall be headed by a Superintendent, who shall be appointed by the [Director] Administrator of FEMA. In exercising the powers and authority contained in this section the Superintendent shall be subject to the direction of the Administrator.

* * * * *

(g) SITE SELECTION.—The Academy shall be located on such site as the [Director] Administrator of FEMA selects, subject to the following provisions:

(1) The [Director] Administrator of FEMA is authorized to appoint a Site Selection Board consisting of the Academy Superintendent and two other members to survey the most suitable sites for the location of the Academy and to make recommendations to the [Director] Administrator of FEMA.

(2) The Site Selection Board in making its recommendations and the [Director] Administrator of FEMA in making his final selection, shall give consideration to the training and facility needs of the Academy, environmental effects, and the possibility of using a surplus Government facility, and such other factors as are deemed important and relevant. The [Director] Administrator of FEMA shall make a final site selection not later than 2 years after October 29, 1974.

* * * * *

(j) BOARD OF VISITORS.—Upon establishment of the Academy, the [Director] Administrator of FEMA shall establish a procedure for the selection of professionals in the field of fire safety, fire prevention, fire control, research and development in fire protection, treatment and rehabilitation of fire victims, or local government services management to serve as members of a Board of Visitors for the Academy. Pursuant to such procedure, the [Director] Administrator of FEMA shall select eight such persons to serve as members of such Board of Visitors to serve such terms as the [Director] Administrator of FEMA may prescribe. The function of such Board shall be to review annually the program of the Academy and to make comments and recommendations to the [Director] Administrator of FEMA regarding the operation of the Academy and any improvements therein which such Board deems appropriate. Each member of such Board shall be reimbursed for any expenses actually incurred by him in the performance of his duties as a member of such Board.

SEC. 2210. REIMBURSEMENT FOR COSTS OF FIREFIGHTING ON FEDERAL PROPERTY.

- (a) * * *
- (b) * * *

(c) PAYMENT.—The [Director] *Administrator of FEMA* shall forward the claim and a copy of the Administrator's determination under subsection (b)(3) of this section to the Secretary of the Treasury. The Secretary of the Treasury shall, upon receipt of the claim and determination, pay such fire service or its parent jurisdiction, from any moneys in the Treasury not otherwise appropriated but subject to reimbursement (from any appropriations which may be available or which may be made available for the purpose) by the Federal department or agency under whose jurisdiction the fire occurred, a sum no greater than the amount determined with respect to the claim under subsection (b)(3) of this section.

(d) * * *

SEC. 2214. PUBLIC SAFETY AWARDS.

(a) ESTABLISHMENT.—There is hereby established an honorary award for the recognition of outstanding and distinguished service by public safety officers to be known as the [Director's Award] *Administrator's Award For Distinguished Public Safety Service* ([Director's Award] "*Administrator's Award*").

(b) DESCRIPTION.—[Director's Award] *Administrator's Award* shall be presented by the [Director] *Administrator of FEMA* or by the Attorney General to public safety officers for distinguished service in the field of public safety.

(c) AWARD.—Each [Director's Award] *Administrator's Award* shall consist of an appropriate citation.

(d) REGULATIONS.—The [Director] *Administrator of FEMA* and the Attorney General are authorized and directed to issue jointly such regulations as may be necessary to carry out this section.

(e) "PUBLIC SAFETY OFFICER" DEFINED.—As used in this section, the term "public safety officer" means a person serving a public agency, with or without compensation, as—

- (1) a firefighter;
- (2) a law enforcement officer, including a corrections or court officer; or
- (3) a civil defense officer.

SEC. 2215. REPORTS TO CONGRESS AND PRESIDENT.

The [Director] *Administrator of FEMA* shall report to the Congress and the President not later than ninety calendar days following the year ending September 30, 1980 and similarly each year thereafter on all activities relating to fire prevention and control, and all measures taken to implement and carry out this Act during the preceding calendar year. Such report shall include, but need not be limited to—

(a) a thorough appraisal, including statistical analysis, estimates, and long-term projections of the human and economic losses due to fire;

(b) a survey and summary, in such detail as is deemed advisable, of the research and technology program undertaken or sponsored pursuant to this Act;

(c) a summary of the activities of the Academy for the preceding 12 months, including, but not limited to—

- (1) an explanation of the curriculum of study;
- (2) a description of the standards of admission and performance;

- (3) the criteria for the awarding of degrees and certificates; and
- (4) a statistical compilation of the number of students attending the Academy and receiving degrees or certificates;
- (d) a summary of the activities undertaken to assist the Nation's fire services;
- (e) a summary of the public education programs undertaken;
- (f) an analysis of the extent of participation in preparing and submitting Fire Safety Effectiveness Statements;
- (g) a summary of outstanding problems confronting the administration of this Act, in order of priority;
- (h) such recommendations for additional legislation as are deemed necessary or appropriate; and
- (i) a summary of reviews, evaluations, and suggested improvements in State and local fire prevention and building codes, fire services, and any relevant Federal or private codes, regulations, and fire services.

* * * * *

SEC. 2217. PUBLIC ACCESS TO INFORMATION.

Copies of any document, report, statement, or information received or sent by the [Director] *Administrator of FEMA* or the Administrator shall be made available to the public pursuant to the provisions of section 552 of title 5, United States Code: *Provided*, That, notwithstanding the provisions of subsection (b) of such section and of section 1905 of title 18, United States Code, the Director may disclose information which concerns or relates to a trade secret—

- (1) upon request, to other Federal Government departments and agencies for official use;
- (2) upon request, to any committee of Congress having jurisdiction over the subject matter to which the information relates;
- (3) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information without impairing the proceedings; and
- (4) to the public when he determines such disclosure to be necessary in order to protect health and safety after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the party to which the information pertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to health and safety).

SEC. 2218. ADMINISTRATIVE PROVISIONS.

- (a) * * *
- (b) * * *

(c) **AUDIT.**—The [Director] *Administrator of FEMA* and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the recipients of contracts, grants, or other forms of assistance that are pertinent to its activities under this Act for the purpose of audit or to determine if a proposed activity is in the public interest.

- (d) * * *
- (e) * * *

SEC. 2224. LISTINGS OF PLACES OF PUBLIC ACCOMMODATION.

(a) SUBMISSIONS BY STATES.—

(1) Not later than 2 years after enacted September 25, 1990, each State (acting through its Governor or the Governor’s designee) shall, under procedures formulated by the [Director] Administrator of FEMA, submit to the [Director] Administrator of FEMA a list of those places of public accommodation affecting commerce located in the State which meet the requirements of the guidelines described in section 2225 of this title.

(2) The [Director] Administrator of FEMA shall formulate procedures under which each State (acting through its Governor or the Governor’s designee) shall periodically update the list submitted pursuant to paragraph (1).

(b) COMPILATION AND DISTRIBUTION OF MASTER LIST.—

(1) Not later than 60 days after the expiration of the 2-year period referred to in subsection (a), the [Director] Administrator of FEMA shall compile and publish in the Federal Register a national master list of all of the places of public accommodation affecting commerce located in each State that meet the requirements of the guidelines described in section 2225 of this title, and shall distribute such list to each agency of the Federal Government and take steps to make the employees of such agencies aware of its existence and contents.

(2) The [Director] Administrator of FEMA shall periodically update the national master list compiled pursuant to paragraph (1) to reflect changes in the State lists submitted to the [Director] Administrator of FEMA pursuant to subsection (a), and shall periodically redistribute the updated master list to each agency of the Federal Government.

(3) For purposes of this subsection, the term “agency” has the meaning given to it under section 5701(1) of title 5, United States Code.

* * * * *

SEC. 2226. DISSEMINATION OF FIRE PREVENTION AND CONTROL INFORMATION.

The [Director] Administrator of FEMA, acting through the Administrator, is authorized to take steps to encourage the States to promote the use of automatic sprinkler systems and automatic smoke detection systems, and to disseminate to the maximum extent possible information on the life safety value and use of such systems. Such steps may include, but need not be limited to, providing copies of the guidelines described in section 2225 of this title and of the master list compiled under section 2224(b) of this title to Federal agencies, State and local governments, and fire services throughout the United States, and making copies of the master list compiled under section 2224(b) of this title available upon request to interested private organizations and individuals.

* * * * *

SEC. 2229. FIREFIGHTER ASSISTANCE.

[(a) Definition of firefighting personnel. In this section, the term firefighting personnel means individuals, including volunteers, who

are firefighters, officers of fire departments, or emergency medical service personnel of fire departments.

[(b) ASSISTANCE PROGRAM.—

[(1) AUTHORITY.—In accordance with this section, the Director may—

[(A) make grants on a competitive basis directly to fire departments of a State, in consultation with the chief executive of the State, for the purpose of protecting the health and safety of the public and firefighting personnel throughout the Nation against fire and fire-related hazards;

[(B) provide assistance for fire prevention and firefighter safety research and development programs in accordance with paragraph (4); and

[(C) provide assistance for nonaffiliated EMS organizations for the purpose of paragraph (3)(F).

[(2) ADMINISTRATIVE ASSISTANCE.—The Director shall establish specific criteria for the selection of recipients of assistance under this section and shall provide grant-writing assistance to applicants.

[(3) USE OF FIRE DEPARTMENT GRANT FUNDS.—The Director may make a grant under paragraph (1)(A) only if the applicant for the grant agrees to use the grant funds for one or more of the following purposes:

[(A) To hire additional firefighting personnel.

[(B) To train firefighting personnel in firefighting, emergency response (including response to a terrorism incident or use of a weapon of mass destruction), arson prevention and detection, maritime firefighting, or the handling of hazardous materials, or to train firefighting personnel to provide any of the training described in this subparagraph.

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

[(D) To certify fire inspectors.

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

[(F) To fund emergency medical services provided by fire departments and nonaffiliated EMS organizations.

[(G) To acquire additional firefighting vehicles, including fire trucks.

[(H) To acquire additional firefighting equipment, including equipment for fighting fires with foam in remote areas without access to water, and equipment for communications, monitoring, and response to a terrorism incident or use of a weapon of mass destruction.

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

[(J) To modify fire stations, fire training facilities, and other facilities to protect the health and safety of firefighting personnel.

[(K) To enforce fire codes.

[(L) To fund fire prevention programs.

[(M) To educate the public about arson prevention and detection.

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

[(4) FIRE PREVENTION AND FIREFIGHTER SAFETY RESEARCH AND DEVELOPMENT PROGRAMS.—

[(A) IN GENERAL.—For each fiscal year, the Director shall use not less than 5 percent of the funds made available under subsection (e)—

[(i) to make grants to fire departments for the purpose described in paragraph (3)(L); and

[(ii) to make grants to, or enter into contracts or cooperative agreements with, national, State, local, or community organizations that are not fire departments and that are recognized for their experience and expertise with respect to fire prevention or fire safety programs and activities and firefighter research and development programs, for the purpose of carrying out fire prevention programs and research to improve firefighter health and life safety.

[(B) PRIORITY.—In selecting organizations described in subparagraph (A)(ii) to receive assistance under this paragraph, the Director shall give priority to 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.

[(C) GRANT LIMITATION.—A grant under this paragraph shall not be greater than \$1,000,000 for a fiscal year.

[(5) APPLICATION.—The Director may provide assistance to a fire department or organization under this subsection only if the fire department or organization seeking the assistance submits to the Director an application that meets the following requirements:

[(A) FORM.—The application shall be in such form as the Director may require.

[(B) INFORMATION.—The application shall include the following information:

[(i) Financial need. Information that demonstrates the financial need of the applicant for the assistance for which applied.

[(ii) Cost-benefit analysis. An analysis of the costs and benefits, with respect to public safety, of the use of the assistance.

[(iii) Reporting systems data. An agreement to provide information to the national fire incident reporting system for the period covered by the assistance.

[(iv) Other Federal support. A list of other sources of Federal funding received by the applicant. The Di-

rector, in coordination with the Secretary of Homeland Security, shall use such list to prevent unnecessary duplication of grant funds.

[(v) Other information. Any other information that the Director may require.

[(6) MATCHING REQUIREMENT.—

[(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the Director may provide assistance under this subsection only if the applicant for such assistance agrees to match 20 percent of such assistance for any fiscal year with an equal amount of non-Federal funds.

[(B) REQUIREMENT FOR SMALL COMMUNITY ORGANIZATIONS.—In the case of an applicant whose personnel—

[(i) serve jurisdictions of 50,000 or fewer residents, the percent applied under the matching requirement of subparagraph (A) shall be 10 percent; and

[(ii) serve jurisdictions of 20,000 or fewer residents, the percent applied under the matching requirement of subparagraph (A) shall be 5 percent.

[(C) FIRE PREVENTION AND FIREFIGHTER SAFETY GRANTS.—There shall be no matching requirement for a grant described in paragraph (4)(A)(ii).

[(7) MAINTENANCE OF EXPENDITURES.—The Director may provide assistance under this subsection only if the applicant for the assistance agrees to maintain in the fiscal year for which the assistance will be received the applicant's aggregate expenditures for the uses described in paragraph (3) or (4) at or above the average level of such expenditures in the two fiscal years preceding the fiscal year for which the assistance will be received.

[(8) REPORT TO THE DIRECTOR.—The Director may provide assistance under this subsection only if the applicant for the assistance agrees to submit to the Director a report, including a description of how the assistance was used, with respect to each fiscal year for which the assistance was received.

[(9) VARIETY OF FIRE DEPARTMENT GRANT RECIPIENTS.—The Director shall ensure that grants under paragraph (1)(A) for a fiscal year are made to a variety of fire departments, including, to the extent that there are eligible applicants—

[(A) paid, volunteer, and combination fire departments;

[(B) fire departments located in communities of varying sizes; and

[(C) fire departments located in urban, suburban, and rural communities.

[(10) GRANT LIMITATIONS.—

[(A) RECIPIENT LIMITATIONS.—A grant recipient under subsection (b)(1)(A)—

[(i) that serves a jurisdiction with 500,000 people or less may not receive grants in excess of \$1,000,000 for any fiscal year;

[(ii) that serves a jurisdiction with more than 500,000 but not more than 1,000,000 people may not receive grants in excess of \$1,750,000 for any fiscal year; and

[(iii) that serves a jurisdiction with more than 1,000,000 people may not receive grants in excess of \$2,750,000 for any fiscal year. The Director may award grants in excess of the limitations provided in clause (i) and (ii) if the Director determines that extraordinary need for assistance by a jurisdiction warrants a waiver.

[(B) DISTRIBUTION.—Notwithstanding subparagraph (A), no single recipient may receive more than the lesser of \$2,750,000 or one half of one percent of the funds appropriated under this section for a single fiscal year.

[(C) LIMITATION ON EXPENDITURES FOR FIREFIGHTING VEHICLES.—Not more than 25 percent of the funds appropriated to provide grants under this section for a fiscal year may be used to assist grant recipients to purchase vehicles, as authorized by paragraph (3)(G).

[(D) REQUIREMENTS FOR GRANTS FOR EMERGENCY MEDICAL SERVICES.—Subject to the restrictions in subparagraph (E), not less than 3.5 percent of the funds appropriated under this section for a fiscal year shall be awarded for purposes described in paragraph (3)(F).

[(E) NONAFFILIATED EMS LIMITATION.—Not more than 2 percent of the funds appropriated to provide grants under this section for a fiscal year shall be awarded to non-affiliated EMS organizations.

[(F) APPLICATION OF SELECTION CRITERIA TO GRANT APPLICATIONS FROM NONAFFILIATED EMS ORGANIZATIONS.—In reviewing applications submitted by nonaffiliated EMS organizations, the Director shall consider the extent to which other sources of Federal funding are available to provide assistance requested in such grant applications.

[(11) RESERVATION OF GRANT FUNDS FOR VOLUNTEER DEPARTMENTS.—In making grants to firefighting departments, the Director shall ensure that those firefighting departments that have either all-volunteer forces of firefighting personnel or combined forces of volunteer and professional firefighting personnel receive a proportion of the total grant funding that is not less than the proportion of the United States population that those firefighting departments protect.

[(12) ELIGIBLE GRANTEE ON BEHALF OF ALASKA NATIVE VILLAGES.—The Alaska Village Initiatives, a non-profit organization incorporated in the State of Alaska, shall be considered an eligible grantee for purposes of receiving assistance under this section on behalf of Alaska Native villages.

[(13) ANNUAL MEETING.—The Director shall convene an annual meeting of individuals who are members of national fire service organizations and are recognized for expertise in firefighting or emergency medical services provided by fire services, and who are not employees of the Federal Government, for the purpose of recommending criteria for awarding grants under this section for the next fiscal year and recommending any necessary administrative changes to the grant program.

[(14) GUIDELINES.—

[(A) Each year, prior to making any grants under this section, the Director shall publish in the Federal Register—

[(i) guidelines that describe the process for applying for grants and the criteria for awarding grants; and

[(ii) an explanation of any differences between the guidelines and the recommendations made pursuant to paragraph (13).

[(B) The criteria for awarding grants under subsection (b)(1)(A) shall include the extent to which the grant would enhance the daily operations of the applicant and the impact of such a grant on the protection of lives and property.

[(15) PEER REVIEW.—The Director shall, after consultation with national fire service organizations, appoint fire service personnel to conduct peer review of applications received under paragraph (5). In making grants under this section, the Director shall consider the results of such peer review evaluations.

[(16) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to activities under paragraphs (13) and (15).

[(17) ACCOUNTING DETERMINATION.—Notwithstanding any other provision of law, rule, regulation, or guidance, for purposes of receiving assistance under this section, equipment costs shall include, but not be limited to, all costs attributable to any design, purchase of components, assembly, manufacture, and transportation of equipment not otherwise commercially available.

[(c) AUDITS.—A recipient of a grant under this section shall be subject to audits to ensure that the grant proceeds are expended for the intended purposes and that the grant recipient complies with the requirements of paragraphs (6) and (7) of subsection (b).

[(d) DEFINITIONS.—In this section—

[(1) the term Director means the Director, acting through the Administrator;

[(2) the term nonaffiliated EMS organization means a public or private nonprofit emergency medical services organization that is not affiliated with a hospital and does not serve a geographic area in which the Director finds that emergency medical services are adequately provided by a fire department; and

[(3) the term State includes the District of Columbia and the Commonwealth of Puerto Rico.

(e) AUTHORIZATION OF APPROPRIATIONS.—

[(1) IN GENERAL.—There are authorized to be appropriated for the purposes of this section \$900,000,000 for fiscal year 2005, \$950,000,000 for fiscal year 2006, and \$1,000,000,000 for each of the fiscal years 2007 through 2009. Of the amounts authorized in this paragraph, \$3,000,000 shall be made available each year through fiscal year 2008 for foam firefighting equipment.

[(2) ADMINISTRATIVE EXPENSES.—Of the funds appropriated pursuant to paragraph (1) for a fiscal year, the Director may use not more than three percent of the funds to cover salaries and expenses and other administrative costs incurred by the

Director to make grants and provide assistance under this section.】

(a) *DEFINITIONS.—In this section:*

(1) *AVAILABLE GRANT FUNDS.—The term ‘available grant funds’, with respect to a fiscal year, means those funds appropriated pursuant to the authorization of appropriations in subsection (p)(1) for such fiscal year less any funds used for administrative costs pursuant to subsection (p)(2) in such fiscal year.*

(2) *CAREER FIRE DEPARTMENT.—The term ‘career fire department’ means a fire department that has an all-paid force of firefighting personnel other than paid-on-call firefighters.*

(3) *COMBINATION FIRE DEPARTMENT.—The term ‘combination fire department’ means a fire department that has—*

(A) paid firefighting personnel; and

(B) volunteer firefighting personnel.

(4) *FIREFIGHTING PERSONNEL.—The term ‘firefighting personnel’ means individuals, including volunteers, who are firefighters, officers of fire departments, or emergency medical service personnel of fire departments.*

(5) *NONAFFILIATED EMS ORGANIZATION.—The term ‘non-affiliated EMS organization’ means a public or private non-profit emergency medical services organization that is not affiliated with a hospital and does not serve a geographic area in which the Administrator of FEMA finds that emergency medical services are adequately provided by a fire department.*

(6) *PAID-ON-CALL.—The term ‘paid-on-call’ with respect to firefighting personnel means firefighting personnel who are paid a stipend for each event to which they respond.*

(7) *VOLUNTEER FIRE DEPARTMENT.—The term ‘volunteer fire department’ means a fire department that has an all-volunteer force of firefighting personnel.*

(b) *ASSISTANCE PROGRAM.—*

(1) *AUTHORITY.—In accordance with this section, the Administrator of FEMA may, in consultation with the Administrator of the United States Fire Administration, award—*

(A) assistance to firefighters grants under subsection (c); and

(B) fire prevention and safety grants and other assistance under subsection (d).

(2) *ADMINISTRATIVE ASSISTANCE.—The Administrator of FEMA shall—*

(A) establish specific criteria for the selection of grant recipients under this section; and

(B) provide assistance with application preparation to applicants for such grants.

(c) *ASSISTANCE TO FIREFIGHTERS GRANTS.—*

(1) *IN GENERAL.—The Administrator of FEMA may, in consultation with the chief executives of the States in which the recipients are located, award grants on a competitive basis directly to—*

(A) fire departments, for the purpose of protecting the health and safety of the public and firefighting personnel throughout the United States against fire, fire-related, and other hazards;

- (B) nonaffiliated EMS organizations to support the provision of emergency medical services; and
 (C) State fire training academies for the purposes described in subparagraphs (G), (H), and (I) of paragraph (3).
- (2) MAXIMUM GRANT AMOUNTS.—

(A) POPULATION.—The Administrator of FEMA may not award a grant under this subsection in excess of amounts as follows:

(i) In the case of a recipient that serves a jurisdiction with 100,000 people or fewer, the amount of the grant awarded to such recipient shall not exceed \$1,000,000 in any fiscal year.

(ii) In the case of a recipient that serves a jurisdiction with more than 100,000 people but not more than 500,000 people, the amount of the grant awarded to such recipient shall not exceed \$2,000,000 in any fiscal year.

(iii) In the case of a recipient that serves a jurisdiction with more than 500,000 but not more than 1,000,000 people, the amount of the grant awarded to such recipient shall not exceed \$3,000,000 in any fiscal year.

(iv) In the case of a recipient that serves a jurisdiction with more than 1,000,000 people but not more than 2,500,000 people, the amount of the grant awarded to such recipient shall not exceed \$6,000,000 for any fiscal year.

(v) In the case of a recipient that serves a jurisdiction with more than 2,500,000 people, the amount of the grant awarded to such recipient shall not exceed \$9,000,000 in any fiscal year.

(B) STATE FIRE TRAINING ACADEMIES.—The Administrator of FEMA may not award a grant under this subsection to a State fire training academy in an amount that exceeds \$1,000,000 in any fiscal year.

(C) AGGREGATE.—

(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B) and except as provided under clause (ii), the Administrator of FEMA may not award a grant under this subsection in a fiscal year in an amount that exceeds the amount that is one percent of the available grant funds in such fiscal year.

(ii) EXCEPTION.—The Administrator of FEMA may waive the limitation in clause (i) with respect to a grant recipient if the Administrator of FEMA determines that such recipient has an extraordinary need for a grant in an amount that exceeds the limit under clause (i).

(3) USE OF GRANT FUNDS.—Each entity receiving a grant under this subsection shall use the grant for one or more of the following purposes:

- (A) To train firefighting personnel in—
 (i) firefighting;

(ii) emergency medical services and other emergency response (including response to natural disasters, acts of terrorism, and other man-made disasters);

(iii) arson prevention and detection;

(iv) maritime firefighting; or

(v) the handling of hazardous materials.

(B) To train firefighting personnel to provide any of the training described under subparagraph (A).

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

(D) To certify—

(i) fire inspectors; and

(ii) building inspectors—

(I) whose responsibilities include fire safety inspections; and

(II) who are employed by or serving as volunteers with a fire department.

(E) To establish wellness and fitness programs for firefighting personnel to ensure that the firefighting personnel are able to carry out their duties as firefighters.

(F) To fund emergency medical services provided by fire departments and nonaffiliated EMS organizations.

(G) To acquire additional firefighting vehicles, including fire trucks and other apparatus.

(H) To acquire additional firefighting equipment, including equipment for—

(i) fighting fires with foam in remote areas without access to water; and

(ii) communications, monitoring, and response to a natural disaster, act of terrorism, or other man-made disaster, including the use of a weapon of mass destruction.

(I) To acquire personal protective equipment, including personal protective equipment—

(i) prescribed for firefighting personnel by the Occupational Safety and Health Administration of the Department of Labor; or

(ii) for responding to a natural disaster or act of terrorism or other man-made disaster, including the use of a weapon of mass destruction.

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

(K) To educate the public about arson prevention and detection.

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

(M) To support such other activities, consistent with the purposes of this subsection, as the Administrator of FEMA determines appropriate.

(d) FIRE PREVENTION AND SAFETY GRANTS.—

(1) *IN GENERAL.*—For the purpose of assisting fire prevention programs and supporting firefighter health and safety research and development, the Administrator of FEMA may, on a competitive basis—

(A) award grants to fire departments;

(B) award grants to, or enter into contracts or cooperative agreements with, national, State, local, tribal, or nonprofit organizations that are not fire departments and that are recognized for their experience and expertise with respect to fire prevention or fire safety programs and activities and firefighter research and development programs, for the purpose of carrying out—

(i) fire prevention programs; and

(ii) research to improve firefighter health and life safety; and

(C) award grants to, or enter into contracts with, regionally accredited institutions of higher education and national fire service organizations or national fire safety organizations to support joint programs focused on reducing firefighter fatalities and non-fatal injuries, including programs for establishing fire safety research centers as the Administrator of FEMA determines appropriate.

(2) *MAXIMUM GRANT AMOUNT.*—A grant awarded under this subsection may not exceed \$1,500,000 for a fiscal year.

(3) *USE OF GRANT FUNDS.*—Each entity receiving a grant under this subsection shall use the grant for one or more of the following purposes:

(A) To enforce fire codes and promote compliance with fire safety standards.

(B) To fund fire prevention programs.

(C) To fund wildland fire prevention programs, including education, awareness, and mitigation programs that protect lives, property, and natural resources from fire in the wildland-urban interface.

(D) In the case of a grant awarded under paragraph (1)(C), to fund the establishment or operation of—

(i) a fire safety research center; or

(ii) a program at such a center.

(E) To support such other activities, consistent with the purposes of this subsection, as the Administrator of FEMA determines appropriate.

(e) *APPLICATIONS FOR GRANTS.*—

(1) *IN GENERAL.*—An entity seeking a grant under this section shall submit to the Administrator of FEMA an application therefor in such form and in such manner as the Administrator of FEMA determines appropriate.

(2) *ELEMENTS.*—Each application submitted under paragraph (1) shall include the following:

(A) A description of the financial need of the applicant for the grant.

(B) An analysis of the costs and benefits, with respect to public safety, of the use for which a grant is requested.

(C) An agreement to provide information to the national fire incident reporting system for the period covered by the grant.

(D) A list of other sources of funding received by the applicant—

- (i) for the same purpose for which the application for a grant under this section was submitted; or
- (ii) from the Federal Government for other fire-related purposes.

(E) Such other information as the Administrator of FEMA determines appropriate.

(3) JOINT OR REGIONAL APPLICATIONS.—

(A) IN GENERAL.—Two or more entities may submit an application under paragraph (1) for a grant under this section to fund a joint program or initiative, including acquisition of shared equipment or vehicles.

(B) NONEXCLUSIVITY.—Applications under this paragraph may be submitted instead of or in addition to any other application submitted under paragraph (1).

(C) GUIDANCE.—The Administrator of FEMA shall—

- (i) publish guidance on applying for and administering grants awarded for joint programs and initiatives described in subparagraph (A); and
- (ii) encourage applicants to apply for grants for joint programs and initiatives described in subparagraph (A) as the Administrator of FEMA determines appropriate to achieve greater cost effectiveness and regional efficiency.

(f) PEER REVIEW OF GRANT APPLICATIONS.—

(1) IN GENERAL.—The Administrator of FEMA shall, after consultation with national fire service and emergency medical services organizations, appoint fire service personnel and personnel from nonaffiliated EMS organizations to conduct peer reviews of applications received under subsection (e)(1).

(2) ASSIGNMENT OF REVIEWS.—In administering the peer review process under paragraph (1), the Administrator of FEMA shall ensure that—

(A) applications submitted by career fire departments are reviewed primarily by personnel from career fire departments;

(B) applications submitted by volunteer fire departments are reviewed primarily by personnel from volunteer fire departments;

(C) applications submitted by combination fire departments and fire departments using paid-on-call firefighting personnel are reviewed primarily by personnel from such fire departments; and

(D) applications for grants to fund emergency medical services pursuant to subsection (c)(3)(F) are reviewed primarily by emergency medical services personnel, including—

- (i) emergency medical service personnel affiliated with fire departments; and
- (ii) personnel from nonaffiliated EMS organizations.

(3) REVIEW OF APPLICATIONS FOR FIRE PREVENTION AND SAFETY GRANTS SUBMITTED BY NONPROFIT ORGANIZATIONS THAT ARE NOT FIRE DEPARTMENTS.—In conducting a review of an application submitted under subsection (e)(1) by a nonprofit organiza-

tion described in subsection (d)(1)(B), a peer reviewer may not recommend the applicant for a grant under subsection (d) unless such applicant is recognized for its experience and expertise with respect to—

- (A) fire prevention or safety programs and activities; or
- (B) firefighter research and development programs.

(4) **APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to activities carried out pursuant to this subsection.

(g) **PRIORITIZATION AND ALLOCATION OF GRANT AWARDS.**—In awarding grants under this section, the Administrator of FEMA shall—

(1) consider the findings and recommendations of the peer reviews carried out under subsection (f);

(2) consider the degree to which an award will reduce deaths, injuries, and property damage by reducing the risks associated with fire-related and other hazards;

(3) consider the extent of the need of an applicant for a grant under this section and the need to protect the United States as a whole;

(4) consider the number of calls requesting or requiring a fire fighting or emergency medical response received by an applicant; and

(5) ensure that of the available grant funds—

(A) not less than 25 percent are awarded to career fire departments;

(B) not less than 25 percent are awarded to volunteer fire departments; and

(C) not less than 25 percent are awarded to combination fire departments and fire departments using paid-on-call firefighting personnel.

(h) **ADDITIONAL REQUIREMENTS AND LIMITATIONS.**—

(1) **FUNDING FOR EMERGENCY MEDICAL SERVICES.**—Not less than 3.5 percent of the available grant funds for a fiscal year shall be awarded under this section for purposes described in subsection (c)(3)(F).

(2) **GRANT AWARDS TO NONAFFILIATED EMS ORGANIZATIONS.**—Not more than 2 percent of the available grant funds for a fiscal year shall be awarded under this section to nonaffiliated EMS organizations.

(3) **FUNDING FOR FIRE PREVENTION AND SAFETY GRANTS.**—For each fiscal year, not less than 10 percent of the aggregate of grant amounts under this section in that fiscal year shall be awarded under subsection (d).

(4) **STATE FIRE TRAINING ACADEMIES.**—Not more than 3 percent of the available grant funds for a fiscal year shall be awarded under subsection (c)(1)(C).

(5) **AMOUNTS FOR PURCHASING FIREFIGHTING VEHICLES.**—Not more than 25 percent of the available grant funds for a fiscal year may be used to assist grant recipients to purchase vehicles pursuant to subsection (c)(3)(G).

(i) **FURTHER CONSIDERATIONS.**—

(1) **ASSISTANCE TO FIREFIGHTERS GRANTS TO FIRE DEPARTMENTS.**—In considering applications for grants under subsection (c)(1)(A), the Administrator of FEMA shall consider the

extent to which the grant would enhance the daily operations of the applicant and the impact of such a grant on the protection of lives and property.

(2) *APPLICATIONS FROM NONAFFILIATED EMS ORGANIZATIONS.*—In the case of an application submitted under subsection (e)(1) by a nonaffiliated EMS organization, the Administrator of FEMA shall consider the extent to which other sources of Federal funding are available to the applicant to provide the assistance requested in such application.

(3) *AWARDING FIRE PREVENTION AND SAFETY GRANTS TO CERTAIN ORGANIZATIONS THAT ARE NOT FIRE DEPARTMENTS.*—In the case of applicants for grants under this section who are described in subsection (d)(1)(B), the Administrator of FEMA shall give priority to applicants who focus on—

(A) prevention of injuries to high risk groups from fire; and

(B) research programs that demonstrate a potential to improve firefighter safety.

(4) *AVOIDING DUPLICATION.*—The Administrator of FEMA shall review lists submitted by applicants pursuant to subsection (e)(2)(D) and take such actions as the Administrator of FEMA considers necessary to prevent unnecessary duplication of grant awards.

(j) *MATCHING AND MAINTENANCE OF EXPENDITURE REQUIREMENTS.*—

(1) *MATCHING REQUIREMENT FOR ASSISTANCE TO FIREFIGHTERS GRANTS.*—

(A) *IN GENERAL.*—Except as provided in subparagraph (B), an applicant seeking a grant to carry out an activity under subsection (c) shall agree to make available non-Federal funds to carry out such activity in an amount equal to not less than 15 percent of the grant awarded to such applicant under such subsection.

(B) *EXCEPTION FOR ENTITIES SERVING SMALL COMMUNITIES.*—In the case that an applicant seeking a grant to carry out an activity under subsection (c) serves a jurisdiction of—

(i) more than 20,000 residents but not more than 50,000 residents, the applicant shall agree to make available non-Federal funds in an amount equal to not less than 10 percent of the grant award to such applicant under such subsection; or

(ii) 20,000 residents or fewer, the applicant shall agree to make available non-Federal funds in an amount equal to not less than 5 percent of the grant awarded to such applicant under such subsection.

(2) *MATCHING REQUIREMENT FOR FIRE PREVENTION AND SAFETY GRANTS.*—

(A) *IN GENERAL.*—An applicant seeking a grant to carry out an activity under subsection (d) shall agree to make available non-Federal funds to carry out such activity in an amount equal to not less than 5 percent of the grant awarded to such applicant under such subsection.

(B) *MEANS OF MATCHING.*—An applicant for a grant under subsection (d) may meet the matching requirement

under subparagraph (A) through direct funding, funding of complementary activities, or the provision of staff, facilities, services, material, or equipment.

(3) **MAINTENANCE OF EXPENDITURES.**—An applicant seeking a grant under subsection (c) or (d) shall agree to maintain during the term of the grant the applicant's aggregate expenditures relating to the uses described in subsections (c)(3) and (d)(3) at not less than 80 percent of the average amount of such expenditures in the 2 fiscal years preceding the fiscal year in which the grant amounts are received.

(4) **WAIVER.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (C)(ii), the Administrator of FEMA may waive or reduce the requirements of paragraphs (1), (2), and (3) in cases of demonstrated economic hardship.

(B) **GUIDELINES.**—

(i) **IN GENERAL.**—The Administrator of FEMA shall establish and publish guidelines for determining what constitutes economic hardship for purposes of this paragraph.

(ii) **CONSIDERATIONS.**—In developing guidelines under clause (i), the Administrator of FEMA shall consider, with respect to relevant communities, the following:

(I) Changes in rates of unemployment from previous years.

(II) Whether the rates of unemployment of the relevant communities are currently and have consistently exceeded the annual national average rates of unemployment.

(III) Changes in percentages of individuals eligible to receive food stamps from previous years.

(IV) Such other factors as the Administrator of FEMA considers appropriate.

(C) **CERTAIN APPLICANTS FOR FIRE PREVENTION AND SAFETY GRANTS.**—The authority under subparagraph (A) shall not apply with respect to a nonprofit organization that—

(i) is described in subsection (d)(1)(B); and

(ii) is not a fire department or emergency medical services organization.

(k) **GRANT GUIDELINES.**—

(1) **GUIDELINES.**—For each fiscal year, prior to awarding any grants under this section, the Administrator of FEMA shall publish in the Federal Register—

(A) guidelines that describe—

(i) the process for applying for grants under this section; and

(ii) the criteria that will be used for selecting grant recipients; and

(B) an explanation of any differences between such guidelines and the recommendations obtained under paragraph (2).

(2) **ANNUAL MEETING TO OBTAIN RECOMMENDATIONS.**—

(A) *IN GENERAL.*—For each fiscal year, the Administrator of FEMA shall convene a meeting of qualified members of national fire service organizations and qualified members of emergency medical service organizations to obtain recommendations regarding the following:

(i) Criteria for the awarding of grants under this section.

(ii) Administrative changes to the assistance program established under subsection (b).

(B) *QUALIFIED MEMBERS.*—For purposes of this paragraph, a qualified member of an organization is a member who—

(i) is recognized for expertise in firefighting or emergency medical services;

(ii) is not an employee of the Federal Government; and

(iii) in the case of a member of an emergency medical service organization, is a member of an organization that represents—

(I) providers of emergency medical services that are affiliated with fire departments; or

(II) nonaffiliated EMS providers.

(3) *APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.*—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to activities carried out pursuant to this subsection.

(l) *ACCOUNTING DETERMINATION.*—Notwithstanding any other provision of law, for purposes of this section, equipment costs shall include all costs attributable to any design, purchase of components, assembly, manufacture, and transportation of equipment not otherwise commercially available.

(m) *ELIGIBLE GRANTEE ON BEHALF OF ALASKA NATIVE VILLAGES.*—The Alaska Village Initiatives, a non-profit organization incorporated in the State of Alaska, shall be eligible to apply for and receive a grant or other assistance under this section on behalf of Alaska Native villages.

(n) *TRAINING STANDARDS.*—If an applicant for a grant under this section is applying for such grant to purchase training that does not meet or exceed any applicable national voluntary consensus standards developed under section 647 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. §747), the applicant shall submit to the Administrator of FEMA an explanation of the reasons that the training proposed to be purchased will serve the needs of the applicant better than training that meets or exceeds such standards.

(o) *ENSURING EFFECTIVE USE OF GRANTS.*—

(1) *AUDITS.*—The Administrator of FEMA may audit a recipient of a grant awarded under this section to ensure that—

(A) the grant amounts are expended for the intended purposes; and

(B) the grant recipient complies with the requirements of subsection (j).

(2) *PERFORMANCE ASSESSMENT.*—

(A) *IN GENERAL.*—The Administrator of FEMA shall develop and implement a performance assessment system, in-

cluding quantifiable performance metrics, to evaluate the extent to which grants awarded under this section are furthering the purposes of this section, including protecting the health and safety of the public and firefighting personnel against fire and fire-related hazards.

(B) CONSULTATION.—The Administrator of FEMA shall consult with fire service representatives and with the Comptroller General of the United States in developing the assessment system required by subparagraph (A).

(3) ANNUAL REPORTS TO ADMINISTRATOR OF FEMA.—The recipient of a grant awarded under this section shall submit to the Administrator of FEMA an annual report describing how the recipient used the grant amounts.

(4) ANNUAL REPORTS TO CONGRESS.—

(A) IN GENERAL.—Not later than September 30, 2011, and each year thereafter through 2015, the Administrator of FEMA shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Science and Technology of the House of Representatives a report that provides—

(i) information on the performance assessment system developed under paragraph (2); and

(ii) using the performance metrics developed under such paragraph, an evaluation of the effectiveness of the grants awarded under this section.

(B) ADDITIONAL INFORMATION.—The report due under subparagraph (A) on September 30, 2014, shall also include recommendations for legislative changes to improve grants under this section, including recommendations as to whether the provisions described in section 5(a) of the Fire Grants Reauthorization Act of 2010 should be extended to apply on and after the date described in such section.

(p) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section—

(A) \$950,000,000 for fiscal year 2011; and

(B) for each of fiscal years 2012 through 2015, an amount equal to the amount authorized for the previous fiscal year increased by the percentage by which—

(i) the Consumer Price Index (all items, United States city average) for the previous fiscal year, exceeds

(ii) the Consumer Price Index for the fiscal year preceding the fiscal year described in clause (i).

(2) ADMINISTRATIVE EXPENSES.—Of the amounts appropriated pursuant to paragraph (1) for a fiscal year, the Administrator of FEMA may use not more than 5 percent of such amounts for salaries and expenses and other administrative costs incurred by the Administrator of FEMA in the course of awarding grants and providing assistance under this section.

(3) CONGRESSIONALLY DIRECTED SPENDING.—Consistent with the requirements in subsections (c)(1) and (d)(1) that grants under those subsections be awarded on a competitive basis, none of the funds appropriated pursuant to this subsection may be used for any congressionally directed spending item (as such

term is defined in paragraph 5(a) of rule XLIV of the Standing Rules of the Senate).

Sec. 2229a. [EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE GRANT PROGRAM] STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE

(a) EXPANDED AUTHORITY TO MAKE GRANTS.—

(1) HIRING GRANTS.—

(A) The ~~Administrator shall~~ *Administrator of FEMA shall, in consultation with the Administrator, make grants directly to [career, volunteer, and combination fire departments] career fire departments, combination fire departments, and volunteer fire departments, in consultation with the chief executive of the State in which the applicant is located, for the purpose of increasing the number of firefighters to help communities meet industry minimum standards and attain 24-hour staffing to provide adequate protection from fire and fire-related hazards, and to fulfill traditional missions of fire departments that antedate the creation of the Department of Homeland Security.*

(B)

(i) Grants made under this paragraph shall be for ~~4 years~~ *3 years* and be used for programs to hire new, additional firefighters.

(ii) Grantees are required to commit to retaining for at least 1 year beyond the termination of their grants those firefighters hired under this paragraph.

(C) In awarding grants under this subsection, the Administrator may give preferential consideration to applications that involve a non-Federal contribution exceeding the minimums under subparagraph (E).

(D) The Administrator may provide technical assistance to States, units of local government, Indian tribal governments, and to other public entities, in furtherance of the purposes of this section.

(E) The portion of the costs of hiring firefighters provided by a grant under this paragraph may ~~not exceed—~~

(i) 90 percent in the first year of the grant;

(ii) 80 percent in the second year of the grant;

(iii) 50 percent in the third year of the grant; and

(iv) 30 percent in the fourth year of the grant.] *not exceed 75 percent in any fiscal year.*

(F) Notwithstanding any other provision of law, any firefighter hired with funds provided under this subsection shall not be discriminated against for, or be prohibited from, engaging in volunteer activities in another jurisdiction during off-duty hours.

(G) All grants made pursuant to this subsection shall be awarded on a competitive basis through a neutral peer review process.

(H) At the beginning of the fiscal year, the Administrator shall set aside 10 percent of the funds appropriated for carrying out this paragraph for departments with majority volunteer or all volunteer personnel. After awards have been made, if less than 10 percent of the funds appropriated for carrying out this paragraph are not awarded

to departments with majority volunteer or all volunteer personnel, the Administrator shall transfer from funds appropriated for carrying out this paragraph to funds available for carrying out paragraph (2) an amount equal to the difference between the amount that is provided to such fire departments and 10 percent.

(2) Recruitment and retention grants. In addition to any amounts transferred under paragraph (1)(H), the **Administrator shall** *Administrator of FEMA shall, in consultation with the Administrator* direct at least 10 percent of the total amount of funds appropriated pursuant to this section annually to a competitive grant program for the recruitment and retention of volunteer firefighters who are involved with or trained in the operations of firefighting and emergency response. Eligible entities shall include volunteer or combination fire departments, and **organizations on a local or statewide basis** *national, State, local or tribal organizations* that represent the interests of volunteer firefighters.

(b) APPLICATIONS.—

(1) No grant may be made under this section unless an application has been submitted to, and approved by, the **Administrator** *Administrator of FEMA*.

(2) An application for a grant under this section shall be submitted in such form, and contain such information, as the **Administrator** *Administrator of FEMA* may prescribe.

(3) At a minimum, each application for a grant under this section shall—

(A) explain the applicant's inability to address the need without Federal assistance;

(B) in the case of a grant under subsection (a)(1), explain how the applicant plans to meet the requirements of subsection (a)(1)(B)(ii) and (F);

(C) specify long-term plans for retaining firefighters following the conclusion of Federal support provided under this section; and

(D) provide assurances that the applicant will, to the extent practicable, seek, recruit, and hire members of racial and ethnic minority groups and women in order to increase their ranks within firefighting.

(c) LIMITATION ON USE OF FUNDS.—

(1) Funds made available under this section to fire departments for salaries and benefits to hire new, additional firefighters shall not be used to supplant State or local funds, or, in the case of Indian tribal governments, funds supplied by the Bureau of Indian Affairs, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this section, be made available from State or local sources, or in the case of Indian tribal governments, from funds supplied by the Bureau of Indian Affairs.

(2) No grant shall be awarded pursuant to this section to a municipality or other recipient whose annual budget at the time of the application for fire-related programs and emergency response has been reduced below 80 percent of the average funding level in the 3 years prior to the date of enactment of this section.

(3) Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing firefighting functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this section.

[(4)

(A) Total funding provided under this section over 4 years for hiring a firefighter may not exceed \$100,000.

(B) The \$100,000 cap shall be adjusted annually for inflation beginning in fiscal year 2005.]

(4) *The amount of funding provided under this section to a recipient fire department for hiring a firefighter in any fiscal year may not exceed 75 percent of the usual annual cost of a first-year firefighter in that department at the time the grant application was submitted.*

(d) **WAIVERS.**—

(1) **IN GENERAL.**—*In a case of demonstrated economic hardship, the Administrator of FEMA may—*

(A) *waive the requirements of subsection (a)(1)(B)(ii) or subsection (c)(1); or*

(B) *waive or reduce the requirements in subsection (a)(1)(E) or subsection (c)(2).*

(2) **GUIDELINES.**—

(A) **IN GENERAL.**—*The Administrator of FEMA shall establish and publish guidelines for determining what constitutes economic hardship for purposes of paragraph (1).*

(B) **CONSIDERATIONS.**—*In developing guidelines under subparagraph (A), the Administrator of FEMA shall consider, with respect to relevant communities, the following:*

(i) *Changes in rates of unemployment from previous years.*

(ii) *Whether the rates of unemployment of the relevant communities are currently and have consistently exceeded the annual national average rates of unemployment.*

(iii) *Changes in percentages of individuals eligible to receive food stamps from previous years.*

(iv) *Such other factors as the Administrator of FEMA considers appropriate.*

[(d)] (e) **PERFORMANCE EVALUATION.**—

(1) **IN GENERAL.**—*The Administrator of FEMA shall establish a performance assessment system, including quantifiable performance metrics, to evaluate the extent to which grants awarded under this section are furthering the purposes of this section.*

(2) **SUBMISSION OF INFORMATION.**—*The [Administrator] Administrator of FEMA may require a grant recipient to submit any information the Administrator considers reasonably necessary to evaluate the program.*

[(e)] (f) **[SUNSET AND REPORTS] REPORT.**—**[The authority under this section to make grants shall lapse at the conclusion of 10 years from November 24, 2003. Not later than 6 years after November 24, 2003, the Administrator shall submit a report to Congress concerning] Not later than September 30, 2014, the Administrator of FEMA shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Science**

and Technology of the House of Representatives a report on the experience with, and effectiveness of, such grants in meeting the objectives of this section. The report may include any recommendations the [Administrator] Administrator of FEMA may have for amendments to this section and related provisions of law.

[(f)] (g) REVOCATION OR SUSPENSION OF FUNDING.—If the [Administrator] Administrator of FEMA determines that a grant recipient under this section is not in substantial compliance with the terms and requirements of an approved grant application submitted under this section, the [Administrator] Administrator of FEMA may revoke or suspend funding of that grant, in whole or in part.

[(g)] (h) ACCESS TO DOCUMENTS.—

(1) The [Administrator] Administrator of FEMA shall have access for the purpose of audit and examination to any pertinent books, documents, papers, or records of a grant recipient under this section and to the pertinent books, documents, papers, or records of State and local governments, persons, businesses, and other entities that are involved in programs, projects, or activities for which assistance is provided under this section.

(2) Paragraph (1) shall apply with respect to audits and examinations conducted by the Comptroller General of the United States or by an authorized representative of the Comptroller General.

[(h)] (i) DEFINITIONS.—[In this section, the term—] *In this section:*

(1) *The term “firefighter” has the meaning given the term “employee in fire protection activities” under section 203(y) of title 29[; and].*

[(2)] “Indian tribe” means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. §1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.] (2) *The terms “career fire department”, “combination fire department”, and “volunteer fire department” have the meaning given such terms in section 33(a).*

[(i)] (j) AUTHORIZATION OF APPROPRIATIONS.—[There are]

(1) *IN GENERAL.—There are authorized to be appropriated for the purposes of carrying out this section—*

[(1)] (A) \$1,000,000,000 for fiscal year 2004;

[(2)] (B) \$1,030,000,000 for fiscal year 2005;

[(3)] (C) \$1,061,000,000 for fiscal year 2006;

[(4)] (D) \$1,093,000,000 for fiscal year 2007;

[(5)] (E) \$1,126,000,000 for fiscal year 2008;

[(6)] (F) \$1,159,000,000 for fiscal year 2009; [and]

[(7)] (G) \$1,194,000,000 for fiscal year 2010[.]; and

[(8)] (H) \$950,000,000 for fiscal year 2011; and

[(9)] (I) *for each of fiscal years 2012 through 2015, an amount equal to the amount authorized for the previous fiscal year increased by the percentage by which—*

(i) *the Consumer Price Index (all items, United States city average) for the previous fiscal year, exceeds*

(ii) *the Consumer Price Index for the fiscal year preceding the fiscal year described in subparagraph (A).*

(2) *ADMINISTRATIVE EXPENSES.—Of the amounts appropriated pursuant to paragraph (1) for a fiscal year, the Administrator of FEMA may use not more than 5 percent of such amounts to cover salaries and expenses and other administrative costs incurred by the Administrator of FEMA to make grants and provide assistance under this section.*

(3) *CONGRESSIONALLY DIRECTED SPENDING.—Consistent with the requirement in subsection (a) that grants under this section be awarded on a competitive basis, none of the funds appropriated pursuant to this subsection may be used for any congressionally direct spending item (as defined in paragraph 5(a) of rule XLIV of the Standing Rules of the Senate).*

