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Staffing for Adequate Fire and Emergency Response: The SAFER Grant Program

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Summary

In response to concerns over the adequacy of firefighter staffing, the Staffing for Adequate Fire and Emergency Response Act, known as the SAFER Act, was enacted by the 108th Congress as Section 1057 of the FY2004 National Defense Authorization Act (P.L. 108-136). The SAFER Act authorizes grants to career, volunteer, and combination local fire departments 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. Also authorized are grants to volunteer fire departments for recruitment and retention of volunteers. SAFER is administered by the Federal Emergency Management Agency (FEMA) of the Department of Homeland Security (DHS).

On January 3, 2018, the President signed the United States Fire Administration, AFG, and SAFER Program Reauthorization Act of 2017 (P.L. 115-98). P.L. 115-98 extends the SAFER and AFG authorizations through FY2023; extends the sunset provisions for SAFER and AFG through September 30, 2024; provides that the U.S. Fire Administration (USFA) may develop and make widely available an online training course on SAFER and AFG grant administration; expands SAFER hiring grant eligibility to cover the conversion of part-time or paid-on-call firefighters to full-time firefighters; directs FEMA, acting through the Administrator of USFA, to develop and implement a grant monitoring and oversight framework to mitigate and minimize risks of fraud, waste, abuse, and mismanagement related to the AFG and SAFER grant programs; and makes various technical corrections to the SAFER and AFG statute.

The Consolidated Appropriations Act, 2018 (P.L. 115-141) provided $700 million for firefighter assistance in FY2018, including $350 million for SAFER and $350 million for AFG. Additionally, Section 306 of P.L. 115-141 provides DHS with the authority to waive various SAFER grant restrictions, including the prohibition on using SAFER funding for retaining or rehiring firefighters.

For FY2019, the Administration requested $688.688 million for firefighter assistance, including $344.344 million for SAFER and $344.344 million for AFG. In the 115th Congress, the Senate DHS appropriations bill would have provided $700 million for firefighter assistance, including $350 million for SAFER and $350 million for AFG. The FY2019 House DHS appropriations bill would have provided the same funding level as the Senate bill. The House bill contained the waiver provision, while the Senate bill did not.

Firefighter assistance grants were impacted by the partial government shutdown. FEMA personnel who administer the grants were furloughed. For all firefighter assistance grant programs, the application and awards process was delayed. For grants already awarded, grant recipients were unable to draw down funds during the shutdown, which may have disrupted the ability of the grantees to continue grant-funded activities. This disruption may continue after the government shutdown has resolved due to a backlog of payment requests that need to be processed once furloughed FEMA grant personnel return to work.

An overall issue for the 116th Congress is how equitably and effectively grants are being distributed and used to protect the health and safety of the public and firefighting personnel against fire and fire-related hazards. Another continuing issue is budget appropriations for SAFER and AFG. As is the case with many federal programs, concerns over the federal budget deficit could impact budget levels for SAFER and AFG. At the same time, firefighter assistance budgets will likely receive heightened scrutiny from the fire service community, given the local budgetary shortfalls that many fire departments may face.

Additionally, a continuing issue related to SAFER hiring grants is whether SAFER statutory restrictions should be waived to permit grantees to use SAFER funds to rehire laid-off firefighters and fill positions eliminated through attrition.

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Background and Genesis of SAFER

Firefighting and the provision of fire protection services to the public is traditionally a local responsibility, funded primarily by state, county, and municipal governments. During the 1990s, however, shortfalls in state and local budgets—coupled with increased responsibilities (i.e., counterterrorism) of local fire departments—led many in the fire community to call for additional financial support from the federal government. Since enactment of the FIRE Act[1] in the 106th Congress, the Assistance to Firefighters Grants (AFG) program (also known as "fire grants" and "FIRE Act grants") has provided funding for equipment and training directly from the federal government to local fire departments.[2]

Since the fire grant program commenced in FY2001, funding has been used by fire departments to purchase firefighting equipment, personal protective equipment, and firefighting vehicles. Many in the fire-service community argued that notwithstanding the fire grant program, there remained a pressing need for an additional federal grant program to assist fire departments in the hiring of firefighters and the recruitment and retention of volunteer firefighters. They asserted that without federal assistance, many local fire departments would continue to be unable to meet national consensus standards for minimum staffing levels, which specify at least four firefighters per responding fire vehicle (or five or six firefighters in hazardous or high-risk areas).[3] Fire-service advocates also pointed to the Community Oriented Policing Services (COPS) program[4] as a compelling precedent of federal assistance for the hiring of local public safety personnel.

In support of SAFER, fire-service advocates cited studies performed by the U.S. Fire Administration and the National Fire Protection Association,[5] the *Boston Globe*,[6] and the National Institute for Occupational Safety and Health (NIOSH)[7] which concluded that many fire departments fall below minimum standards for personnel levels. According to these studies, the result of this shortfall can lead to inadequate response to different types of emergency incidents, substandard response times, and an increased risk of firefighter fatalities.

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[1] Title XVII of the FY2001 Floyd D. Spence National Defense Authorization Act (P.L. 106-398).

[2] For more information, see CRS Report RL32341, *Assistance to Firefighters Program: Distribution of Fire Grant Funding*, by Lennard G. Kruger.

[3] These refer to consensus standards developed by the National Fire Protection Association (NFPA): NFPA 1710 ("Standard for the Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations, and Special Operations to the Public by Career Fire Departments"), and NFPA 1720 ("Standard for the Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations, and Special Operations to the Public by Volunteer Fire Departments"). NFPA standards are voluntary unless adopted as law by governments at the local, state, or federal level, and are also often considered by insurance companies when establishing rates. Another applicable standard to this debate is the federal Occupational Safety and Health Administration (OSHA) standard on respiratory protection in structural firefighting situations (29 C.F.R. 1910.134(g)), which requires at least four firefighters (two in and two for backup) before entering a hazardous environment wearing a Self-Contained Breathing Apparatus.

[4] For more information on the COPS program, see CRS Report RL33308, *Community Oriented Policing Services (COPS): In Brief*, by Nathan James.

[5] National Fire Protection Association, *Third Needs Assessment of the U.S. Fire Service*, June 2011, available at http://www.nfpa.org/assets/files//2011NeedsAssessment.pdf. In November 2016, NFPA released the *Fourth Needs Assessment of the U.S. Fire Service*, available at https://www.nfpa.org/-/media/Files/News-and-Research/Fire-statistics/Fire-service/2011needsassessment.ashx?la=en.

[6] Dedman, Bill, "Deadly Delays: The Decline of Fire Response," *Boston Globe Special Report*, January 30, 2005. Available at http://www.boston.com/news/specials/fires/.

[7] National Institute for Occupational Safety and Health, "National Institute for Occupational Safety and Health (NIOSH) Fire Fighter Fatality Investigation and Prevention Program, 1998-2005," March 2006, 16 pp. Available at https://www.cdc.gov/niosh/docs/2009-100/pdfs/2009-100.pdf?id=10.26616/NIOSHPUB2009100.

On the other hand, those opposed to SAFER grants have contended that funding for basic local government functions—such as paying for firefighter salaries—should not be assumed by the federal government, particularly at a time of high budget deficits. Also, some SAFER opponents disagree that below-standard levels in firefighting personnel are necessarily problematic, and point to statistics indicating that the number of structural fires in the United States has continued to decline over the past 20 years.[8]

The SAFER Act

In response to concerns over the adequacy of firefighter staffing, the Staffing for Adequate Fire and Emergency Response Act—popularly called the "SAFER Act"—was introduced into the 107th and 108th Congresses.[9] The 108th Congress enacted the SAFER Act as Section 1057 of the FY2004 National Defense Authorization Act (P.L. 108-136; signed into law November 24, 2003). The SAFER provision was added as an amendment to S. 1050 on the Senate floor (S.Amdt. 785, sponsored by Senator Dodd) and modified in the FY2004 Defense Authorization conference report (H.Rept. 108-354). The SAFER grant program is codified as Section 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a).

The SAFER Act authorizes grants to career, volunteer, and combination fire departments 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. Also authorized are grants to volunteer fire departments for activities related to the recruitment and retention of volunteers.

Fire Grants Reauthorization Act of 2012

On January 2, 2013, the President signed P.L. 112-239, the FY2013 National Defense Authorization Act. Title XVIII, Subtitle A is the Fire Grants Reauthorization Act of 2012, which significantly amended the SAFER statute (15 U.S.C. 2229a) and authorized the SAFER program through FY2017. **Table 1** provides a summary of key SAFER provisions in the 2012 reauthorization, and provides a comparison with the previous version of the SAFER statute.

Two types of grants are authorized by the SAFER Act: hiring grants and recruitment and retention grants. *Hiring grants* cover a three-year term and are cost shared with the local jurisdiction. According to the amended statute, the federal share shall not exceed 75% in the first year of the grant, 75% in the second year, and 35% in the third year. While the majority of hiring grants will be awarded to career and combination fire departments, the SAFER Act specifies that 10% of the total SAFER appropriation be awarded to volunteer or majority-volunteer departments for the hiring of personnel.

Additionally, at least 10% of the total SAFER appropriation is set aside for *recruitment and retention grants*, which are available to volunteer and combination fire departments for activities related to the recruitment and retention of volunteer firefighters. Also eligible for recruitment and retention grants are local and statewide organizations that represent the interests of volunteer firefighters. No local cost sharing is required for recruitment and retention grants.

[8] See Lehrer, Eli, "Do We Need More Firefighters?" *Weekly Standard*, April 12, 2004, pp. 21-22. Available at http://www.sipr.org/default.aspx?action=PublicationDetails&id=44. See also Easterbrook, Gregg, "Where's the Fire?" *New Republic Online*, August 9, 2004. Available at http://www.tnr.com/doc.mhtml?i=express&s=easterbrook080904.

[9] 107th Congress: S. 1617 (Dodd), H.R. 3992 (Boehlert), H.R. 3185 (Green, Gene). 108th Congress: S. 544 (Dodd), H.R. 1118 (Boehlert).

Table 1. Key SAFER Provisions of Fire Grant Reauthorization

Previous Statute (15 U.S.C. 2229a)	Fire Grant Reauthorization Act of 2012 (Title XVIII of P.L. 112-239)
grant period is 4 years, grantees are required to retain for at least 1 year beyond the termination of their grants those firefighter positions hired under the grant	shortens the grant period to three years, with no requirement that fire departments must retain SAFER funded firefighters for an extra year
year 1—10% local match year 2—20% local match year 3—50% local match year 4—70% local match	year 1—25% local match year 2—25% local match year 3—65% local match
total funding over 4 years for hiring a firefighter may not exceed $100K, adjusted annually for inflation	for the first year, the amount of funding provided for hiring a firefighter may not exceed 75% of the usual annual cost of a first-year firefighter in that department at the time the grant application was submitted for the second year, the amount of funding provided for hiring a firefighter may not exceed 75% of the usual annual cost of a first-year firefighter in that department at the time the grant application was submitted for the third year, the amount of funding provided for hiring a firefighter may not exceed 35% of the usual annual cost of a first-year firefighter in that department at the time the grant application was submitted
state, local, and Indian tribal governments eligible for recruitment and retention funds	additionally makes national organizations eligible for recruitment and retention funds
no provision for economic hardship waivers	allows FEMA, in the case of economic hardship, to waive cost share requirements, as well as the prohibition on supplanting local funds and maintenance of expenditure requirements (which would allow grants to be used for retention and rehiring laid-off firefighters)
authorized for 7 years starting at $1 billion in FY2004, ending at $1.194 billion in FY2010	reauthorizes the SAFER grant program at $750 million for FY2013; for each of FY2014-FY2017, an amount equal to the amount authorized the previous fiscal year, increased by the percentage by which the Consumer Price Index for the previous fiscal year exceeds the preceding year
no provision on congressionally directed spending	no funds may be used for any congressionally directed spending item (as defined under the rules of the Senate and the House of Representatives)
authority to make grants shall lapse 10 years from November 24, 2003	the authority to award assistance and grants shall expire five years after the date of enactment

Source: Fire Grants Reauthorization Act of 2012, Title VIII, Subtitle A of FY2013 National Defense Authorization Act, P.L. 112-239.

Fire Grants Reauthorization in the 115th Congress

With the authorizations of both the AFG and SAFER programs expiring on September 30, 2017, and with sunset dates for both programs of January 2, 2018, the 115th Congress considered reauthorization legislation.

Senate

On April 5, 2017, S. 829, the AFG and SAFER Program Reauthorization Act of 2017, was introduced by Senator McCain and referred to the Committee on Homeland Security and Governmental Affairs. On May 17, 2017, the committee ordered S. 829 to be reported (S.Rept. 115-128) with an amendment in the nature of a substitute. On August 2, 2017, the Senate passed S. 829 by unanimous consent.

House

On July 12, 2017, the House Subcommittee on Research and Technology, Committee on Science, Space and Technology, held a hearing entitled *U.S. Fire Administration and Fire Grant Programs Reauthorization: Examining Effectiveness and Priorities*. Testimony was heard from the USFA acting administrator and from fire service organizations.[10]

On December 15, 2017, H.R. 4661, the United States Fire Administration, AFG, and SAFER Program Reauthorization Act of 2017, was introduced by Representative Comstock. H.R. 4661 was identical to the Senate-passed S. 829, except that while S. 829 repealed the sunset provisions for AFG and SAFER, H.R. 4661 extended the sunset dates to September 30, 2024. Additionally, H.R. 4661 reauthorized the USFA through FY2023.

On December 18, 2017, the House passed H.R. 4661 by voice vote under suspension of the rules. On December 21, 2017, the Senate passed H.R. 4661 without amendment by unanimous consent.

Other legislation related to SAFER reauthorization included H.R. 3881, the AFG and SAFER Program Reauthorization Act of 2017, introduced by Representative Pascrell, which was identical to S. 829 as passed by the Senate.

United States Fire Administration, AFG, and SAFER Program Reauthorization Act of 2017 (P.L. 115-98)

On January 3, 2018, the President signed the United States Fire Administration, AFG, and SAFER Program Reauthorization Act of 2017 (P.L. 115-98). P.L. 115-98

- extends the SAFER and AFG authorizations through FY2023;
- extends the sunset provisions for SAFER and AFG through September 30, 2024;
- extends the USFA authorization through FY2023;
- provides that the U.S. Fire Administration in FEMA may develop and make widely available an online training course on SAFER and AFG grant administration;
- expands SAFER hiring grant eligibility to cover the conversion of part-time or paid-on-call firefighters to full-time firefighters;
- directs FEMA, acting through the Administrator of USFA, to develop and implement a grant monitoring and oversight framework to mitigate and minimize risks of fraud, waste, abuse, and mismanagement related to the SAFER and AFG grant programs; and
- makes various technical corrections to the SAFER and AFG statute.

[10] Testimony is available at https://science.house.gov/legislation/hearings/subcommittee-research-and-technology-hearing-us-fire-administration-and-fire.

Appropriations

The SAFER grant program receives its annual appropriation through the House and Senate Appropriations Subcommittees on Homeland Security. Within the appropriations bills, SAFER is listed under the line item, "Firefighter Assistance Grants," which is located in Title III—Protection, Preparedness, Response, and Recovery. "Firefighter Assistance Grants" also includes the Assistance to Firefighters Grant Program.

Although authorized for FY2004, SAFER did not receive an appropriation in FY2004. **Table 2** shows the appropriations history for firefighter assistance, including SAFER, AFG, and the Fire Station Construction Grants (SCG) grants provided in the American Recovery and Reinvestment Act (ARRA). **Table 3** shows recent and proposed appropriated funding for the SAFER and AFG grant programs.

Table 2. Appropriations for Firefighter Assistance, FY2001-FY2018

	AFG	SAFER	SCG[a]	Total
FY2001	$100 million			**$100 million**
FY2002	$360 million			**$360 million**
FY2003	$745 million			**$745 million**
FY2004	$746 million			**$746 million**
FY2005	$650 million	$65 million		**$715 million**
FY2006	$539 million	$109 million		**$648 million**
FY2007	$547 million	$115 million		**$662 million**
FY2008	$560 million	$190 million		**$750 million**
FY2009	$565 million	$210 million	$210 million	**$985 million**
FY2010	$390 million	$420 million		**$810 million**
FY2011	$405 million	$405 million		**$810 million**
FY2012	$337.5 million	$337.5 million		**$675 million**
FY2013	$321 million	$321 million		**$642 million**
FY2014	$340 million	$340 million		**$680 million**
FY2015	$340 million	$340 million		**$680 million**
FY2016	$345 million	$345 million		**$690 million**
FY2017	$345 million	$345 million		**$690 million**
FY2018	$350 million	$350 million		**$700 million**
Total	**$7.975 billion**	**$3.885 billion**	**$210 million**	**$12.1 billion**

a. Assistance to Firefighters Fire Station Construction Grants (SCG) grants were funded by the American Recovery and Reinvestment Act (P.L. 111-5).

Table 3. Recent and Proposed Appropriations for Firefighter Assistance

(millions of dollars)

	FY2017 (P.L. 115-31)	FY2018 (Admin. request)	FY2018 (P.L. 115-141)	FY2019 (Admin. request)	FY2019 (S.Rept. 115-283)	FY2019 (H.Rept. 115-948)
FIRE Grants (AFG)	345	344.344	350	344.344	350	350
SAFER Grants	345	344.344	350	344.344	350	350
Total	**690**	**688.688**	**700**	**688.688**	**700**	**700**

FY2015

The Administration's FY2015 budget proposed $670 million for firefighter assistance, including $335 million for SAFER and $335 million for AFG. The Administration requested that all previous SAFER waivers again be enacted for FY2015. Also in the budget proposal, FEMA "strongly encourages applicants, to the extent practicable, to seek, recruit, and hire post-9/11 veterans to increase their ranks within their department in order to take advantage of the provisions of the Veterans Opportunity to Work (VOW) to Hire Heroes Act of 2011."

On June 11, 2014, the House Appropriations Committee approved H.R. 4903, the Department of Homeland Security Appropriations Act, 2015. The bill would provide $680 million in firefighter assistance, including $340 million for SAFER and $340 million for AFG. The bill also would continue to grant DHS waiver authority from SAFER requirements in FY2015. In the accompanying report (H.Rept. 113-481), the committee noted that this annual waiver authority has been available since FY2009, and that the reauthorization of the SAFER program by the 112th Congress (P.L. 112-239) provided FEMA with permanent authority to waive certain matching and nonsupplantation requirements for grantees based on a determination that a grantee meets economic hardship criteria. Given that FEMA has been working with stakeholders to develop these criteria and that the agency hopes to soon be able to implement its new waiver authority, the committee expects that FY2015 should be the last instance in which annual waiver authority will be provided, and that any waivers in future fiscal years will be limited to the authorization provided in P.L. 112-239.

On June 26, 2014, the Senate Appropriations Committee approved S. 2534, its version of the Department of Homeland Security Act, 2015. As did the House committee, the Senate bill would provide $680 million in firefighter assistance, including $340 million for SAFER and $340 million for AFG. The Senate bill would also continue to grant DHS waiver authority from SAFER requirements in FY2015.In the accompanying report (S.Rept. 113-198), the committee expressed its expectation that DHS will take into consideration economic hardship when exercising the waiver authority.

The Department of Homeland Security Appropriations Act, 2015 (P.L. 114-4) was signed by the President on March 4, 2015, and provided $680 million in firefighter assistance, including $340 million for SAFER and $340 million for AFG.

FY2016

The Administration's FY2016 budget proposed $670 million for firefighter assistance, including $335 million for SAFER and $335 million for AFG. The Administration's FY2016 budget would maintain SAFER waiver authority for FY2016.

On June 18, 2015, the Senate Appropriations Committee reported S. 1619, the Department of Homeland Security Act, 2016. Identical to the funding level in FY2015, the Senate bill would provide $680 million in firefighter assistance, including $340 million for SAFER and $340 million for AFG. In the accompanying report (S.Rept. 114-68), the committee encourages FEMA to prioritize resources for staffing grants to rural departments that meet both local and regional needs. As in the past, bill language is included granting the Secretary the authority to waive certain statutory requirements. However, FEMA is directed to work with stakeholders and present a recommendation to the committee no later than the submission of the FY2017 budget on the feasibility of removing these waivers in future appropriations.

On July 21, 2015, the House Appropriations Committee approved H.R. 3128, the Department of Homeland Security Appropriations Act, 2016. The bill would provide $680 million in firefighter assistance, including $340 million for SAFER and $340 million for AFG. H.R. 3128 did not include a SAFER waiver provision as in years past.

On December 18, 2015, the President signed the Consolidated Appropriations Act, 2016 (P.L. 114-113). The law provided $690 million for firefighter assistance in FY2016, including $345 million for SAFER and $345 million for AFG. P.L. 114-113 did not include a SAFER waiver provision.

FY2017

For FY2017, the Administration requested $335 million for SAFER and $335 million for AFG, a reduction of $10 million for each program from the FY2016 enacted level. According to the budget request, the proposed reduction in SAFER and AFG "reflects FEMA's successful investments in prior year grants awarded." The Administration's FY2017 budget did not request SAFER waiver authority for FY2017.

Under the proposed budget, the SAFER and AFG grant accounts would be transferred to the Preparedness and Protection activity under FEMA's broader "Federal Assistance" account. According to the budget request, Federal Assistance programs will "assist Federal agencies, States, Local, Tribal, and Territorial jurisdictions to mitigate, prepare for and recover from terrorism and natural disasters."

On May 26, 2016, the Senate Appropriations Committee approved S. 3001, the Department of Homeland Security Act, 2017. The Senate bill would provide $680 million for firefighter assistance, including $340 million for SAFER and $340 million for AFG. The committee maintained a separate budget account for Firefighter Assistance and did not transfer that budget account to the Federal Assistance account as proposed in the Administration budget request. In the accompanying report (S.Rept. 114-68), the committee directed DHS to continue the present practice of funding applications according to local priorities and those established by the USFA, and to continue direct funding to fire departments and the peer review process. The committee stated its expectation that funding for rural fire departments remain consistent with their previous five-year history, and encouraged FEMA to consider the need for resources for staffing grants to rural departments that meet both local and regional needs.

On June 22, 2016, the House Appropriations Committee approved its version of the Department of Homeland Security Appropriations Act, 2017. Unlike the Senate, the House committee did transfer the Firefighter Assistance budget account into a broader Federal Assistance account in FEMA. The bill provided $690 million for firefighter assistance, including $345 million for SAFER and $345 million for AFG. In the committee report, the committee directed FEMA to continue administering the fire grants programs as directed in prior year committee reports.

The Consolidated Appropriations Act, 2017 (P.L. 115-31) provided $690 million for firefighter assistance in FY2017, including $345 million for SAFER and $345 million for AFG. The firefighter assistance account is transferred to FEMA's broader Federal Assistance account.

FY2018

For FY2018, the Administration requested $688.688 million for firefighter assistance, including $344.344 million for SAFER and $344.344 million for AFG, slightly below the FY2017 level. SAFER and AFG are under Grants in the Federal Assistance budget account.

On July 18, 2017, the House Appropriations Committee approved the Department of Homeland Security Appropriations Act, 2018 (H.R. 3355; H.Rept. 115-239). The bill provided $690 million for firefighter assistance under the Federal Assistance budget account, including $345 million for SAFER and $345 million for AFG. In the bill report, the committee encouraged FEMA to give high-priority consideration to grants providing for planning, training, and equipment to firefighters for crude oil-by-rail and ethanol-by-rail derailment and incident response.

On September 14, 2017, the House passed H.R. 3354, a FY2018 omnibus appropriations bill that includes funding for SAFER and AFG. During floor consideration, the House adopted an amendment offered by Representative Kildee that added $20 million to SAFER; thus H.R. 3354 would provide $365 million for SAFER and $345 million for AFG.

The Consolidated Appropriations Act, 2018 (P.L. 115-141) provided $700 million for firefighter assistance in FY2018, including $350 million for SAFER and $350 million for AFG. Money is to remain available through September 30, 2019.

FY2019

For FY2019, the Administration requested $688.688 million for firefighter assistance, including $344.344 million for SAFER and $344.344 million for AFG.

On June 21, 2018, the Senate Appropriations Committee approved S. 3109, the Department of Homeland Security Appropriations Act, 2019 (S.Rept. 115-283). The Senate bill would provide $700 million for firefighter assistance, including $350 million for SAFER and $350 million for AFG.

On July 25, 2018, the House Appropriations Committee approved its version of the FY2019 Homeland Security appropriations bill (H.R. 6776; H.Rept. 115-676). The House bill would also provide $700 million for firefighter assistance, including $350 million for SAFER and $350 million for AFG. Unlike the Senate bill, the House bill would continue SAFER waiver authority.

Waiver of SAFER Requirements

In 2009, with the economic turndown adversely affecting budgets of local governments, concerns arose that modifications to the SAFER statute may be necessary to enable fire departments to more effectively participate in the program. The American Recovery and Reinvestment Act of 2009 (P.L. 111-5) included a provision (§603) that waived the matching requirements for SAFER grants awarded in FY2009 and FY2010.

Subsequently, the FY2009 Supplemental Appropriations Act (P.L. 111-32) included a provision (§605) giving the Secretary of Homeland Security authority to waive certain limitations and restrictions in the SAFER statute. For grants awarded in FY2009 and FY2010, waivers permitted grantees to use SAFER funds to rehire laid-off firefighters and fill positions eliminated through

attrition, allow grants to extend longer than the five-year duration, and permit the amount of funding per position at levels exceeding the limit of $100,000.

The Department of Defense and Continuing Appropriations Act, 2011 (P.L. 112-10) contained language that removed cost-share requirements and allowed SAFER grants to be used to rehire laid-off firefighters and fill positions eliminated through attrition. However, the law did not remove the requirement that SAFER grants fund a firefighter position for four years, with the fifth year funded wholly by the grant recipient. P.L. 112-10 also did not waive the cap of $100,000 per firefighter hired by a SAFER grant. According to fire service advocates, these unwaived SAFER requirements (the mandatory five-year position duration, the $100,000 cap) would be a disincentive for many communities to apply for SAFER grants, because localities would be reluctant to apply for grants that would require future expenditure of local funds.[11]

P.L. 112-74, the Consolidated Appropriations Act, FY2012, included language (§561) prohibiting using any funds to enforce all of the SAFER restrictions that have been lifted since FY2009. Additionally, Section 562 of P.L. 112-74 reinstated DHS waiver authority for the restrictions that were not lifted in the FY2011 appropriations bill (P.L. 112-10).

Meanwhile, the SAFER reauthorization language in the Fire Grants Reauthorization Act of 2012 (P.L. 112-239) removed the $100,000 cap per firefighter hired, shortened the grant period from four to three years, removed the requirement to retain SAFER-hired firefighters for one year past the termination of federal grant support, and provided economic hardship waivers that will give DHS the authority to waive matching requirements and prohibitions on using SAFER funds for rehiring laid-off firefighters and filling positions eliminated through attrition.

The Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6) and the Consolidated Appropriations Act, 2014 (P.L. 113-76) continued to grant DHS waiver authority from SAFER requirements. Specifically, DHS was allowed to waive cost sharing requirements, the three-year grant term, cost limits per firefighter hired, and the prohibition on using SAFER funds for rehiring laid-off firefighters and filling positions eliminated through attrition.

The same SAFER waiver authority was included in the Administration's FY2015 budget proposal and in the FY2015 House and Senate Department of Homeland Security Appropriations bills. In the bill report accompanying H.R. 4903 (H.Rept. 113-481), the House Appropriations Committee noted that this annual waiver authority has been available since FY2009, and that the reauthorization of the SAFER program by the 112th Congress (P.L. 112-239) provided FEMA with permanent authority to waive certain matching and nonsupplantation requirements for grantees based on a determination that a grantee meets economic hardship criteria. Given that FEMA had been working with stakeholders to develop these criteria and that the agency hoped to soon be able to implement its new waiver authority, the committee expected that FY2015 would be the last instance in which annual waiver authority would be provided, and that any waivers in future fiscal years would be limited to the authorization provided in P.L. 112-239.

The Department of Homeland Security Appropriations Act, 2015 (P.L. 114-4) was signed by the President on March 4, 2015. Section 557 of P.L. 114-4 provided SAFER waiver authority for FY2015.

The Administration's FY2016 budget would have maintained SAFER waiver authority for FY2016. S. 1619, the Department of Homeland Security Act, 2016, would also have continued waiver authority. The accompanying bill report (S.Rept. 114-68) directed FEMA to work with

[11] International Association of Fire Fighters, *News Release*, "Budget: Agreement Retains Level Funding for FIRE Act and SAFER grants, But Restricts Flexibility on SAFER Grants," April 14, 2011, available at http://www.iaff.org/11News/041311Waivers.htm.

stakeholders and present a recommendation to the Senate Appropriations Committee on the feasibility of removing these waivers in future appropriations. However, neither the House bill (H.R. 3128), nor the final Consolidated Appropriations Act, 2016 (P.L. 114-113) contained the SAFER waiver provision for FY2016.

The Administration's FY2017, FY2018, and FY2019 budgets did not request SAFER waiver authority, and neither the House nor Senate Appropriations Committee bills contained SAFER waiver provisions. However, Section 307 of the Consolidated Appropriations Act, 2018 (P.L. 115-141) again contained the previous waiver authority provision, which will go into effect for the FY2018 round of SAFER awards. Waiver authority would again include the use of SAFER funds to retain or rehire firefighters. The House FY2019 Homeland Security appropriations bill would continue the waiver authority in FY2019. The Senate FY2019 Homeland security appropriations bill does not include the SAFER waiver authority provision.

Implementation of the SAFER Program

For the latest information and updates on the application for and awarding of SAFER grants, see the official SAFER grant program website at https://www.fema.gov/staffing-adequate-fire-emergency-response-grants.

Table 4 shows the state-by-state distribution of SAFER grant funds, from FY2005 through FY2017. **Table 5** shows the percentage distribution of SAFER grant funds by type of department (career, combination, volunteer) for FY2009 through FY2014, while **Table 6** shows the percentage distribution of SAFER grant funds by community service area (urban, suburban, rural) for FY2009 through FY2014. Of the FY2014 SAFER awards, grants for hiring accounted for 90% of the total federal share of dollars awarded, while recruitment and retention accounted for 10%.

During 2014 and 2015, the DHS Office of the Inspector General (OIG) conducted an audit of SAFER grants for fiscal years 2010 through 2012. On June 8, 2016, the DHS OIG released its report finding that 63% of SAFER grant recipients over that period did not comply with grant guidance and requirements to prevent waste, fraud, and abuse of grant funds. The report recommended that FEMA's Grant Programs Directorate develop and implement an organizational framework to manage the risk of fraud, waste, abuse, and mismanagement. According to the report, FEMA has concurred with the OIG findings and has taken corrective actions to resolve the recommendations.[12]

Meanwhile, the Fire Grants Reauthorization Act of 2012 (P.L. 112-239) directed GAO to prepare a report to Congress that includes an assessment of the effect of the changes made by P.L. 112-239 on the effectiveness, relative allocation, accountability, and administration of the fire grants. GAO was also directed to evaluate the extent to which those changes have enabled grant recipients to mitigate fire and fire-related and other hazards more effectively. In September 2016, GAO released its report, entitled *Fire Grants: FEMA Could Enhance Program Administration and Performance Assessment.* The report concluded that FEMA's fire grant policies and the awards made in FY2013 and FY2014 generally reflected the changes to the fire grant statute made by P.L. 112-239, and that FEMA enhanced its assessment of program performance by establishing and reporting on measures of effectiveness of the grants. However, GAO also concluded that those performance measures do not include measurable performance targets linked

[12] Department of Homeland Security, Office of Inspector General, *FEMA's Grant Programs Directorate Did Not Effectively Manage Assistance to Firefighters Grant Program—SAFER Grants*, OIG-16-98, June 8, 2016, 24 pp., available at https://www.oig.dhs.gov/assets/Mgmt/2016/OIG-16-98-Jun16.pdf.

to SAFER and AFG program goals, and that "aligning the fire grants programs' use of data on, and definitions of, critical infrastructure to award fire grants and assess program performance with the more objective, quantitative approach used by DHS and GPD [the Grants Program Directorate] for other programs and non-fire preparedness grants could enhance GPD's efforts to integrate the fire grants program into larger national preparedness efforts and more objectively assess the impact of fire grants."[13]

Impact of Government Shutdown

Firefighter assistance grants were impacted by the partial government shutdown. FEMA personnel who administer the grants were furloughed. For all three grant programs (AFG, SAFER, and FP&S) the application and awards process was delayed. For the 2018 awards round, the application windows for AFG and FP&S closed in October and December 2018, respectively, but the processing of those applications could not move forward. The opening of the 2018 round application window for SAFER grants was also delayed.

For grants already awarded (in the 2017 and previous rounds), grant recipients periodically draw down funds, either to reimburse expenditures already incurred, or in immediate advance of those expenditures.[14] Grant recipients were unable to draw down funds during the shutdown, which may have disrupted the ability of the grantees to continue grant-funded activities, including personnel costs covered by SAFER grant awards, which extend for three years.[15] This disruption may continue after the government shutdown has resolved due to a backlog of payment requests that need to be processed once furloughed FEMA grant personnel return to work.[16]

Issues in the 116th Congress

SAFER grants are distributed to career, volunteer, combination, and paid-on-call fire departments serving urban, suburban, and rural areas. A continuing issue is how equitably and effectively grants are being distributed and used to protect the health and safety of the public and firefighting personnel against fire and fire-related hazards.

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[13] Government Accountability Office, *Fire Grants: FEMA Could Enhance Program Administration and Performance Assessment*, GAO-16-744, September 2016, p. 33, available at http://gao.gov/assets/680/679787.pdf.

[14] See section on payments (advances and reimbursements) in Department of Homeland Security, *Notice of Funding Opportunity (NOFO)*, Fiscal Year 2018 Assistance to Firefighters Grants, p. 63-64, available at https://www.fema.gov/media-library-data/1537358415609-a41e39f89add13ddb4a1fc7b5f66c036/FY_2018_AFG_NOFO.pdf

[15] For examples of impacts on local communities see "Firefighter Recruitment Ads on Hold Due to Funding Because of Government Shutdown," *local21news*, January 24, 2019, available at https://local21news.com/news/local/firefighter-recruitment-ads-on-hold-due-to-funding-because-of-government-shutdown; "Shutdown Affecting Hopedale Fire Department," *WTOV9*, January 17, 2019, available at https://wtov9.com/news/local/shutdown-affecting-hopedale-fire-department; "Gov. Shutdown Delays SE Thurston Fire Grant," *Nisqually Valley News*, January 17, 2019, available at http://www.yelmonline.com/news/article_a3631a08-1a95-11e9-b61f-bf486af21d98.html; "Government Shutdown Affects Fire Department Grants, but Won't Impact Jobs, Public Safety, Officials Say," *Tennessean*, January 14, 2019, available at https://www.tennessean.com/story/news/local/sumner/2019/01/14/government-shutdown-affects-fire-departments-hendersonville-gallatin/2570532002/; and "Govt. Shutdown Puts Hold on Funding for Local Fire Department," *Western Mass News*, January 8, 2019, available at https://www.westernmassnews.com/news/massachusetts/govt-shutdown-puts-hold-on-funding-for-local-fire-department/article_117487c0-1389-11e9-a7d0-479138dda8e7.html

[16] For additional discussion on the impact of delayed grant payments due to a government shutdown, see CRS Insight IN11020, *Federal Grants to State and Local Governments: Issues Raised by the Partial Government Shutdown*, by Natalie Keegan.

Another continuing issue is budget appropriations for SAFER and AFG. As is the case with many federal programs, concerns over the federal budget deficit could impact budget levels for SAFER and AFG. At the same time, firefighter assistance budgets will likely receive heightened scrutiny from the fire service community, given the local budgetary shortfalls that many fire departments may face.

Table 4. State-by-State Distribution of SAFER Grants, FY2005-FY2017

(millions of dollars)

	FY05-FY07	FY08-FY10	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	Total
AL	12.062	20.133	1.293	6.923	3.73	3.895	1.721	3.966	7.917	61.64
AK	1.674	7.838	0.074	0.951	0.066	0.738	0.76	0	0.82	12.921
AZ	9.547	23.738	2.809	7.895	14.135	11.379	17.17	11.816	10.094	108.583
AR	2.591	7.016	1.136	1.019	0.208	2.632	1.007	2.345	1.886	19.84
CA	14.692	98.843	56.356	49.992	50.12	35.522	30.877	44.585	30.884	411.871
CO	6.793	6.359	5.432	1.636	0.85	4.106	1.823	5.646	4.467	37.112
CT	1.177	7.446	5.099	4.474	5.278	0	4.789	17.898	3.278	49.439
DE	0.135	2.121	0	0.946	0	0	0	0.446	0.126	3.774
DC	0	0	0	3.468	0	5.675	0	0	0	9.143
FL	22.122	59.011	30.494	26.243	37.927	22.83	19.527	45.623	20.112	283.889
GA	10.281	32.666	1.273	4.606	3.076	3.944	8.156	13.433	7.377	84.812
HI	0	1.726	0	0	0.944	0	0	0	0	2.67
ID	1.31	5.007	4.068	1.323	0	0	0	0.234	2.268	14.21
IL	15.736	19.194	2.456	5.704	4.806	4.843	5.39	5.16	8.842	72.131
IN	2.786	22.803	4.587	6.777	5.735	8.595	2.711	1.29	8.838	64.122
IA	1.293	2.414	1.604	0.08	1.104	0.498	3.227	2.621	2.498	15.339
KS	1.741	6.963	0.381	1.991	0.833	0	1.237	0.727	5.791	19.664
KY	3.471	3.697	0.155	1.164	2.574	0.973	2.307	3.036	2.374	19.751
LA	11.236	19.317	1.672	3.509	1.724	1.326	2.018	3.479	1.984	46.265
ME	0.397	2.737	0.518	1.183	1.442	0	0	1.206	0.516	7.999
MD	3.484	9.745	4.299	2.488	6.154	14.304	15.068	8.251	13.227	77.02
MA	7.751	55.497	23.127	4.955	17.336	25.612	14.681	12.996	17.466	179.421
MI	2.351	36.407	47.646	25.161	33.87	14.374	19.792	18.315	8.493	206.409
MN	1.764	5.291	4.463	0.797	0.871	1.026	2.107	0.653	0.492	17.464
MS	1.465	2.817	0.488	0.093	0.088	1.613	0.19	4.151	3.56	14.465
MO	9.565	9.473	10.619	2.86	1.284	2.196	5.271	2.791	5.662	49.721
MT	2.924	4.386	1.252	1.046	0	0.737	0.456	1.446	2.256	14.503
NE	1.505	3.246	0	0.37	3.779	0	3.417	1.871	3.647	17.835
NV	3.846	3.122	13.438	2.702	6.564	3.654	4.435	1.126	3.396	42.283
NH	2.963	0.578	1.479	0.976	0.651	0.666	0	1.957	2.762	12.032
NJ	13.298	61.593	18.073	34.462	23.791	55.874	38.484	5.03	7.447	258.052
NM	4.432	2.461	0	0	1.357	0.586	0.824	0.563	2.955	13.178
NY	7.376	30.878	6.142	8.949	2.149	8.164	10.63	4.123	5.673	84.084
NC	13.059	26.814	5.833	2.472	4.502	5.703	6.064	15.324	9.565	89.336

	FY05-FY07	FY08-FY10	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	Total
ND	0.609	5.174	0.048	0.066	0	0	3.298	0.264	0	9.459
OH	5.455	54.383	18.654	18.266	15.748	14.564	27.307	5.951	22.001	182.329
OK	1.377	11.909	1.435	0.676	0.83	1.091	6.574	11.96	3.149	39.001
OR	6.5	8.914	8.354	4.437	11.402	6.418	6.479	9.114	3.014	64.632
PA	5.352	12.617	13.831	27.608	4.462	27.122	4.915	9.249	24.395	129.551
RI	0.505	5.81	3.108	8.716	0	0.544	17.777	6.215	3.869	46.544
SC	4.537	12.632	2.147	4.757	6.763	1.869	6.886	5.743	4.027	49.361
SD	0.585	1.2	0.255	0	0.272	0.58	1.469	0	0	4.361
TN	9.102	10.378	0.993	3.034	3.58	1.97	4.324	9.501	18.695	61.577
TX	20.691	34.868	2.881	5.225	5.401	11.715	5.157	17.074	39.659	142.671
UT	6.31	10.362	0.208	0.598	0	0	0.17	0.603	3.798	22.049
VT	1.253	0.119	0	0	0	0	0	0	0	1.372
VA	6.427	15.735	4.978	9.883	7.691	12.48	9.441	8.235	6.355	81.225
WA	12.535	26.102	16.139	13.293	8.511	9.763	16.648	15.277	11.049	129.317
WV	0.868	0.845	0	0.46	0.311	1.921	13.694	2.581	1.22	21.9
WI	1.295	4.622	3.101	2.205	0	1.087	0.144	3.453	0	15.907
WY	0.316	3.589	1.148	0	0.24	0	0.978	0.3	0.389	6.96
PR	0	0	0	0	0	0	2.506	0	3.477	5.983
MP	0	1.404	0	0	0	0	0	0	0	1.404
MH	0	0	0	0	0	0	0	0	0	0
GU	0	0	0	0	0	0	0	0	0	0
AS	0	0	0.474	0	0	0	0	0	0	0.474
VI	0	0	0	0	0	0	1.881	0	0	1.881
PW	0	0	0	0	0	0	0	0	0	0
Total	**280.16**	**822.05**	**334.03**	**316.44**	**304.24**	**332.59**	**341.47**	**347.63**	**351.78**	**3430.4**

Source: CRS. Derived from FEMA SAFER awards data available at https://www.fema.gov/staffing-adequate-fire-emergency-response-grants-awards.

Table 5. Distribution of Funding from SAFER Awards by Fire Department Type, FY2009-FY2014

	Department Type			
	Career	Combination	Volunteer	Interest Organizations
FY2009	77%	15%	2%	5%
FY2010	69%	22%	5%	5%
FY2011	68%	25%	3%	3%
FY2012	67%	26%	4%	4%
FY2013	70%	24%	3%	3%
FY2014	67%	27%	4%	2%

Source: GAO, *Fire Grants: FEMA Could Enhance Program Administration and Performance Assessment*, p. 48.

Table 6. Distribution of Funding from SAFER Awards by Community Service Area, FY2009-FY2014

	Community Service Area			
	Urban	Suburban	Rural	Interest Organizations[a]
FY2009	51%	27%	17%	5%
FY2010	55%	29%	11%	5%
FY2011	58%	26%	13%	3%
FY2012	64%	20%	12%	3%
FY2013	63%	23%	11%	3%
FY2014	62%	22%	14%	2%

Source: GAO, *Fire Grants: FEMA Could Enhance Program Administration and Performance Assessment*, p. 51.

a. Interest Organizations represent other eligible organizations without a community service area affiliation, such as local, regional, or statewide organizations.

Author Information

Lennard G. Kruger
Specialist in Science and Technology Policy

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