



# 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 108<sup>th</sup> 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).

With the economic downturn adversely affecting budgets of local governments, concerns arose that modifications to the SAFER statute may be necessary to enable fire departments to more effectively and affordably participate in the program. Since FY2009, annual appropriations bills have contained provisions that waive certain provisions of the SAFER statute. These provisions included the length of the grant, maintenance of expenditure requirements, local matching requirements, and grant caps. The waivers served to reduce the financial obligation on SAFER grant recipients, and allowed SAFER grants to be used to rehire laid-off firefighters and to fill positions lost through attrition.

Under the existing SAFER statute, the program was authorized through FY2010. The 112<sup>th</sup> Congress enacted the Fire Grants Reauthorization Act of 2012 (P.L. 112-239), which reauthorized SAFER through FY2017; altered the grant distribution formula among career, volunteer, combination, and paid-on-call fire departments; raised available funding for higher population areas; and permanently addressed waiver issues previously addressed in annual appropriations legislation.

Meanwhile, the Administration's FY2013 budget proposed \$670 million for firefighter assistance, including \$335 million for SAFER and \$335 million for Assistance to Firefighters Grants (AFG). Both the House-passed FY2013 appropriations bill (H.R. 5855) and the Senate Appropriations Committee bill (S. 3216) provided \$675 million (\$337.5 million for SAFER and \$337.5 million for AFG). The Continuing Appropriations Resolution, 2013 (P.L. 112-175) funds firefighter assistance programs through the first six months of FY2013 at an increase of 0.612% of the FY2012 level. Therefore, under the FY2013 continuing resolution, AFG is funded at \$339.5 million and SAFER is funded at \$339.5 million through March 27, 2013.

The 113<sup>th</sup> Congress will likely consider FY2013 and FY2014 budget appropriations for SAFER. As is the case with many federal programs, concerns over the federal budget deficit could impact budget levels. At the same time, firefighter assistance budgets will likely receive heightened scrutiny from the fire community, given the local budgetary cutbacks that many fire departments are now facing. The 113<sup>th</sup> Congress will also likely examine the impact of new SAFER hiring grant guidelines mandated by P.L. 112-239, the Fire Grants Reauthorization Act of 2012. The continuing issue is how 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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## 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<sup>1</sup> in the 106<sup>th</sup> 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.<sup>2</sup>

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).<sup>3</sup> Fire-service advocates also pointed to the Community Oriented Policing Services (COPS) program<sup>4</sup> 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,<sup>5</sup> the *Boston Globe*,<sup>6</sup> and the National Institute for Occupational Safety and Health (NIOSH)<sup>7</sup> 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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<sup>1</sup> Title XVII of the FY2001 Floyd D. Spence National Defense Authorization Act (P.L. 106-398).

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

<sup>3</sup> 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 CFR 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.

<sup>4</sup> For more information on the COPS program, see CRS Report RL33308, *Community Oriented Policing Services (COPS): Background and Funding*, by Nathan James.

<sup>5</sup> 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>.

<sup>6</sup> 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/>.

<sup>7</sup> 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 p. Available at <http://www.cdc.gov/niosh/fire/pdfs/progress.pdf>.

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.<sup>8</sup>

## 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 107<sup>th</sup> and 108<sup>th</sup> Congresses.<sup>9</sup> The 108<sup>th</sup> 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.

## SAFER Reauthorization

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 amends the SAFER statute (15 U.S.C. 2229a) and authorizes 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.

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<sup>8</sup> See Lehrer, Eli, “Do We Need More Firefighters?” *Weekly Standard*, April 12, 2004, p. 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>.

<sup>9</sup> 107<sup>th</sup> Congress: S. 1617 (Dodd), H.R. 3992 (Boehlert), H.R. 3185 (Green, Gene). 108<sup>th</sup> Congress: S. 544 (Dodd), H.R. 1118 (Boehlert).

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.

**Table I. 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.

P.L. 112-239 mandates studies and reports on the effectiveness of the SAFER grant program. Specifically:

- FEMA is directed to develop a performance assessment system to evaluate SAFER (as well as AFG) grants. Not later than September 30, 2014, FEMA shall submit a report to Congress concerning the effectiveness of SAFER grants.
- The Comptroller General is directed to submit a report to Congress assessing the effect of the amendments to the SAFER statute made by the Fire Grants Reauthorization of 2012.

## 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-FY2013**

	<b>AFG</b>	<b>SAFER</b>	<b>SCG<sup>a</sup></b>	<b>Total</b>
FY2001	\$100 million			<b>\$100 million</b>
FY2002	\$360 million			<b>\$360 million</b>
FY2003	\$745 million			<b>\$745 million</b>
FY2004	\$746 million			<b>\$746 million</b>
FY2005	\$650 million	\$65 million		<b>\$715 million</b>
FY2006	\$539 million	\$109 million		<b>\$648 million</b>
FY2007	\$547 million	\$115 million		<b>\$662 million</b>
FY2008	\$560 million	\$190 million		<b>\$750 million</b>
FY2009	\$565 million	\$210 million	\$210 million	<b>\$985 million</b>
FY2010	\$390 million	\$420 million		<b>\$810 million</b>
FY2011	\$405 million	\$405 million		<b>\$810 million</b>
FY2012	\$337.5 million	\$337.5 million		<b>\$675 million</b>
FY2013 <sup>b</sup>	\$339.5 million	\$339.5 million		<b>\$679 million</b>
<b>Total</b>	<b>\$6.283 billion</b>	<b>\$2.190 billion</b>	<b>\$210 million</b>	<b>\$8.684 billion</b>

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

b. Through March 2013 (, Continuing Appropriations Resolution, 2013).

**Table 3. Recent and Proposed Appropriations for Firefighter Assistance**

(millions of dollars)

	<b>FY2011 (Admin. request)</b>	<b>FY2011 (P.L. 112-10)</b>	<b>FY2012 (Admin. request)</b>	<b>FY2012 (P.L. 112-74)</b>	<b>FY2013 (Admin. request)</b>	<b>FY2013 (H.R. 5855)</b>	<b>FY2013 (S. 3216)</b>	<b>FY2013 (P.L. 112- 175)<sup>a</sup></b>
FIRE Grants (AFG)	305	405	250	337.5	335	337.5	337.5	339.5
SAFER Grants	305	405	420	337.5	335	337.5	337.5	339.5
<b>Total</b>	<b>610</b>	<b>810</b>	<b>670</b>	<b>675</b>	<b>670</b>	<b>675</b>	<b>675</b>	<b>679<sup>b</sup></b>

a. The Continuing Appropriations Resolution, 2013 funds AFG and SAFER through March 27, 2013.

b. Pre-sequester level.

## FY2011

The Administration's FY2011 budget proposed \$305 million for SAFER (a 27% decrease from the FY2010 level) and \$305 million for AFG (a 22% decrease). The total amount requested for firefighter assistance (AFG and SAFER) was \$610 million, a 25% decrease from FY2010.

On June 24, 2010, the House Subcommittee on Homeland Security Appropriations approved \$840 million for firefighter assistance, including \$420 million for SAFER and \$420 million for AFG.

On July 19, 2010, the Senate Appropriations Committee approved \$810 million for firefighter assistance (including \$420 million for SAFER and \$390 million for AFG), the same level as FY2010. In the bill report (S.Rept. 111-222), the committee directed the Department of Homeland Security (DHS) to continue funding applications according to local priorities and priorities established by the United States Fire Administration, and to continue direct funding to fire departments and the peer review process.

H.R. 1, the Full-Year Continuing Appropriations Act, 2011, as introduced on February 11, 2011, would have provided zero funding for SAFER and \$300 million to AFG. However, on February 16, 2011, H.Amdt. 223 (offered by Representative Pascrell and agreed to by the House by a vote of 318-113) restored SAFER and AFG to FY2010 levels (\$420 million and \$390 million, respectively). H.R. 1 was passed by the House on February 18, 2011. S.Amdt. 149 to H.R. 1, which was rejected by the full Senate on March 9, 2011, would have funded SAFER at \$405 million and AFG at \$405 million.

Subsequently, the full-year continuing appropriation bill for FY2011, which was signed into law on April 15, 2011 (Department of Defense and Continuing Appropriations Act, 2011, P.L. 112-10), funds SAFER at \$405 million and AFG at \$405 million for FY2011.



## **FY2012**

The Administration's FY2012 budget proposed \$670 million for firefighter assistance, including \$420 million for SAFER and \$250 million for AFG. According to the FY2012 budget proposal, the request would fund 2,200 firefighter positions and approximately 5000 AFG grants.

The Department of Homeland Security Appropriations, 2012, bill (H.R. 2017) was reported by the House Appropriations Committee on May 26, 2011. The House bill, as reported by the committee, would have provided \$350 million for firefighter assistance, including \$150 million for SAFER and \$200 million for AFG. These FY2012 levels would have constituted a 63% cut for SAFER and a 51% cut for AFG compared to the FY2011 appropriation. There was no SAFER waiver language in the committee-approved bill.

The House Appropriations bill report (H.Rept. 112-91) urged DHS to review the costs associated with the SAFER program, noting that "the cost per fighter is extremely high," and that "the budget requests \$405 million to enable the hiring of more than 2,200 firefighter positions, or \$184,000 per fire-fighter." H.Rept. 112-91 also directed FEMA to continue granting funds directly to local fire departments and to include the United States Fire Administration during the grant decision process.

During the House floor consideration of H.R. 2017, two firefighter assistance amendments were adopted. The first amendment (offered by Representative LaTourette and Representative Pascrell, and agreed to by a recorded vote of 333-87) raised FY2012 funding levels to \$335 million for AFG and \$335 million for SAFER. The total level for firefighter assistance (\$670 million) is equal to the level requested by the Administration.

The second amendment (offered by Representative Price of North Carolina and agreed to by a recorded vote of 264-157) prohibited enforcement of various SAFER requirements for grantees. These waivers would allow FY2012 SAFER grants to be used to rehire laid-off firefighters and fill positions eliminated through attrition, remove cost-share requirements, allow grants to extend longer than the current five year duration, and permit the amount of funding per position at levels exceeding the current limit of \$100,000.

The Department of Homeland Security Appropriations, 2012, bill (H.R. 2017) was passed by the House on June 2, 2011.

On September 7, 2011, the Senate Appropriations Committee approved \$750 million for firefighter assistance in FY2012 (S.Rept. 112-74), which is a 12% increase over the House-passed level. The total included \$375 million for SAFER and \$375 million for AFG. As does the House bill, the Senate bill also waived or prohibited SAFER requirements in FY2012. The committee included a provision (§559) which allows SAFER grants to be used to retain firefighters and prohibits or waives SAFER limitations and restrictions. The committee stated its expectation that this provision would be applied in the same manner as similar provisions in the Supplemental Appropriations Act, 2009, and the American Recovery and Reinvestment Act of 2009 for fiscal years 2009 and 2010.

P.L. 112-74, the Consolidated Appropriations Act, FY2012, provided \$337.5 million for SAFER, and included language permitting FY2012 grants to be used to rehire laid-off firefighters and fill positions eliminated through attrition, as well as prohibiting DHS from enforcing the other

SAFER restrictions and limitations. P.L. 112-74 also reinstated DHS waiver authority for the restrictions that were not lifted in the FY2011 appropriations bill (P.L. 112-10).

## **FY2013**

The Administration's FY2013 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 FY2013. The Administration has estimated that the requested SAFER budget would fund more than 1700 firefighter positions in FY2013.<sup>10</sup>

Also, in the budget proposal, FEMA strongly encouraged applying fire departments 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 VOW To Hire Heroes Act of 2011 (Title II of P.L. 112-56). In FY2013, according to the budget proposal, "FEMA anticipates a preference for all SAFER applicants to have a policy in place addressing their intent to implement strategies to support this Act and have recruiting efforts aimed at post-9/11 veterans."

On May 16, 2012, the House Appropriations Committee approved its version of the FY2013 Department of Homeland Security appropriations bill. The committee mark is identical to the Administration requested level—\$335 million for SAFER and \$335 million for AFG. By voice vote, the full committee adopted an amendment during the committee markup specifying that SAFER restrictions will not apply to the FY2013 SAFER grants.

The committee report (H.Rept. 112-492) stated that the committee "is perplexed" as to why FEMA has not already given preference to post-9/11 veterans for SAFER hiring grants, and directed FEMA to report to the committee quarterly on implementation efforts on the hiring of veterans, including the number of hirings. Meanwhile, H.R. 6455, the Veterans Jobs Corps Act of 2012 (introduced September 20, 2012) would direct DHS to award SAFER grants to hire veterans as firefighters.

During floor action on June 6, 2012, an amendment was offered by Representative Runyan to increase funding for SAFER and AFG by \$2.5 million each, taking its \$5 million offset from the Office of the Undersecretary for Management. The amendment passed by voice vote, bringing the firefighter assistance account to \$675 million (\$337.5 million for SAFER and \$337.5 million for AFG), which is identical to the FY2012 level. H.R. 5855 was passed by the House on June 7, 2012.

On May 22, 2012, the Senate Appropriations Committee approved \$675 million for firefighter assistance for FY2013. This level included \$337.5 million for SAFER and \$337.5 million for AFG. The Senate level is identical to the FY2012 level. The Senate Committee bill (S. 3216) also included SAFER waiver authority language, including a provision which allows grants to be used to retain firefighters, instead of only for increasing the number of firefighters. The committee report (S.Rept. 112-169) directed DHS to continue the 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. Regarding the SAFER waivers, the committee stated its

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<sup>10</sup> Testimony of the Honorable Janet Napolitano, Secretary of the Department of Homeland Security, before the Senate Subcommittee on Homeland Security Appropriations, March 8, 2012.

expectation that DHS will take into consideration economic hardship when exercising the waiver authority.

The Continuing Appropriations Resolution, 2013 (P.L. 112-175) funds firefighter assistance programs through the first six months of FY2013 at an increase of 0.612% of the FY2012 level. Therefore, under the FY2013 continuing resolution, AFG is funded at \$339.5 million and SAFER is funded at \$339.5 million through March 27, 2013.

## **Sequestration**

On March 1, 2013, the Office of Management and Budget (OMB) released a report identifying budget accounts which are subject to sequestration.<sup>11</sup> OMB also provided the percentage cuts that will be applied to those budget accounts. AFG and SAFER are part of the State and Local Programs budget account within the Federal Emergency Management Agency, Department of Homeland Security. According to OMB, the State and Local Programs budget account is subject to a 5.0% cut from the FY2013 level. OMB further states that the law “requires that sequestration be applied equally at the program, project, and activity level within each budget account.”<sup>12</sup>

## **SAFER Provisions in Jobs Legislation**

During the 112<sup>th</sup> Congress, numerous bills were introduced (but not enacted) seeking to create public sector jobs; many contained provisions that would expand the SAFER grant program. These included the American Jobs Act (S. 1549/H.R. 12), the Emergency Jobs to Restore the American Dream Act (H.R. 2914), the Teachers and First Responders Back to Work Act of 2011 (S. 1723), the Act for the 99% (H.R. 3638), the Rebuild America Act (H.R. 5727/S. 2252), the Veterans Job Corps Act of 2012 (H.R. 6455, H.R. 6563/S. 3457, S. 3429), and the Teachers and First Responders Back to Work Act of 2012 (H.R. 6561).

## **Waiver of SAFER Requirements**

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.

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<sup>11</sup> Executive Office of the President, *OMB Report to the Congress on the Joint Committee Sequestration for Fiscal Year 2013*, March 1, 2013, available at [http://www.whitehouse.gov/sites/default/files/omb/assets/legislative\\_reports/fy13ombjsequestrationreport.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/fy13ombjsequestrationreport.pdf).

<sup>12</sup> *Ibid*, p. 7.

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.<sup>13</sup>

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).

Finally, the SAFER reauthorization language in the Fire Grants Reauthorization Act of 2012 (P.L. 112-239) permanently addresses the concerns previously addressed in annual appropriations legislation. P.L. 112-239 removes the \$100,000 cap per firefighter hired, shortens the grant period from four to three years, removes the requirement to retain SAFER-hired firefighters for one year past the termination of federal grant support, and provides 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.

## **Implementation of the SAFER Program**

Prior to FY2007, the SAFER grant program was administered by the Office of Grants and Training within the Preparedness Directorate of DHS. However, Title VI of the Conference Agreement on the DHS appropriations bill (P.L. 109-295; H.Rept. 109-699), the Post Katrina Emergency Management Reform Act of 2006, transferred most of the existing Preparedness Directorate (including SAFER and fire grants) back to an enhanced FEMA.

**Table 4** shows the state-by-state distribution of SAFER grant funds, from FY2005 through FY2011. Of the total federal share requested for FY2009, 54.6% was requested by all paid/career departments, 9.3% by all volunteer, 14.7% by combination (majority paid/career), and 19% by combination (majority volunteer).<sup>14</sup> Of the FY2011 SAFER awards, grants for hiring accounted for 90% of the total federal share awarded. For the latest information and updates on the application for and awarding of SAFER grants, see the official SAFER grant program website at <http://www.fema.gov/firegrants/safer/index.shtm>.

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<sup>13</sup> 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>.

<sup>14</sup> Latest SAFER application statistics are available at <http://www.fema.gov/firegrants/safer/statistics.shtm>.

## Issues in the 113<sup>th</sup> Congress

The 113<sup>th</sup> Congress will likely consider FY2013 and FY2014 budget appropriations for SAFER. As is the case with many federal programs, concerns over the federal budget deficit could impact budget levels. At the same time, firefighter assistance budgets will likely receive heightened scrutiny from the fire community, given the local budgetary cutbacks that many fire departments are now facing.

The 113<sup>th</sup> Congress will also likely examine the impact of new SAFER hiring grant guidelines mandated by P.L. 112-239, the Fire Grants Reauthorization Act of 2012. The continuing issue is how 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.

**Table 4. State-by-State Distribution of SAFER Grants, FY2005-FY2011**  
(millions of dollars)

	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011	Total
Alabama	1.611	6.215	4.236	7.314	4.288	8.531	1.293	33.488
Alaska	1.051	0.205	0.418	1.438	0.328	6.072	0.074	9.586
Arizona	1.560	3.559	4.428	6.613	6.768	10.357	2.809	36.094
Arkansas	0.394	1.820	0.377	3.834	0.976	2.206	1.136	10.743
California	5.221	5.212	4.259	4.212	31.501	63.13	56.356	169.891
Colorado	1.584	3.479	1.730	2.02	0.955	3.384	5.432	18.584
Connecticut	0.130	0.191	0.856	3.92	2.214	1.312	5.099	13.722
Delaware	0	0.135	0	0.398	0	1.723	0	2.256
District of Columbia	0	0	0	0	0	0	0	0
Florida	6.576	9.329	6.217	17.185	24.105	17.721	30.494	111.627
Georgia	5.354	2.085	2.842	17.438	4.844	10.384	1.273	44.22
Hawaii	0	0	0	1.626	0	0.1	0	1.726
Idaho	0.063	0.621	0.626	0.774	1.336	2.897	4.068	10.385
Illinois	1.340	4.463	9.933	5.85	2.496	10.848	2.456	37.386
Indiana	0	0.099	2.687	4.577	8.295	9.931	4.587	30.176
Iowa	0.169	0.144	0.980	1.288	1.045	0.081	1.604	5.311
Kansas	0.667	0.045	1.029	1.872	2.806	2.285	0.381	9.085
Kentucky	0.152	2.890	0.429	2.466	0.338	0.893	0.155	7.323
Louisiana	3.430	3.078	4.728	8.62	10.515	0.182	1.672	32.225
Maine	0.081	0	0.316	0.951	0.739	1.047	0.518	3.652
Maryland	0.096	1.862	1.526	3.171	4.429	2.145	4.299	17.528
Massachusetts	1.300	2.079	4.372	2.690	18.385	34.422	23.127	86.375
Michigan	1.759	0.592	0	0.628	13.286	22.493	47.646	86.404
Minnesota	0.300	1.089	0.375	3.246	1.256	0.789	4.463	11.518

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	<b>FY2005</b>	<b>FY2006</b>	<b>FY2007</b>	<b>FY2008</b>	<b>FY2009</b>	<b>FY2010</b>	<b>FY2011</b>	<b>Total</b>
Mississippi	0.756	0.594	0.115	1.608	0	1.209	0.488	4.77
Missouri	1.467	3.547	4.551	2.381	1.474	5.618	10.619	29.657
Montana	0.034	0.255	2.635	2.955	0.458	0.973	1.252	8.562
Nebraska	0	0.873	0.632	1.951	0.802	0.493	0	4.751
Nevada	1.500	1.714	0.632	0.086	0.577	2.459	13.438	20.406
New Hampshire	0.400	1.035	1.528	0.225	0	0.353	1.479	5.02
New Jersey	6.374	3.971	2.953	4.389	0.556	56.648	18.073	92.964
New Mexico	0	3.123	1.309	0.108	0.499	1.854	0	6.893
New York	1.540	2.991	2.845	4.412	8.227	18.239	6.142	44.396
North Carolina	2.155	5.533	5.371	18.183	2.256	6.375	5.833	45.706
North Dakota	0	0.609	0	1.518	1.517	2.139	0.048	5.831
Ohio	1.319	1.881	2.255	3.737	29.606	21.04	18.654	78.492
Oklahoma	0.147	0.699	0.531	2.782	0	9.127	1.435	14.721
Oregon	1.710	2.141	2.649	2.071	0.677	6.814	8.354	23.768
Pennsylvania	1.244	1.475	2.633	3.515	1.176	7.926	13.831	31.8
Rhode Island	0.400	0	0.105	0	1.561	4.249	3.108	9.423
South Carolina	0.456	0.863	3.218	8.158	2.41	2.064	2.147	19.316
South Dakota	0.063	0.311	0.211	0.552	0	0.648	0.255	2.04
Tennessee	2.700	2.719	3.683	1.856	1.148	7.374	0.993	20.473
Texas	0.951	10.961	8.779	19.06	3.158	12.65	2.881	58.44
Utah	0.900	3.312	2.098	3.955	1.824	4.583	0.208	16.88
Vermont	0	0.621	0.632	0	0.119	0	0	1.372
Virginia	2.091	3.554	0.782	1.849	4.891	8.995	4.978	27.14
Washington	2.298	2.897	7.340	9.476	2.847	13.779	16.139	54.776
West Virginia	0	0.187	0.681	0.16	0.287	0.398	0	1.713
Wisconsin	0	0.072	1.223	4.502	0	0.12	3.101	9.018
Wyoming	0	0	0.316	2.329	0.263	0.997	1.148	5.053
Puerto Rico	0	0	0	0	0	0	0	0
Northern Mariana Islands	0	0	0	0	0	1.404	0	1.404
Marshall Islands	0	0	0	0	0	0	0	0
Guam	0	0	0	0	0	0	0	0
American Samoa	0	0	0	0	0	0	0.474	0.474
Virgin Islands	0	0	0	0	0	0	0	0
Republic of Palau	0	0	0	0	0	0	0	0
<b>Total</b>	<b>61.356</b>	<b>105.142</b>	<b>113.665</b>	<b>203.964</b>	<b>207.258</b>	<b>410.833</b>	<b>334.03</b>	<b>1434.564</b>

**Source:** Department of Homeland Security.

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