



Department of Homeland Security: FY2013 Appropriations

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Summary

This report describes the FY2013 appropriations for the Department of Homeland Security (DHS). The Administration requested \$39.510 billion in adjusted net discretionary budget authority for DHS for FY2013, as part of an overall budget of \$59.501 billion (including fees, trust funds, and other funding that is not appropriated or does not score against the budget caps). The request amounts to a \$90 million, or a 0.2%, decrease from the \$39.600 billion enacted for FY2012 through the consolidated appropriations act (P.L. 112-174).

Net requested appropriations for major agencies within DHS were as follows: Customs and Border Protection (CBP), \$10,345 million; Immigration and Customs Enforcement (ICE), \$5,332 million; Transportation Security Administration (TSA), \$5,130 million; Coast Guard, \$8,352 million; Secret Service, \$1,601 million; National Protection and Programs Directorate, \$1,217 million; Federal Emergency Management Administration (FEMA), \$4,528 million; Science and Technology, \$831 million; and the Domestic Nuclear Detection Office, \$328 million. Included as part of the President's overall budget request was a 0.5% pay raise for civilian federal employees.

The Administration also requested an additional \$5.481 billion for FEMA in disaster relief funding as defined by the Budget Control Act, down \$919 million (16.8%) from the amount provided in the FY2012 disaster relief supplemental appropriations act (P.L. 112-177).

H.R. 5855, the House-passed DHS appropriations bill, would provide \$39.114 billion in adjusted net discretionary budget authority, while S. 3216, its Senate-reported counterpart, would provide \$39.514 billion. While the Senate-reported bill funds the proposed pay raise for civilian federal employees, the House-passed bill does not. Both bills would provide the \$5.481 billion in disaster relief requested by the Administration.

The 12 regular appropriations bills for FY2013 were not enacted before the start of the fiscal year. Instead, Congress passed and the President signed a continuing resolution (CR), H.J.Res. 117, into law as P.L. 112-175 on September 28, 2012. This public law allows for the federal government to continue operations in the absence of regular appropriations. Funding is provided through March 27, 2013, at an annualized rate of \$1.047 billion.

As is often the case with continuing resolutions, P.L. 112-175 provides more limited direction than is given through a traditional bill and conference report as to how funds should be divided among individual programs, projects, and activities. The CR does, however, require the department to provide an expenditure plan within 30 days of passage to outline how DHS chooses to allocate those funds. Under the provisions of P.L. 112-175, most federal government activities would be funded over the course of the CR at the FY2012 rate, plus 0.612%. One significant difference from this baseline for DHS is a funding increase for its cybersecurity programs.

This report will be updated as events warrant.

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Most Recent Developments

Table I. Legislative Status of FY2013 Homeland Security Appropriations

Subcommittee Markup		House Passage					Conference Report Approval		Public Law
House	Senate	H.Rept. 112-469	H.R. 5855	S.Rept. 112-169	Senate Passage	Conf. Report	House	Senate	
5/9 (vv)	5/15 (vv)	5/16 (28-21)	6/7 (234-182)	5/22 (27-3)	—	—	—	—	—

Notes: (vv) = voice vote, (uc) = unanimous consent.

February 13, 2012—President's FY2013 Budget Request Submitted

For FY2013, the Administration requested \$39.510 billion in adjusted net discretionary budget authority for DHS, as part of an overall budget request of \$59.032 billion (including fees, trust funds and other funding that is not appropriated or does not score against the budget caps). This request amounts to a \$90 million (0.2%) decrease below the \$39.600 billion enacted for FY2012. The overall estimated size of the DHS budget for FY2013 is \$681 million (1.1%) below the budget of \$59.713 billion estimated for FY2012.¹

May 22, 2012—Senate Committee Approves S. 3216

The Senate Committee on Appropriations reported its version of the FY2013 DHS Appropriations bill on May 22, 2012 by a vote of 27-3. This report uses Senate-reported S. 3216 and the accompanying report (S.Rept. 112-169) as the source for Senate-reported appropriations numbers. The Senate bill as approved by the committee provides a net discretionary appropriation of \$39,514 million for DHS for FY2013, not including \$254 million for overseas contingency operations and \$5,481 million for disaster relief that would be paid for by adjustments to the discretionary spending cap under the BCA. With those exclusions, the Senate-reported bill would provide less than \$4 million above the Administration's request, and \$87 million (0.2%) below the amount provided under P.L. 112-74.

¹ Department of Homeland Security, *Congressional Budget Justifications, Budget Tables and Explanation of Changes for General Provisions, FY2013*, p. 1.

June 7, 2012—House Passes H.R. 5855

On June 7, 2012, the House passed H.R. 5855 with several amendments. This report uses House-passed H.R. 5855 and the accompanying report (H.Rept. 112-492) as the source for House-passed appropriations numbers. After floor action the House bill carried a net discretionary appropriation of \$39,114 million for DHS for FY2013. Several floor amendments used management accounts as offsets, leaving funding for those activities 27% below the requested level. Increases proposed above the committee-recommended level for DHS activities included Customs and Border Protection's Border Security Fencing, Infrastructure, and Technology account, Coast Guard's Operating Expenses account, the Federal Emergency Management Agency's Urban Search and Rescue Response activities and grant programs.

September 28, 2012—President Signs Six-Month CR

The President signed H.J.Res. 117 into law as P.L. 112-175 on September 28, 2012. This public law is a continuing resolution (CR) that allows for the federal government to continue operations in absence of regular appropriations through March 27, 2013, at an annualized rate of \$1.047 trillion. It passed the House by a vote of 329-91 on September 13, 2012, and the Senate by a vote of 62-30 on September 22, 2012.

As is often the case with continuing resolutions, P.L. 112-175 provides more limited direction than is given through a traditional bill and conference report as to how funds should be divided among individual programs, projects, and activities. The CR does, however, require the department to provide an expenditure plan within 30 days of passage to outline how DHS chooses to allocate those funds. Under the provisions of P.L. 112-175, most federal government activities would be funded over the course of the CR at the FY2012 rate, plus 0.612%. One significant difference from this baseline for DHS under the CR is a \$282 million increase for its cybersecurity programs.

Note on Most Recent Data

Data used in this report for FY2012 amounts are taken from the President's Budget Documents, H.Rept. 112-492 and S.Rept. 112-169. Information on the FY2013 request is from the President's Budget Documents, the FY2013 *DHS Congressional Budget Justifications*, and the FY2013 *DHS Budget in Brief*. Information on the House-passed FY2013 DHS Appropriations bill is from H.R. 5855 and H.Rept. 112-492, while information on the Senate-reported version of the same is from S. 2316 and S.Rept. 112-169. Information on the continuing resolution is from H.J.Res. 117. Historical funding data used in the appendices are taken from the *Analytical Perspectives* volume of the FY2006-FY2013 President's Budget. Except when discussing total amounts for the bill as a whole, all amounts contained in this report are rounded to the nearest million.

Background

Department of Homeland Security

The Homeland Security Act of 2002 (P.L. 107-296) transferred the functions, relevant funding, and most of the personnel of 22 agencies and offices to the new Department of Homeland

Security created by the act. Appropriations measures for DHS have generally been organized into five titles:

- Title I contains appropriations for the Office of Secretary and Executive Management (OSEM), the Office of the Under Secretary for Management (USM), the Office of the Chief Financial Officer, the Office of the Chief Information Officer (CIO), Analysis and Operations (A&O), and the Office of the Inspector General (OIG).
- Title II contains appropriations for Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), the Transportation Security Administration (TSA), the Coast Guard (USCG), and the Secret Service.²
- Title III contains appropriations for the National Protection and Programs Directorate (NPPD), Office of Health Affairs (OHA) Federal Emergency Management Agency (FEMA).³
- Title IV contains appropriations for U.S. Citizenship and Immigration Services (USCIS), the Science and Technology Directorate (S&T), and the Federal Law Enforcement Training Center (FLETC).
- Title V contains general provisions providing various types of congressional direction to the department.

The structure of the bill is not automatically symmetrical between House and Senate versions. Additional titles are sometimes added to address special issues: For example, the FY2012 House full committee mark-up added a sixth title to carry a \$1 billion emergency appropriation for the Disaster Relief Fund (DRF). The Senate version carried no additional titles beyond what is described above. Although the structure of the components in the proposed FY2013 appropriations bills is largely parallel, there are some differences in the structure of subcomponents and accounts which is noted throughout the body of the report.

302(a) and 302(b) Allocations

In general practice, the maximum budget authority for annual appropriations (including DHS) is determined through a two-stage congressional budget process. In the first stage, Congress sets overall spending totals in the annual concurrent resolution on the budget. Subsequently, these amounts are allocated among the appropriations committees, usually through the statement of managers for the conference report on the budget resolution. These amounts are known as the 302(a) allocations. They include discretionary totals available to the House and Senate Committees on Appropriations for enactment in annual appropriations bills through the

² The U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) program was appropriated within Title II through the FY2007 appropriation. The FY2008 appropriation transferred US-VISIT, as proposed by the Administration, to the newly created National Protection & Programs Directorate (NPPD) in Title III. Division E of P.L. 110-161, the DHS Appropriations Act, 2008, enacted this reorganization. The FY2013 budget request proposes a further reorganization, splitting the program between CBP and ICE.

³ Through the FY2007 appropriation, Title III contained appropriations for the Preparedness Directorate, Infrastructure Protection and Information Security (IPIS) and FEMA. The President's FY2008 request included a proposal to shift a number of programs and offices to eliminate the Preparedness Directorate, create the NPPD, and move several programs to FEMA. These changes were largely agreed to by Congress in the FY2008 appropriation, reflected by Title III in Division E of P.L. 110-161.

subcommittees responsible for the development of the bills. In the second stage of the process, the appropriations committees allocate the 302(a) discretionary funds among their subcommittees for each of the appropriations bills. These amounts are known as the 302(b) allocations. These allocations must add up to no more than the 302(a) discretionary allocation and form the basis for enforcing budget discipline, since any bill reported with a total above the ceiling is subject to a point of order. 302(b) allocations may be adjusted during the year by the Appropriations Committee by issuing a report delineating the revised suballocations as the various appropriations bills progress towards final enactment.

The FY2012 appropriations bills were the first appropriations bills that were affected by the Budget Control Act (BCA), which established discretionary security and nonsecurity spending caps for FY2012 and FY2013, and overall caps that will govern the actions of appropriations committees in both houses. For FY2013, the BCA had set a separate cap of \$686 billion for security spending, defined to include the Departments of Defense and Veterans Affairs, Budget Function 150 for all international affairs programs, the National Nuclear Security Administration, and the Intelligence Community Management Account that funds the offices of the Director of National Intelligence. All other spending was capped at \$361 billion out of the total of \$1.047 trillion. In addition, the BCA allows for adjustments that would raise the statutory caps to cover funding for overseas contingency operations/Global War on Terror, emergency spending, and, to a limited extent, disaster relief and appropriations for continuing disability reviews and for controlling health care fraud and abuse. In the absence of a budget resolution for FY2013, these levels became the basis for enforcement in the Senate. In the House, the lower levels agreed to in the House-passed budget resolution (H.Con.Res. 112) were made effective for purposes of enforcement in the House by H.Res. 614 and H.Res. 643.

Because Congress did not enact legislation to produce savings as required under the BCA, fallback procedures were triggered. These procedures include a revision of the budget categories and spending limits. The revised security category is renamed defense and includes only discretionary appropriations under Function 050 of the budget, and nonsecurity spending encompasses everything else. Security spending would be allocated \$546 billion, while nonsecurity spending (including DHS) would be allocated \$501 billion. Under existing law, on January 2, 2013, if Congress has not passed legislation achieving \$1.2 trillion in deficit reduction, an automatic across-the-board cut in budget authority would be made to effect roughly \$109 billion in savings in FY2013, and discretionary budget caps would be reduced through FY2021 to provide the mandated level of deficit reduction.⁴

This report does not reflect the scorekeeping adjustments that may bring the total budget authority provided in the appropriations proposals in line with the BCA caps and the 302(a) and 302(b) allocations.

Table 2 shows DHS's initial 302(b) allocations for FY2013, and comparable figures for FY2012 and the President's request for FY2013.

⁴ For more information on the Budget Control Act of 2011, see CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan.

Table 2. FY2012 and FY2013 302(b) Discretionary Allocations for DHS

(budget authority in billions of dollars)

FY2012 Comparable	FY2013 Request Comparable	FY2013 House Allocation	FY2013 Senate Allocation	FY2013 Enacted Comparable
39.600 ^a	39.485	39.117	39.514	pending

Source: U.S. Congress, House Appropriations, Homeland Security, *FY2012 Homeland Security Bill - Summary Table*, 112th Congress, 1st session, May 12, 2011, and U.S. Congress, House Appropriations, *Revised Suballocation to Subcommittees Fiscal Year 2012 Budget Authority and Outlays*, 112th Congress, 1st session, June 14, 2011, p. 2.

Notes: Amounts may not total due to rounding.

- a. This authority does not include the \$258 million for overseas contingency operations or the separately passed disaster relief of \$6,400 million covered through adjustments to the discretionary spending cap set by the Budget Control Act.

Adjustments to the Caps under BCA

Three of the four justifications outlined in the BCA for adjusting the caps on discretionary budget authority have played a role in DHS's appropriations process. Two of these—emergency spending and overseas contingency operations/Global War on Terror—are not limited. At this printing, no adjustment has been made for emergencies for FY2012 for DHS, and \$258 million was provided for Coast Guard overseas contingency operations under P.L. 112-331.

The third justification—disaster relief—is limited. Under the BCA, the allowable adjustment for disaster relief is determined by the Office of Management and Budget (OMB), using the following formula:

Limit on disaster relief cap adjustment for the fiscal year = Rolling average of the disaster relief spending over the last ten fiscal years (throwing out the high and low years) + the unused amount of the potential adjustment for disaster relief from the previous fiscal year.

For FY2012, OMB determined the allowable adjustment for disaster relief to be \$11,252 million, and appropriations action thus far has exercised \$10,453 million of that adjustment, including \$6,400 million through FEMA.⁵ The remaining \$799 million will be available to enlarge the allowable adjustment for disaster relief for FY2013 through the formula laid out above.

Appropriations for the Department of Homeland Security

Summary of DHS Appropriations

Table 3 compares the enacted totals for FY2012 with the FY2013 request and congressionally supported levels. Totals represent net discretionary budget authority, taking into account impacts

⁵ Office of Management and Budget, *OMB Final Sequestration Report to the President and Congress for Fiscal Year 2012*, Washington, DC, January 18, 2012, pp. 7-8.

of rescissions, and are inclusive of emergency spending. Later tables will reflect fees and mandatory spending.

Table 3. DHS Net Discretionary Appropriations by Title, FY2012-FY2013

(in millions of dollars of discretionary budget authority, rounded)

Title	FY2012 Enacted	FY2013 Request	House- passed H.R. 5855	Senate- reported S. 3216
Title I: Departmental Management and Operations	1,132	1,279	1,020	1,102
Title II: Security, Enforcement and Investigations	31,527	30,759	30,946	30,975
Title III: Protection, Preparedness, Response, and Recovery	5,680	5,911	5,930	5,971
Title IV: Research and Development, Training, and Services	1,332	1,561	1,510	1,535
Title V: General Provisions	-71	0	-292	-68
Total	39,600	39,510	39,114	39,514

Source: H.R. 5855, H.Rept. 112-492 and S.Rept. 112-169.

Notes: The standard legislative practice is to group rescissions with the bill's general provisions, often resulting in that title scoring as net negative budget authority. The executive budget usually includes proposed rescissions in the impacted component's budget request. The FY2012 column reflects the impact of \$204 million in rescissions, while the Administration proposed \$25 million in rescissions for FY2013. The House Appropriations Committee recommended \$292 million in rescissions, while the Senate Appropriations Committee recommended \$192 million. Amounts may not total due to rounding.

Operating Under a Continuing Resolution

A continuing resolution (CR) was signed into law on September 28, 2012, providing stopgap funding for the federal government through March 27, 2013, or until the general appropriations bills for FY2013 are enacted. The CR provides for the government to continue its operations in FY2013 at largely the same rate as it did in FY2012, plus 0.612% for many covered projects and activities. The Congressional Budget Office (CBO) provided an estimate on September 11, 2012, of the appropriations and total spending provided under the CR if its rate were extended for the full fiscal year. By CBO's calculations, the CR would result in \$1.047 trillion in appropriations for the federal government.

CBO's projection included an overall funding estimate of \$46,772 million for DHS.⁶ This includes \$6,400 million for disaster relief and \$258 million for overseas contingency operations that do not count against the budget caps under the BCA. However, the CR anticipates further action on FY2013 appropriations legislation, as indicated by its mid-year expiration date, and it does not take account of any future action pursuant to the Budget Control Act of 2011 (P.L. 112-25). Therefore, the tables in this report do not reflect projections of FY2013 levels of spending for DHS or its components.

As is the case with most CRs, it limits the authority of covered government entities to spend money. These limits include provisions to provide funding "to the extent and in the manner" that

⁶ <http://www.cbo.gov/sites/default/files/cbofiles/attachments/43581-HJRes117.pdf>.

it was provided in the FY2012 appropriations bills,⁷ to bar funding for activities not funded in FY2012,⁸ to stop government agencies from taking actions that would impinge on the final funding prerogatives of Congress,⁹ and to constrain funding decisions “so that only the most limited funding action ... shall be taken in order to provide for continuation of projects and activities.”¹⁰ One new requirement, not typically carried in recent CRs, is that the federal departments and agencies covered by the CR must provide spending plans within 30 days of the CR’s enactment.¹¹

Included in the CR are four provisions—known as “anomalies”—that apply to DHS. These provide further direction specifically to the department, alter its authorities, or change the rate of available funding from the baseline provided in the CR for other components. These are:

Sec. 136 allows DHS to obligate funds from the U.S. Customs and Border Protection—Salaries and Expenses account at the rate necessary to maintain staffing levels for Border Patrol agents, Border Protection officers, and Air and Marine interdiction.¹²

Sec. 137 allows DHS to obligate funds at a rate of operations for the National Protection and Programs Directorate (NPPD)—Infrastructure Protection and Information Security account at an annualized rate \$282 million dollars higher than in FY2012, including specific funding set asides for increases in network security deployment and federal network security, and provides flexibility to allow for those funds to be obligated to “establish and sustain essential cybersecurity activities, including procurement and operations of continuous monitoring and diagnostics systems and intrusion detection systems for civilian Federal computer networks.”¹³

Sec. 138 extends a provision allowing the Secret Service to use revenues derived from criminal investigations.

Sec. 139 extends the authority for temporary regulations for chemical facility security.

Federal Civilian Employee Pay Raise

The Administration proposed a 0.5% pay increase for all civilian federal employees in its budget request. Almost all DHS employees are considered civilians, with the significant exception of Coast Guard military personnel.

The House rejected the proposed civilian pay raise, and that decision is reflected in a slight reduction in all appropriations that fund civilian salaries. The Senate Appropriations Committee, however, has recommended funding the pay raise.

⁷ H.J.Res. 117, Sec. 103.

⁸ H.J.Res. 117, Sec. 104.

⁹ H.J.Res. 117, Sec. 109.

¹⁰ H.J.Res. 117, Sec. 110.

¹¹ H.J.Res. 117, Sec. 116(a).

¹² H.J.Res. 117, Sec. 136. For further discussion, see “Continuing Resolution” on page 35.

¹³ H.J.Res. 117, Sec. 137(a).

The CR does not provide the resources for a civilian pay raise. Section 112 of P.L. 112-175 provides that the amounts made available for civilian personnel compensation and benefits in the Department of Homeland Security (DHS) may be apportioned, up to the rate for operations necessary to avoid furloughs within the department, consistent with Division D of P.L. 112-74. The authority cannot be used until after DHS has taken all necessary actions to reduce or defer administrative expenses that are not related to personnel.

In an alternative pay plan, issued on August 21, 2012, President Barack Obama stated that the base pay adjustment for federal white-collar civilian employees would be 0.5% for 2013.¹⁴ The plan stated that the adjustment would become effective “after the continuing resolution expires.” Section 114 of H.J.Res. 117 provides that any statutory pay adjustment¹⁵ otherwise scheduled to take effect during FY2013 “may take effect on the first day of the first applicable pay period beginning after” March 27, 2013.

DHS Appropriations: Comparing the Components

Unlike some other appropriations bills, breaking down the DHS bill by title does not provide a great deal of transparency into where DHS’s appropriated resources are going. The various components of DHS vary widely in the size of their appropriated budgets. **Table 4** and **Figure 1** show DHS’s discretionary budget authority broken down by component, from largest to smallest.

Table 4 presents the raw numbers, while **Figure 1** presents the same data in a graphic format, with additional information on the disaster relief and overseas contingency operations adjustments to the allocation allowed under the Budget Control Act (P.L. 112-25). For each set of appropriations, the left column shows discretionary budget authority as scored against the bill’s budget allocation, while the right column shows that plus resources available under the adjustments. For the purposes of this report, funding provided under these adjustments is not treated as appropriations.

Table 4. DHS Appropriations by Component, FY2012-FY2013
(in billions of dollars, rounded)

Component	FY2012 Enacted	FY2013 Request	FY2013 House- passed	FY2013 Senate- reported
Customs and Border Protection (CBP)	10.155	10.345	10.172	10.454
U.S. Coast Guard (USCG)	8.634	8.352	8.589	8.659
Immigration and Customs Enforcement (ICE)	5.551	5.332	5.474	5.330
Transportation Security Administration (TSA)	5.521	5.130	5.098	4.919

¹⁴ The President issued the plan under the provisions of the Federal Employees Pay Comparability Act of 1990, Sec. 529 of P.L. 101-509; 104 Stat. 1389, at 1429-1431; 5 U.S.C. §§5301-5303. The plan is available at <http://www.whitehouse.gov/the-press-office/2012/08/21/letter-president-regarding-alternative-plan-pay-increases-civilian-feder>.

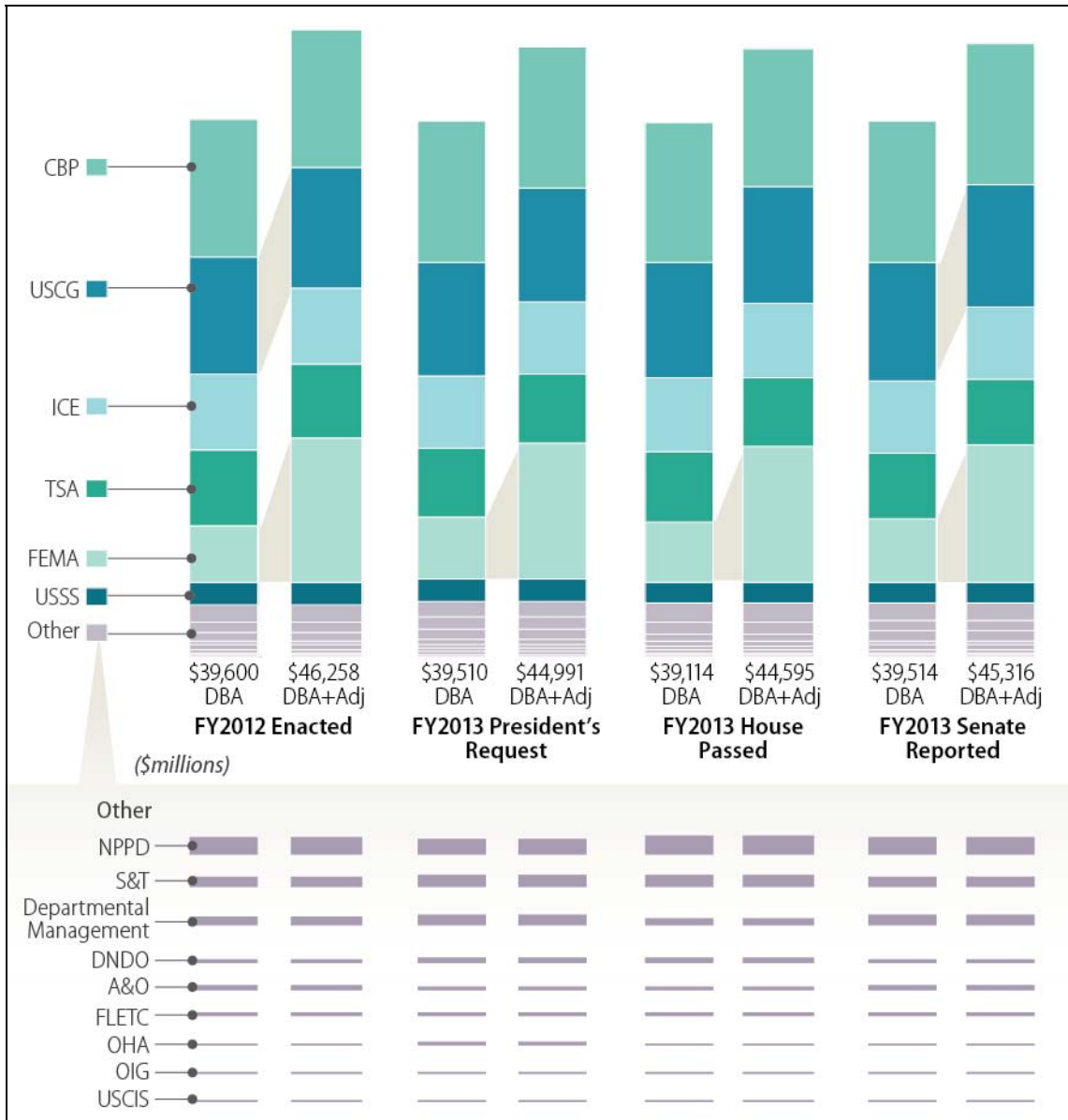
¹⁵ Statutory pay adjustment means adjustments to base pay under 5 U.S.C. §5303, to locality-based comparability payments under 5 U.S.C. §5304 and 5 U.S.C. §5304(a), to Executive Schedule pay under 5 U.S.C. §5318, to Federal Wage System (blue-collar) pay under 5 U.S.C. §5343(a), and any similar adjustment required by statute.

Component	FY2012 Enacted	FY2013 Request	FY2013 House- passed	FY2013 Senate- reported
Federal Emergency Management Agency (FEMA) ⁰	4.267	4.528	4.451	4.582
U.S. Secret Service (USSS)	1.667	1.601	1.613	1.613
National Protection and Programs Directorate (NPPD)	1.246	1.217	1.347	1.220
Science & Technology Directorate (S&T)	0.668	0.831	0.826	0.831
Departmental Management	0.677	0.813	0.594	0.655
Domestic Nuclear Detection Office (DNDO)	0.290	0.328	0.316	0.328
Analysis & Operations (A&O)	0.338	0.322	0.317	0.324
Federal Law Enforcement Training Center (FLETC)	0.271	0.258	0.256	0.258
Office of Health Affairs (OHA)	0.167	0.166	0.132	0.168
Office of the Inspector General (OHA)	0.117	0.144	0.109	0.123
U.S. Citizenship and Immigration Services (USCIS)	0.102	0.143	0.112	0.117
General Provisions (net, not reflected visually in Figure I)	-0.071	0.000	-0.292	-0.068
Total	39.600	39.510	39.114	39.514

Source: H.R. 5855, H.Rept. 112-492 and S.Rept. 112-169.

Notes: Table does not include adjustments for disaster relief or overseas contingency operations under the Budget Control Act (P.L. 112-25), or reflect non-appropriated resources available to DHS components.

Figure I. DHS Appropriations by Component, FY2012-FY2013
(in millions of dollars, rounded)



Source: H.Rept. 112-492 and S.Rept. 112-169.

Chart Abbreviations: CBP, Customs and Border Protection; USCG, U.S. Coast Guard; ICE, Immigration and Customs Enforcement; TSA, Transportation Security Administration; FEMA, Federal Emergency Management Administration; USSS, U.S. Secret Service; NPPD, National Protection and Programs Directorate; S&T, Science and Technology Directorate; DNDO, Domestic Nuclear Detection Office; A&O, Analysis and Operations; FLETC, Federal Law Enforcement Training Center; OHA, Office of Health Affairs; OIG, Office of the Inspector General; USCIS, U.S. Citizenship and Immigration Services; DBA, discretionary budget authority; Adj, adjustments to the discretionary budget caps established by the Budget Control Act.

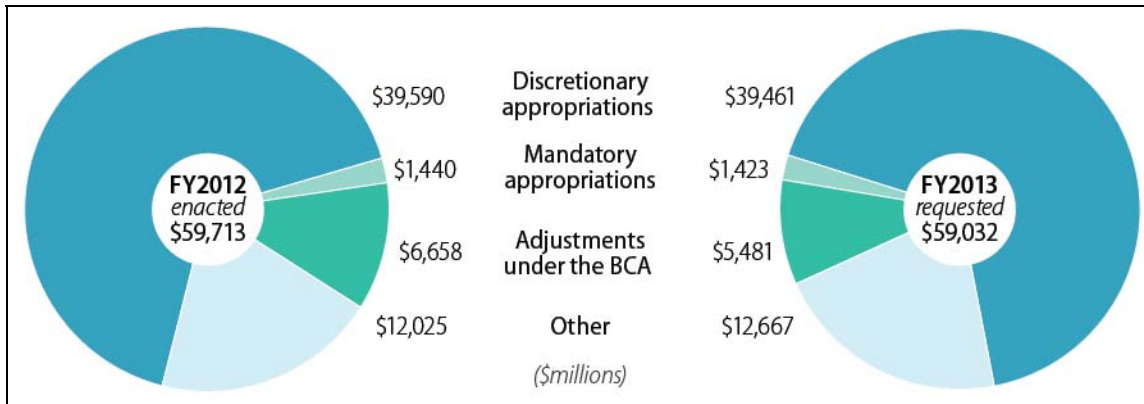
Note: Amounts may not total due to rounding. Figure does not display rescissions and other general provisions (although their impact is reflected in totals), or reflect non-appropriated resources available to DHS components.

DHS Appropriations Compared to the Total DHS Budget

It is important to note that **Figure 1**, even with its accounting for discretionary cap adjustments, does not tell the whole story about the resources available to individual DHS components. Much of DHS’s budget is not derived from discretionary appropriations. Some components, such as TSA, rely on fee income or offsetting collections to support a significant amount of their activities. Less than 4% of the budget for CIS is provided through direct appropriations—the rest relies on fee income.

Figure 2 highlights how much of the DHS budget is not funded through discretionary appropriations. It presents a comparison of the enacted FY2012 budget (as of August 1, 2012) and the Administration’s FY2013 budget request, showing the discretionary appropriations, mandatory appropriations, and adjustments under the Budget Control Act, in the context of the total amount of budgetary resources available to DHS, as well as other non-appropriated resources. The amounts shown in these graphs are derived from the Administration’s budget request documents, and therefore do not exactly mirror the data presented in congressional documents, which are the source for the other data presented in the report.

Figure 2. DHS Gross Budget Breakdown: FY2012 Enacted v. FY2013 Request
(millions of dollars in budget authority, rounded)



Source: DHS FY2013 Budget Request.

Notes: Budget numbers provided by OMB differ from congressional budget calculations due to a variety of factors, including recalculations of fee income, availability of prior-year rescissions, reprogrammings, transfers and other factors. Amounts may not total due to rounding.

DHS Appropriations Trends: Size

Table 5 presents DHS appropriations, as enacted, for FY2003 through FY2012. The appropriation amounts are presented in current dollars and are not adjusted. The amounts shown in **Table 5** represent enacted amounts at the time of the start of the next fiscal year’s appropriation cycle (with the exception of FY2009 and FY2011)—defined as the filing of the first committee report to accompany a version of a DHS appropriations bill. In instances which a previous year’s data are not reflected in the report, as was the case for data for FY2011, the alternative source is noted.

Table 5. DHS Appropriations, FY2003-FY2012

(budget authority in millions of dollars)

FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012
29,069 ^a	30,175	30,642 ^b	31,679 ^c	35,311 ^d	38,817 ^e	41,205	49,891 ^f	43,405	47,698 ^g

Sources: FY2008 data are from Division E of P.L. 110-161, and tables in the Joint Explanatory Statement for Division E, published in the Congressional Record, December 17, 2007, pp. H16107-H16121 (incorporating amendments to the budget request). FY2009 data are taken from S.Rept. 111-31. FY2010 data are from S.Rept. 111-222, P.L. 111-212, and P.L. 111-230. FY2011 data are from the *DHS Expenditure Plan for Fiscal Year 2011*, and FY2012 data are from CRS analysis of H.Rept. 112-331 and P.L. 112-77.

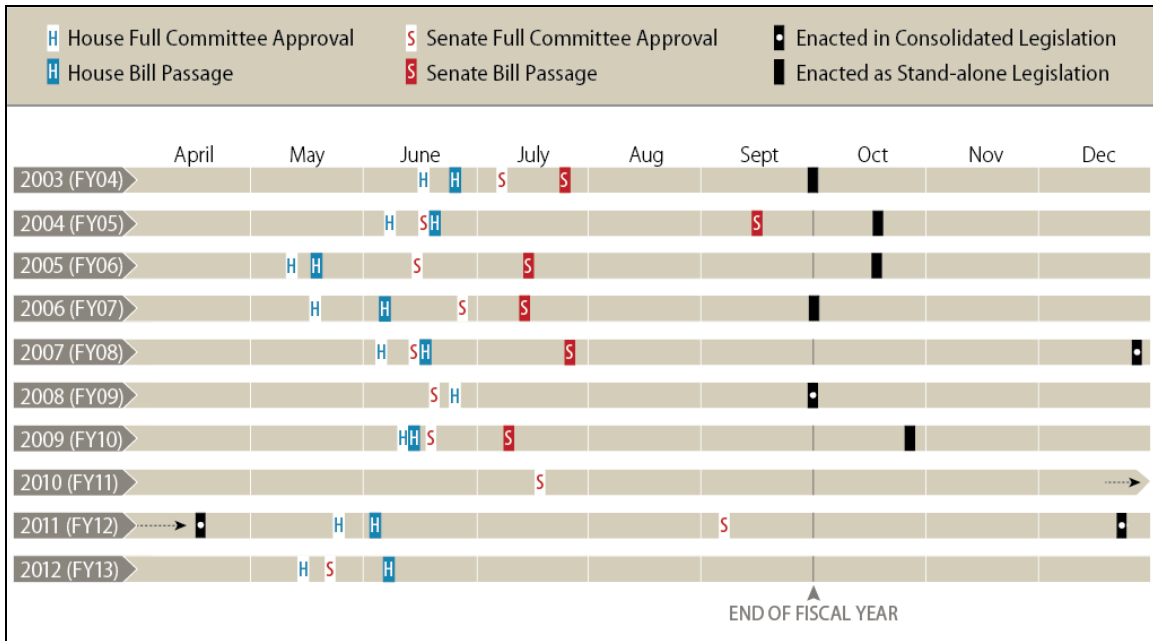
Notes: Amounts may not total due to rounding. Amounts do not include supplemental appropriations or rescissions that were enacted subsequent to the enactment of each appropriations bill.

- a. S.Rept. 108-86 reported the FY2003 enacted amount as \$29,287 million. CRS was unable to identify the reason for this discrepancy. For the purposes of this table the House number was used to maintain consistency with other fiscal years.
- b. Amount does not include \$4,703 million in advance appropriations for Project Bioshield.
- c. Amount does not include \$2,508 million in advance appropriations for Project Bioshield.
- d. Amount includes \$1,829 million in emergency budget authority that was enacted as a part of the FY2007 DHS Appropriations Act (P.L. 109-295).
- e. Amount includes \$2,710 million in emergency funding for DHS enacted by Division E of P.L. 110-161.
- f. Includes net \$5,754 million in supplemental spending (P.L. 111-212, P.L. 111-230).
- g. Includes \$6,400 million in supplemental disaster relief spending (P.L. 112-77).

DHS Appropriations Trends: Timing

The House Appropriations Committee's full committee markup of H.R. 5855 was the second earliest in the history of the DHS appropriations bill. The Senate Appropriations Committee's full committee markup of S. 3216 was the earliest the Senate has ever marked up the DHS appropriations bill. **Figure 3** shows the history of the timing of the DHS appropriations bills as they have moved through various stages of the legislative process.

Figure 3. DHS Appropriations Legislative Timing



Source: CRS analysis.

Notes: Final action on the FY2011 appropriation for DHS did not occur until April 2011.

Title I: Departmental Management and Operations

Title I of the DHS appropriations bill provides funding for the department’s management activities, Analysis and Operations (A&O) account, and the Office of the Inspector General (OIG). The Administration requested \$1,279 million for these accounts in FY2013, an increase of \$147 million above the enacted level. The House-passed bill provides \$1,020 million, a decrease of 20.2% from the requested level and 9.9% below FY2012. The Senate-reported bill provides \$1,102 million, 13.8% below the request and 2.7% below FY2012. **Table 6** lists the enacted amounts for the individual components of Title I for FY2012 (as of August 1, 2012), the Administration’s request for these components for FY2013, and the House-passed and Senate-reported appropriations for the same.

Table 6. Title I: Departmental Management and Operations, FY2012-FY2013
(budget authority in millions of dollars)

	FY2012 Enacted	FY2013 Appropriation		
		Request	House- passed	Senate- reported Enacted
Office of the Secretary and Executive Management	133	134	122	133
Office of the Under Secretary for Management	236	222	180	220
Office of the Chief Financial Officer	51	55	50	54
Office of the Chief Information Officer	257	313	242	248
Analysis and Operations	338	322	317	324
DHS Headquarters Consolidation ^a	0	89	0	0
Office of the Inspector General ^b	117	144	109	123
Net Budget Authority: Title I	1,132	1,279	1,020	1,102
Total Gross Budgetary Resources for Title I Components before Transfers	1,132	1,279	1,020	1,102

Sources: CRS analysis of H.Rept. 112-331 (for FY2012), H.R. 5855, H.Rept. 112-492, and S.Rept. 112-169.

Notes: Totals may not add due to rounding.

- a. This line only reflects funding for DHS Headquarters Consolidation included in Title I of the DHS appropriations bill. Other funding has been provided under Coast Guard accounts and in general provisions in previous years.
- b. The Office of the Inspector General also receives transfers from FEMA to pay for oversight of disaster-related activities that are not reflected in these tables.

Departmental Management¹⁶

The departmental management accounts cover the general administrative expenses of DHS. They include the Office of the Secretary and Executive Management (OSEM), which is comprised of the Immediate Office of the Secretary and 12 entities that report directly to the Secretary; the Under Secretary for Management (USM) and its components—the offices of the Chief Administrative Officer (OCAO), Chief Human Capital Officer (OCHCO), Chief Procurement Officer (OCPO), and Chief Security Officer (OCSO); the Office of the Chief Financial Officer (OCFO); and the Office of the Chief Information Officer (OCIO). The Administration has usually requested funding for the consolidation of its headquarters here as well.

In this section and in each section hereafter, a graphic follows that provides a numeric and graphic representation of the discretionary appropriation provided to each element of DHS described in the report. This graphic provides a quick reference to the relative size of the component to others in DHS as well as to the previous year's enacted level, the FY2012 request, and the House and Senate variants for FY2013.

¹⁶ Prepared by Barbara L. Schwemle, Analyst in American National Government, Government and Finance Division.

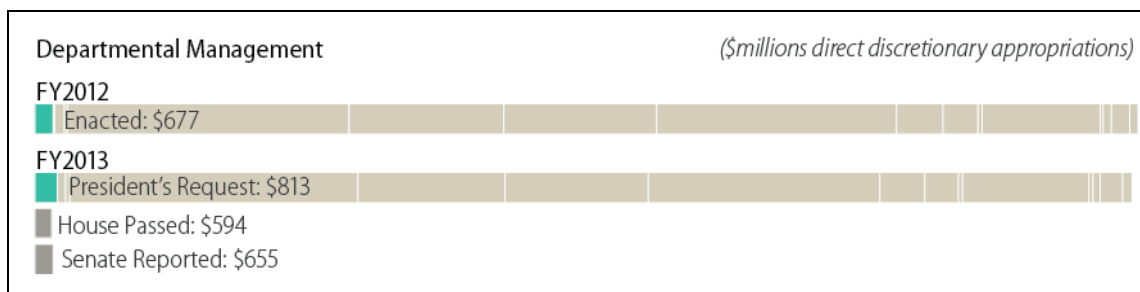


Table 7. DHS Management Account Appropriations, FY2012-FY2013
(budget authority in millions of dollars)

	FY2012 Enacted	FY2013 Appropriation			Enacted
		Request	House- passed	Senate- reported	
Office of the Secretary and Executive Management	133	134	122	133	
Immediate Office of the Secretary	5	4	4	4	
Immediate Office of the Deputy Secretary	2	2	2	2	
Office of the Chief of Staff	2	2	2	2	
Executive Secretary	8	8	7	8	
Office of Policy	40	44 ^a	41	44	
Office of Public Affairs	6	6	5	6	
Office of Legislative Affairs	6	6	5	6	
Office of Intergovernmental Affairs	3	3	2	3	
Office of General Counsel	22	22	20	22	
Office of Civil Rights and Civil Liberties	23	22	20	22	
Citizenship and Immigration Services Ombudsman	6	6	5	6	
Privacy Officer	8	8	8	8	
Office of Counternarcotics Enforcement	2	0	0	0	
Floor Amendment	—	—	*b	—	
Under Secretary for Management	236	222	180	220	
Immediate Office of the Under Secretary	3	3	3	3	
Office of Security	70	69	69	69	
Office of the Chief Procurement Officer	78	73	66	73	
Office of the Chief Human Capital Officer	39	36	36	35	
Office of the Chief Administrative Officer	46	41	40	40	
Floor Amendments	—	—	-33 ^c	—	
Office of the Chief Financial Officer	51	55	50	54	

Office of the Chief Information Officer	257	313	242	248
DHS Headquarters Consolidation^d	0	89^e	0^f	0^g
Total, Departmental Management	677	813	594	655

Sources: CRS analysis of H.Rept. 112-331 (for FY2012), H.R. 5855, H.Rept. 112-492, and S.Rept. 112-169.

Notes: Amounts may not total due to rounding.

- a. This number for the Office of Policy reflects the existing structure of that office. The Administration proposed in its FY2013 budget request separating the Office of International Affairs, Office of State and Local Law Enforcement and the Private Sector Office from the Office of Policy. The House and Senate Appropriations committees rejected this proposal. This number for the Office of Policy reflects the existing structure of that office.
- b. H.Amdt. 1232, to reduce funds for the Office of the Secretary and Executive Management by \$50,000 and increase funds for Security, Enforcement, and Investigations U.S. Customs and Border Protection Salaries and Expenses by \$43,000, was offered by Representative Jeff Flake, and agreed to by voice vote on June 6, 2012.
- c. Four amendments passed the House that impacted this account by a total of \$32.667 million:
 - H.Amdt. 1236 to decrease funds for the Office of the Under Secretary for Management by \$7,667,000 and increase funds for the Federal Emergency Management Agency Urban Search and Rescue Response System by \$7,667,000, offered by Representative Michael Grimm, and agreed to by voice vote on June 6, 2012.
 - H.Amdt. 1237 to reduce funds for the Office of the Under Secretary for Management by \$10 million and increase funds for the Federal Emergency Management Agency State and Local Programs by \$10 million, offered by Representative Hansen Clarke, and agreed to on a 211-202 (Roll No. 348) vote on June 6, 2012.
 - H.Amdt. 1238 to reduce funds for the Office of the Under Secretary for Management by \$10 million and increase funds for U.S. Customs and Border Protection Security Fencing, Infrastructure, and Technology by \$10 million, offered by Representative Ted Poe, and agreed to on a 302-113 (Roll No. 352) vote on June 6, 2012.
 - H.Amdt. 1239 to reduce funds for the Office of the Under Secretary for Management by \$5 million and increase funds for Firefighter Assistance Grants by \$5 million, offered by Representative Jon Runyan, and agreed to by voice vote on June 6, 2012.
- d. This line only reflects funding for DHS Headquarters Consolidation included in Title I of the DHS appropriations bill. Other funding has been provided under Coast Guard accounts and in general provisions in previous years.
- e. \$24.5 million for the Coast Guard's move to the new headquarters at St. Elizabeths is included under Coast Guard Operating Expenses in Title II.
- f. \$24.5 million for the Coast Guard's move to the new headquarters at St. Elizabeths is included under Coast Guard Operating Expenses and \$10 million is included under Coast Guard Construction for design work on the consolidated headquarters in Title II.
- g. \$24.5 million for the Coast Guard's move to the new headquarters at St. Elizabeths is included under Coast Guard Operating Expenses in Title II and \$89 million for DHS Headquarters Consolidation is included in Title V.

FY2013 Request

The FY2013 request compared to the FY2012 enacted appropriations as follows: OSEM, \$134 million, an increase of \$1 million (0.7%); USM, \$222 million, a decrease of \$14 million (5.9%); OCFO, \$55 million, an increase of \$5 million (9.0%); and OCIO, \$313 million, an increase of \$55 million (21.5%). The total request for departmental management activities in Title I for FY2012 was \$724 million, not including the \$89 million for the consolidation of DHS headquarters on the campus of St. Elizabeths, an effort discussed elsewhere in the report.

Office of the Secretary and Executive Management (OSEM)

The Administration requested \$134 million for OSEM. The Administration's budget proposed separate line items for three offices—the Office of International Affairs, the Office of State and Local Law Enforcement, and the Private Sector Office—that are currently funded under the Office of Policy.

Two program changes funded through this request were for the Citizenship and Immigration Services Ombudsman: \$135,000 to continue the training program—"Counter Violent Extremism Through Community Partnerships"—for state, local, and federal law enforcement personnel; and more than a million dollars to allow the office "to further provide policy advice, investigations, and training" related to ICE Secure Communities and 287(g) programs.¹⁷

Under Secretary for Management (USM)

The Administration requested \$222 million for the USM and 902 full-time employee equivalents (FTEs). Several program changes were proposed under this appropriation:

- The Immediate Office of the Under Secretary for Management (OUSM) includes an increase of \$441,000 for the transfer of the Directives function from the Office of the Chief Administrative Officer to the OUSM;
- The OCHCO includes \$26 million for salaries and expenses and \$10 million for Human Resources Information Technology,¹⁸ including a requested increase of almost \$2 million to realign the Safety function from the OCAO to the OCHCO; and
- The USM includes \$5 million for continued improvements to the Nebraska Avenue Complex.

Office of the Chief Financial Officer (OCFO)

The Administration requested \$55 million for the OCFO, including \$6.7 million for the Financial Systems Modernization effort. According to the OCFO justification, the money will be used to complete the implementation of "a new core financial system at the Federal Emergency Management Agency" in FY2013. The "new financial system is needed ... to accurately account for, track, and report on FEMA resources, and meet minimum federal financial system processing requirements."¹⁹

¹⁷ U.S. Department of Homeland Security, *Departmental Management and Operations, Office of the Secretary and Executive Management, Congressional Justification, Fiscal Year 2013*, pp. OSEM-28 and OSEM-30.

¹⁸ Human Resources Information Technology (HRIT) "supports the overall Mission of the Human Capital Business Systems (HCBS) portfolio to implement and manage a consolidated suite of modernized human resource information technology business solutions by means of leveraging current enterprise solutions, reducing redundancies, and increasing the functionality of HR systems across the Enterprise." (U.S. Department of Homeland Security, *Departmental Management and Operations, Under Secretary for Management, Congressional Justification, Fiscal Year 2013*, p. USM-12.)

¹⁹ U.S. Department of Homeland Security, *Departmental Management and Operations, Office of the Chief Financial Officer, Congressional Justification, Fiscal Year 2013*, pp. OCFO-9 – OCFO-10.

Office of the Chief Information Officer (OCIO)

The Administration requested \$313 million for the OCIO. Within the OCIO account, Infrastructure and Security Activities requested \$122 million, including \$65 million “to fully complete the data center migration activities for CBP, TSA, and USCIS.” The justification stated that “execution of the planned timeline” for the migration “will enable continued closures of the major Component data centers and achieve the Secretary’s goal of the Department’s consolidation to two data centers across the enterprise.”²⁰

House-Passed H.R. 5855

H.R. 5855, as reported by the House Committee on Appropriations, would provide the following appropriations as compared with the President’s request: OSEM, \$122 million (\$12 million or 8.5% less); USM, \$213 million (\$9 million or 4% less); OCFO, \$50 million (\$5 million or 9% less); OCIO, \$242 million (\$71 million or 23% less). The total funding recommended by the House Appropriations committee for management activities under Title I was \$627 million. This represented a decrease of \$97 million, or 13.4%, from the President’s request, not including the handling of the DHS Headquarters project. These reductions were justified by the committee not only on the basis of the need to cover the lack of revenue from unrealized funding proposals that were intended to offset the cost of the bill, but also due to failure to comply with several statutory requirements laid out in previous appropriations bills.

During floor consideration a number of amendments were offered that used departmental management accounts as offsets. In total, these amendments further reduced the budget for management by \$32 million, mostly taking funds from the budget of the USM, leaving them with an appropriation of \$180 million, which is \$41 million (18.6%) less than the requested level.

Office of the Secretary and Executive Management (OSEM)

Within OSEM, funding of up to \$45,000 was recommended for official reception and representation expenses, of which \$17,000 was for international programs within the Office of Policy and activities related to the visa waiver program. These reception and representation expenses were the target of an amendment offered by Representative Flake, who used the funds to increase U.S. Customs and Border Protection Salaries and Expenses by \$43,000. The amendment was agreed to by a voice vote on June 6, 2012.

OSEM was also the target of significant provisions withholding appropriated funds from use. Some \$71 million was withheld from obligation until all reports that are required, by statute, to be submitted with or in conjunction with the FY2014 budget request are received by the committee.²¹ A general provision (Section 549) went further, barring the use of Coast Guard-operated fixed wing aircraft by the Secretary of DHS, her deputy, the Commandant of the Coast Guard, or the Vice Commandant, except in case of emergency, until two key reports are submitted to the House and Senate appropriations committees.²²

²⁰ U.S. Department of Homeland Security, *Departmental Management and Operations, Office of the Chief Information Officer, Congressional Justification, Fiscal Year 2013*, p. OCIO-19.

²¹ H.Rept. 112-492, p. 8.

²² H.R. 5855, pp. 83-85.

In addition, funding of \$5 million was withheld “from obligation for the Office of General Counsel until a final overseas aircraft repair station security regulation has been published.”

Under Secretary for Management (USM)

Under the USM appropriation, more than \$124 million is withheld from obligation until the Committee receives all reports that are, by statute, required to be submitted with or in conjunction with the FY2014 budget request. The House Appropriations Committee recommends a reduction of \$7 million (10%) from the requested level for OCPO for “failure to comply with the statutory requirement to submit on time a comprehensive acquisition report with quarterly updates.”²³

Office of the Chief Financial Officer (OCFO)

Under the OCFO account, more than \$29 million is withheld from obligation until the Committee receives all reports and plans that are, by statute, required to be submitted with or in conjunction with the FY2014 budget request. The report also expresses the view that the House Appropriations Committee does not intend for the appropriations liaisons in OCFO—which were established to ensure the Appropriations Committees have the necessary access to budgetary information—to serve as intermediaries between the committees and department components. The report states that “the Committee expects to hear from relevant components on their areas of responsibility directly.”²⁴

Office of the Chief Information Officer (OCIO)

The recommended appropriation of \$242 million for the Office of the Chief Information Officer would be allocated to two sub-appropriations: \$117 million for salaries and expenses and \$125 million for development and acquisition of information technology equipment, software, services, and related activities. The recommended appropriation also includes \$27 million for Information Technology Services and \$55 million for Security Activities. The House report states that the committee supports “the migration of component resources to the Department’s two consolidated data centers,”²⁵ but does not provide the proposed \$65 million for the migration because of the significant shortfalls in the President’s budget request mentioned above.

Senate-Reported S. 3216

S. 3216, as reported by the Senate Committee on Appropriations, would provide the following appropriations, as compared with the President’s request: OSEM, \$133 million (\$1 million or 0.8% less); USM, \$220 million (\$2 million or 0.7% less); OCFO, \$54 million (\$2 million or 3.1% less); and OCIO, \$248 million (\$65 million or 20.7% less). The total funding provided by the Senate-reported bill for departmental management in Title I was \$655 million. This would represent a decrease of \$69 million, or 9.5%, from the President’s request, not including the funding for DHS headquarters consolidation at St. Elizabeths.

²³ Ibid, p. 19.

²⁴ Ibid., p. 23.

²⁵ Ibid., p. 24.

Office of the Secretary and Executive Management (OSEM)

The committee report highlights a requested programmatic increase for the Office for Civil Rights and Civil Liberties (OCRCL), “including \$1,327,000 for OCRCL to ensure that the Department’s immigration efforts comply with all applicable civil rights statutes and constitutional requirements.”²⁶ Even with this increase the recommended budget for OCRCL is down by roughly \$1 million (3.5%) from FY2012 levels, although it is the level requested for the office by the Administration.

The committee report notes that DHS discontinued funding for its historian, who was tasked with maintaining the historical record of DHS, and encourages the Secretary to fill the position again using funds provided in FY2013.²⁷

The committee report also notes that funding for reception and representation expenses was reduced by 15% for FY2012 and was further reduced by 10% for FY2013 “In recognition of a more constrained budget environment and to limit opportunities for waste and abuse.”²⁸

Under Secretary for Management (USM)

According to the report, the Committee’s recommendation under the USM “includes funding for robust oversight of major acquisitions, recruitment and development of a skilled workforce, and security measures to safeguard DHS personnel, property, facilities, and information.” The report stated that reductions in funding for individual offices below the request, unless otherwise specifically addressed, “are due to a constrained budget environment and to focus limited resources on the Department’s critical operational missions.”²⁹ For the OCHCO, an appropriation of \$35 million was recommended, \$1 million below the request, with the reduction coming in the Salaries and Expenses account.

Office of the Chief Information Officer (OCIO)

For the OCIO, the recommended appropriation of \$248 million included \$121 million for salaries and expenses and \$127 million to be available through FY2015 for technology investments across the department that are overseen by the OCIO, including \$57 million for development and acquisition of information technology equipment, software, services, and related activities. \$65 million for data center migration is carried in a general provision in Title V, bringing the total in the bill for the OCIO to the level of the Administration’s request. The committee report noted that investment in data center consolidation will result in savings of nearly \$3 billion by 2030.³⁰

²⁶ S.Rept. 112-169, p. 12.

²⁷ Ibid., pp. 12-13.

²⁸ Ibid., p. 15.

²⁹ Ibid., p. 17.

³⁰ Ibid., p. 25.

Issues for Congress

The reports of the House and Senate Appropriations committees that accompany H.R. 5855 and S. 3216 identified several issues before the department, including the Administration's proposal to add separate line items under OSEM for three offices, new revenue assumptions underlying the department's budget, the department's chronic lateness in submitting plans and reports required by statute, travel by DHS employees, awards for DHS employees, and conference spending by the department. Brief discussions of each of these issues follow.

Proposed Separate Line Items

The Administration's budget proposed separate line items for three offices—the Office of International Affairs (OIA), the Office of State and Local Law Enforcement (SLLE), and the Private Sector Office (PSO)—that are currently funded under the Office of Policy. Under the proposal, each of the offices would have directly reported to the OSEM. Both the House and Senate Appropriations committees denied the proposal. The House committee noted that none of the offices are headed by individuals who are Senate-confirmed. Stating that the “proposal is inconsistent with the goal of a more streamlined department and of reducing administrative overhead” and that “international affairs policy formulation and coordination” is “an inherently appropriate function of the Office of Policy,” the House committee report “directs the Department to report ... on the potential of establishing an external affairs office that might include, consolidate, and streamline the PSO and SLLE functions, and those of other existing external affairs offices (namely the Offices of Legislative Affairs, Intergovernmental Affairs, and Public Affairs) that currently report to the Secretary.” The report is to be submitted within 90 days after enactment. The House report explained that “The Committee does not suggest any diminution of stakeholder access or priority of any external affairs office” and would allow “the external affairs entities to focus on unique constituencies and better coordinate communications with those constituencies and internally within the Department.”³¹ The Senate committee report noted that DHS has not provided “a compelling rationale for why these offices need to be stand alone entities” and that “these functions have been performed adequately within the Office of Policy.”³²

Revenue Assumptions

The Administration's budget included three legislative proposals that would increase the budgetary resources available to Department: an increase in the aviation security fee, authorization for the use of customs fee revenues, and authority for the CBP to enter into reimbursement agreements with outside parties to provide customs services.

The House rejected all three proposals. The House committee report noted in the Chief Financial Officer's section that “the President's budget once again assumes that new revenue will be realized in the coming fiscal year,” and that in the case of the new aviation security fee increase, the Congressional Budget Office estimates “a shortfall of \$115 million” in the DHS budget because the assumptions are dependent “on enactment of new legislative authority that is outside the jurisdiction of the Committee.”³³ According to the report:

³¹ H.Rept. 112-492, pp. 8-9.

³² S.Rept. 112-169, p. 12.

³³ H.Rept. 112-492, p. 22.

As this Committee has underscored repeatedly over the past several Congresses, such an approach to budgeting is unrealistic and requires this Committee to take drastic measures to offset the unnecessary gap. The Committee reiterates its message—it rejects such budgetary legerdemain. The consequences, in terms of additional reductions to Department requests, are evident throughout this bill. If and when such proposals are enacted into law, the Committee will take them into account as it drafts legislation, and the Department should keep the Committee informed of any progress in this regard. However, until that occurs, such proposals will not be treated as relevant to its appropriations work.³⁴

The CBP fee issue is addressed in more detail later in the report, and the House was silent on the proposal to allow CBP to enter into reimbursable agreements to provide customs services.

The Senate Appropriations Committee included all three provisions, but does not address them under this title in the report. Because the House bill does not include any revenue provisions, should the Senate language be added to the House bill, constitutional issues may arise with the Senate-originated revenue provisions. Under Article I, Section 7 of the Constitution, legislation including provisions raising revenue must originate in the House of Representatives rather than in the Senate.³⁵

Plans and Reports Required by Statute

The House committee report expressed concern about the late submission of plans and reports and plans that are required by statute to be transmitted to Congress and, therefore, withheld a portion of funding from departmental management accounts as detailed in the section on FY2013 House-reported actions. According to the report:

The Department has been egregiously late in responding to Congressional direction, including failing to submit the majority of statutorily required reports on time. This failure to comply with the law is wholly unacceptable.... The investment plans, expenditure plans, reports, and justifications outlined by the Committee are essential if it is to help DHS better protect the American people and live up to exacting standards of fiscal responsibility.

Such plans are vital to the Committee's oversight work, yet in far too many instances such plans—which should reflect decisions already made by the Department to align current program priorities with resources—have been inexcusably late, incomplete, or have not yet been submitted at all. In some cases, expenditure plans that should have been submitted at the beginning of a fiscal year to show how the Department planned to expend its funding, instead have been submitted well after the end of the fiscal year.

The Committee expects the Department to comply with these statutory requirements, with regard to both content and schedule. The Committee notes that the majority of statutorily required reports and plans are presently more than three months late....³⁶

The Senate-reported bill proposes withholding 59% of the budgets of OSEM, USM and CFO though a general provision “until all statutorily required expenditure reports are submitted on time.” This generally has the same effect as the House provision (the House withholdings,

³⁴ Ibid., p. 22.

³⁵ For a more detailed discussion of this issue, please consult CRS Report RL31399, *The Origination Clause of the U.S. Constitution: Interpretation and Enforcement*, by James V. Saturno.

³⁶ Ibid., pp. 6, 10, and 11.

proposed as fixed numbers, were roughly 58% of the committee recommended levels), but House floor action reduced the USM budget to the point that if its provisions were to become law for FY2013, 70% of the USM budget would be withheld.

Travel by DHS Employees

The House committee report expressed concern “that travel by some Department officials fails to meet the test of being both necessary and efficient” and that travel expenditures “are far beyond what is provided in law.” The concern extended to non-emergency travel using departmental assets, “such as Coast Guard aircraft, to transport agency officials for non-operational purposes.” Noting that current law requires the costs of government aircraft used for official travel by the Secretary and Deputy Secretary to be paid for from amounts made available for their offices, the report stated that hearing testimony has revealed that the Coast Guard is covering “a significant amount of travel costs.” The report stated the committee’s expectation that the department will comply with the law and “directs the Department to provide a semi-annual briefing to the Committee, with detailed emphasis on foreign travel” and including estimates of the cost and funding source of such travel, “destinations, and purposes.”³⁷

The Senate committee report briefly mentions cutting travel as a means of reducing overhead, but it does not require a briefing.³⁸

Awards for DHS Employees

The House committee report noted that “many Department components, offices, and sub-offices” are giving performance awards and quality step increases “to more than half the employees in an organization” and “in some cases, reaching 90 percent or higher.” The report expressed the committee’s view that this practice “gives the appearance that such incentive awards are being used simply as another form of compensation in lieu of pay increases” and included a directive requiring the Secretary to submit a report on the standards for performance awards, their use compared with federal agencies that are similar to the department, and that clarifies use to reward “extraordinary or sustained high levels of performance.”³⁹ The report would be submitted within 90 days after the act’s enactment.

The Senate report does not comment on this issue.

Conference Spending

The House committee report, noting the findings of the General Services Administration (GSA) inspector general with regard to GSA conference spending and the necessity for better “oversight of expenditures during the current fiscal climate,” would require the department’s Office of Inspector General to report on “whether the Department has effective procedures in place to ensure compliance with all applicable Federal laws and regulations on travel, conferences, and employee awards programs.”⁴⁰ The report would be submitted to the Committee within 30 days

³⁷ Ibid., p. 15.

³⁸ S.Rept. 112-169, pp. 11, 15.

³⁹ H.Rept. 112-492, pp. 15-16.

⁴⁰ Ibid., p. 16.

after the act's enactment. New general provisions related to conference spending are also included at Sections 556 and 557 of the House and Senate bills.

Both bills include a provision requiring a quarterly report to the DHS OIG on every "conference, ceremony or similar event" that costs the government more than \$20,000. The OIG would then report to the committee after the end of FY2013 on the department's spending on these events. The Senate provision goes on to restrict the use of grants or contracts funded by the department to fund conferences unrelated to the original purpose of the grant or contract award, and bars the use of funds for travel or conference activities that do not comply with OMB Memorandum M-12-12, which provides government-wide direction on spending on travel, conferences, real property, and fleet management.⁴¹

Both bills also limit the number of employees that can attend an overseas conference. The House limits attendance to 50 employees of DHS at any single conference outside the United States, unless the conference is a training or operation conference for law enforcement, and the majority of federal attendees are law enforcement officers. The Senate caps attendance at 50 employees per DHS component, unless the Secretary notifies the Appropriations committees in advance that attendance is important to the national interest.⁴²

DHS Headquarters Consolidation⁴³

The Department of Homeland Security's headquarters footprint occupies more than 7 million square feet of office space in about 45 separate locations in the greater Washington, DC, area. This is largely a legacy of how the department was assembled in a short period of time from 22 separate federal agencies who were themselves spread across the National Capital region. The fragmentation of headquarters is cited by the Department as a major contributor to inefficiencies, including time lost shuttling staff between headquarters elements; additional security, real estate, and administrative costs; and reduced cohesion among the components that make up the department.

To unify the department's headquarters functions, the department and General Services Administration (GSA) approved a \$3.4 billion master plan to create a new DHS headquarters on the grounds of St Elizabeths in Anacostia. According to GSA, this would be the largest federal office construction since the Pentagon was built during World War II. \$1.4 billion of this project was to be funded through the DHS budget, and \$2 billion through the GSA.⁴⁴ Thus far \$375 million has been appropriated to DHS for the project and \$871 million to GSA. Phase 1A of the project—a new Coast Guard headquarters facility—is nearing completion with the funding already provided by Congress.

Not all DHS functions in the greater Washington, DC, area are slated to move to the new facility. The Administration has sought funding several times in recent years for consolidation of some of those other offices to fewer locations to save money on lease costs.

⁴¹ H.R. 5885, Sec. 557; S. 3216, Sec. 556; and OMB Memorandum M-12-12, May 11, 2012.

⁴² H.R. 5885, Sec. 556; S. 3216, Sec. 557.

⁴³ Prepared by William L. Painter, Analyst in Emergency Management and Homeland Security Policy, Government and Finance Division.

⁴⁴ U.S. Congress, House Committee on Appropriations, Subcommittee on Homeland Security, *Homeland Security Headquarters Facilities*, 111th Cong., 2nd sess., March 25, 2010 (Washington: GPO, 2010), pp. 335-366.

FY2013 Request

The Administration requested \$89 million for the activities related to the St. Elizabeths DHS headquarters project as part of the budget for departmental operations. The funding was requested for a highway interchange that would handle some of the increased traffic generated by the consolidated headquarters facility.⁴⁵ This is an element that would support the project, but that has not traditionally been funded through the Homeland Security appropriations bill. Usually these types of infrastructure elements would have been funded through the budgets of the General Services Administration or Department of Transportation. The Administration also requested \$24.5 million under the Coast Guard operating expenses budget for the cost of moving the Coast Guard into its new facility in the third quarter of FY2013. No other requests for funding for the DHS consolidated headquarters project were included in the budget submission to Congress.

House-Passed H.R. 5855

The House Appropriations Committee recommended no funding for the highway interchange or any part of the St. Elizabeths project through the management accounts, noting the irregularity of funding a highway interchange through the Homeland Security bill. The bill does provide the Administration's requested funding for the Coast Guard to move to the new facility. In addition, \$10 million is provided through the Coast Guard's construction budget to provide additional support for the project.

In the report accompanying H.R. 5855, the committee noted the following:

The Committee recommends no new construction funding in the bill for new Departmental Headquarters Consolidation expansion. This is \$89,000,000 below the request. Funding is included, as requested, as part of the Coast Guard appropriation to cover the costs associated with completing the move of the Coast Guard headquarters to St. Elizabeths. Associated with this, as described below, is additional funding under Coast Guard construction to ensure completion of the current project, improve site access, and support analysis for follow on work and any necessary planning adjustments for schedule, scope, and cost.

...

The Committee understands that the Department, through USM, is actively exploring options to creatively modify or consolidate current leases, in the expectation that a permanent headquarters construction site will be significantly delayed or amended. The Committee encourages the Department to continue this effort and to inform the Committee of its progress in consolidation no later than 90 days after the date of enactment of this Act, including a revised schedule and cost estimates. Further, as noted above, the Committee includes \$10,000,000 under the Coast Guard Acquisition, Construction, and Improvements account to complete Phase 1 of construction, ensure Coast Guard will be able to move in 2013 and that there will be no obstacles to access and transportation into the site, and to support orderly planning and analysis for the overall project.⁴⁶

⁴⁵ Department of Homeland Security, *Departmental Management and Operations Fiscal Year 2013 Congressional Justification*, DHS Headquarters Consolidation Project, Washington, DC, February 2012, pp. 1-2.

⁴⁶ H.Rept. 112-492, pp. 19-20.

In the minority views accompanying the report, the ranking members of the subcommittee and full committee noted the following:

The bill also fails to provide the \$89 million for site access, including necessary road and interchange improvements, for DHS personnel to access the new DHS headquarters. The new DHS headquarters project has been shortchanged over the past few years, causing repeated schedule delays and increasing the costs from \$3.4 billion to just over \$4 billion if all three phases are constructed. In the interim, the Coast Guard may be the only tenant at this new facility for the next 3–5 years, as the bill funds only this relocation in 2013. The bill does not include any funding for Phase 2, which was to begin construction for DHS central headquarters and FEMA.⁴⁷

No amendments were considered on the House floor addressing DHS headquarters consolidation.

Senate-Reported S. 3216

The Senate Appropriations Committee recommended \$89 million for the highway interchange, although it was funded as a part of the Under Secretary for Management’s office through a general provision rather than as a stand-alone appropriation in departmental operations as it was requested. The committee also fully funded the Coast Guard’s move under Coast Guard operating expenses. No funding was provided for the project through the Coast Guard construction budget. An attempt was made to use the \$89 million for the highway interchange as an offset for an unrelated amendment in full committee markup of the bill. The amendment failed, and the funding remains in the reported version of the legislation.

In the report accompanying S. 3216, the committee noted the following:

Pursuant to section 549, a total of \$89,000,000 is provided for “Office of the Under Secretary for Management” for costs associated with headquarters consolidation and mission support consolidation. The Under Secretary shall submit an expenditure plan no later than 90 days after the date of enactment of this act detailing how these funds will be allocated, including a revised schedule and cost estimates for headquarters consolidation. Quarterly briefings are required on headquarters and mission support consolidation activities, including any deviation from the expenditure plan. According to the Department, an updated plan is being developed in coordination with the General Services Administration to complete the headquarters consolidation project in smaller, independent segments that are more fiscally manageable in the current budget environment. The Department expects this updated plan to be completed by the end of summer 2012 and it is to be submitted to the Committee upon its completion. The Committee expects the plan to identify the discrete construction segments, the associated resource requirements for each segment, and the proposed timeline for requesting funding to complete each segment.⁴⁸

Analysis and Operations⁴⁹

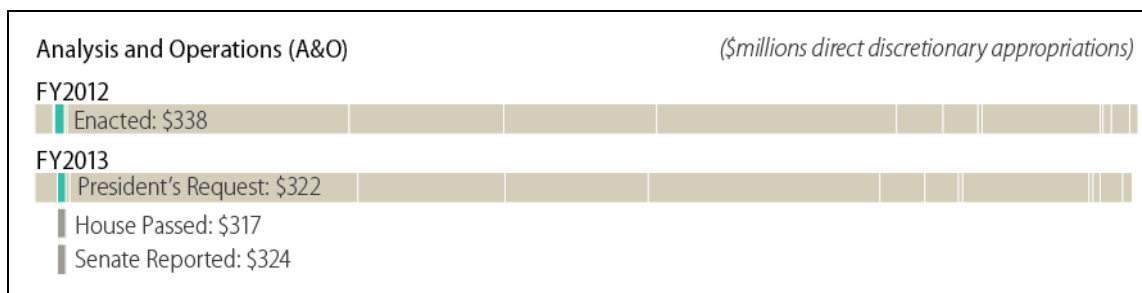
Funds included in the Analysis and Operations account support both the Office of Intelligence and Analysis (I&A) and the Office of Operations Coordination and Planning (OPS). I&A is

⁴⁷ H.Rept. 112-492, p. 204.

⁴⁸ S.Rept. 112-169, p. 20.

⁴⁹ Prepared by Jerome P. Bjelopera, Specialist in Organized Crime and Terrorism, Domestic Social Policy Division.

responsible for managing the DHS intelligence enterprise and for collecting, analyzing, and sharing intelligence information for and among all components of DHS, and with the state, local, tribal, and private sector homeland security partners. Because I&A is a member of the intelligence community,⁵⁰ its budget comes in part from the classified National Intelligence Program.⁵¹ OPS develops and coordinates departmental and interagency operations plans and manages the National Operations Center, the primary 24/7 national-level hub for domestic incident management, operations coordination, and situational awareness, fusing law enforcement, national intelligence, emergency response, and private sector information.



FY2013 Request

The FY2013 request for the Analysis and Operations account was \$322 million, a decrease of \$16 million (4.7%) from the enacted FY2012 level of \$338 million. The account request includes funding for 849 FTE, a decrease of 2 FTE from 2012.

House-Passed H.R. 5855

The House passed \$317 million for the Analysis and Operations account, \$4.5 million (1.4%) below the amount in the President's FY2013 request. The recommendation is \$21 million (6.1%) less than the amount enacted in FY2012.

According to H.Rept. 112-492, the House Committee on Appropriations also recommended denying the proposed:

- increase in executive service salaries for the Office of Operations Coordination and Planning;
- increase in funding associated with the Air Domain Intelligence Integration Element; and

⁵⁰ The intelligence community (IC), as defined in 50 USC 401a(4), includes the Central Intelligence Agency, the National Security Agency, the National Reconnaissance Office, the National Geospatial-Imagery Agency, the Defense Intelligence Agency, the Bureau of Intelligence and Research of the State Department, the Office of Intelligence and Analysis of the Treasury Department, DHS's I&A as well as intelligence elements within the Federal Bureau of Investigation, the Drug Enforcement Administration, the Department of Energy, the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard.

⁵¹ The National Intelligence Program "funds Intelligence Community (IC) activities in six Federal departments, the Central Intelligence Agency, and the Office of the Director of National Intelligence. The IC provides intelligence collection, the analysis of that intelligence, and the responsive dissemination of intelligence to those who need it—including the President, the heads of Executive Departments, military forces, and law enforcement agencies." See <http://www.gpo.gov/fdsys/pkg/BUDGET-2013-BUD/pdf/BUDGET-2013-BUD-8.pdf>.

- decrease to Cybersecurity Analysis (thus restoring funding for this function).

No changes to those positions were made in House floor action.

Senate-Reported S. 3216

The Senate Appropriations Committee recommended \$324 million for the Analysis and Operations account. This is an decrease of \$14 million (4.1%) below the enacted FY2012 amount of \$338 million and an increase of \$2 million (0.6%) from the President's FY2013 request. It is an increase of \$7 million (2.2%) above the amount passed in the House.

According to S.Rept. 112-169, the Senate Committee on Appropriations required DHS's Chief Intelligence Officer to submit an expenditure plan for FY2013 no later than 60 days after the enactment of the appropriations bill. The Committee directed DHS to focus the plan on I&A's functions that provide unique expertise or serve intelligence customers who are not supported by other components of the intelligence community. The Committee also directed I&A to continue its semi-annual briefings on the State and Local Fusion Centers program.

Issues for Congress

Some Members of Congress have voiced concerns about I&A's mission. For example, Representative Sue Myrick has stated that "I&A historically has suffered from a lack of focus in its mission. This challenge partially stems from vague or overlapping authorities in some areas."⁵² Representative Myrick made these comments in an opening statement for a January 2012 House of Representatives Permanent Select Committee on Intelligence Subcommittee on Terrorism, Human Intelligence, Analysis, and Counterintelligence hearing about DHS's role in the intelligence community.⁵³ The hearing centered on a report about DHS's intelligence mission issued by the Aspen Institute.⁵⁴ While not specifically covering I&A, the report suggested that intelligence activities at DHS should avoid duplication of efforts—such as general analysis of terrorist activities—performed by other agencies. Rather, according to the Aspen Institute,

DHS's mandate should allow for collection, dissemination, and analytic work that is focused on more specific homeward-focused areas. First, the intelligence mission could be directed toward areas where DHS has inherent strengths and unique value (e.g., where its personnel and data are centered) that overlap with its legislative mandate. Second, this mission direction should emphasize areas that are not served by other agencies, particularly state/local partners whose needs are not a primary focus for any other federal agency.⁵⁵

⁵² U.S. Congress, House Permanent Select Committee on Intelligence, Subcommittee on Terrorism, Human Intelligence, Analysis and Counterintelligence, *The Role of DHS in the IC: A Report by the Aspen Institute*, 112th Cong., 2nd sess., January 18, 2012, Opening Statement (as prepared) by Rep. Sue Myrick, p. 1, <http://intelligence.house.gov/sites/intelligence.house.gov/files/documents/011812MyrickOpeningStatement.pdf>.

⁵³ See U.S. Congress, House Permanent Select Committee on Intelligence, Subcommittee on Terrorism, Human Intelligence, Analysis, and Counterintelligence, *The Role of DHS in the IC: A Report by the Aspen Institute*, 112th Cong., 2nd sess., January 18, 2012, <http://intelligence.house.gov/hearing/subcommittee-terrorism-humint-analysis-and-counterintelligence-role-dhs-ic-report-aspen>.

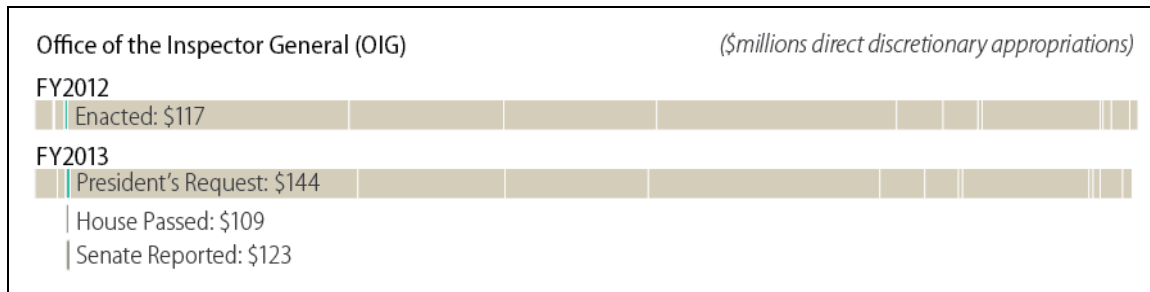
⁵⁴ Aspen Institute, *Homeland Security and Intelligence: Next Steps in Evolving the Mission*, January 18, 2012, http://www.aspeninstitute.org/publications/homeland-security-intelligence-next-steps-evolving-mission?utm_source=as.pn&utm_medium=urlshortener.

⁵⁵ *Ibid.*, p. 3.

The language in S.Rept. 112-169 requiring DHS to provide an expenditure plan centered around I&A’s functions also highlights concerns regarding I&A’s mission, particularly its potential duplication of intelligence efforts by other federal agencies.

Office of the Inspector General⁵⁶

The DHS Office of the Inspector General (OIG) is intended to be an independent, objective body that conducts audits and investigations of the department’s activities to prevent waste, fraud and abuse; keeps Congress informed about problems within the department’s programs and operations; ensures DHS information technology is secure pursuant to the Federal Information Security Management Act; and reviews and makes recommendations regarding existing and proposed legislation and regulations to the department. The OIG reports to Congress and the Secretary of DHS.⁵⁷



FY2013 Request

The OIG requested \$144 million. New funding of \$2.6 million was requested to fulfill the directive of the Implementing the Recommendations of the 9/11 Commission Act (P.L. 110-53) “that the OIG conduct audits of all states that received FEMA grant funds to prevent, prepare for, protect against, or respond to natural disasters, acts of terrorism, and other disasters.” According to the DHS justification, the new appropriation “will allow the OIG to conduct most of the remaining 23 audits in FY2013 and position the OIG to complete all 61 audits by the deadline.”⁵⁸

House-Passed H.R. 5855

The House-passed bill includes \$109 million for the DHS OIG. Expressing “dissatisfaction with the quality of communication with the Committee with regard to border corruption investigations, and in particular, issues with coordinating these with ICE and CBP,”⁵⁹ the committee reduced the OIG appropriation by \$10 million specifically for that reason. Furthermore, the Committee chose

⁵⁶ Prepared by Barbara L. Schwemle, Analyst in American National Government, Government and Finance Division, and William L. Painter, Analyst in Emergency Management and Homeland Security Policy, Government and Finance Division.

⁵⁷ H.Rept. 112-469, p. 25.

⁵⁸ U.S. Department of Homeland Security, *Office of Inspector General, Audits, Inspections and Investigations, Congressional Justification, Fiscal Year 2013*, p. OIG-9.

⁵⁹ *Ibid.*, p. 26.

to fund \$24 million of the OIG's budget through a transfer from FEMA's Disaster Relief Fund—rather than through direct appropriations from the treasury—specifically to pay for disaster-related audits and investigations. No changes were made to these provisions on the House floor.

Senate-Reported S. 3216

The Senate-reported bill includes \$123 million (\$21 million less than the President's request) for the base appropriation for the DHS OIG. Like the House-passed bill, the Senate-reported bill expects \$24 million to come from FEMA's Disaster Relief Fund (DRF), thus providing a net \$3 million increase above the request. The Senate committee report indicates that the additional funding is to be used for investigating corruption and criminal conduct at CBP and ICE, and that the recommendation includes the increase requested to complete all audits mandated under P.L. 110-53 of the State Homeland Security Program and grants under the Urban Area Security Initiative grants by the August 20, 2014, deadline.

Issues for Congress

OIG Mandates

Both House and Senate bills and reports require the OIG to conduct reviews and provide reports, briefings, or determinations to the Appropriations Committees on a variety of matters including

- An expenditure plan for its budget, and monthly reports on transfers from the DRF;
- Steps taken to ensure the integrity of CBP and ICE officers;
- DHS expenditures on special events;
- DHS non-competitive contract awards; and
- Reviews of the operations of local law enforcement under 287(g) agreements.

In addition the House directs that the OIG:

- Report on whether DHS has effective procedures in place to ensure compliance with all applicable federal laws and regulations on travel, conferences, and employee awards programs;
- Continue to conduct “red team” inspections of TSA screening;
- Brief the Committee on its assessment of adjudication fraud detection reforms by United States Citizenship and Immigration Services; and
- Review excessive delays in determinations concerning FEMA's public assistance programs.

The Senate does not include those provisions, but instead directs that the OIG provide a review of FEMA's application of its own rules regarding awarding public assistance funds for debris removal.

Although in many cases these tasks represent new work for the OIG, with the exception of integrity investigations of ICE and CBP officers in the Senate bill, no additional funding is dedicated for this work.

Title II: Security, Enforcement, and Investigations

Title II of the DHS appropriations bill, which includes over three-quarters of the budget authority provided in the legislation, contains the appropriations for U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), the Transportation Security Administration (TSA), the U.S. Coast Guard (USCG), and the U.S. Secret Service (USSS). The Administration requested \$30,759 million for these accounts in FY2013, a decrease of \$768 million (2.4%) below the enacted level. The House-passed bill provides \$30,946 million, an increase of 0.6% from the requested level and 1.8% below FY2012. The Senate-reported bill provides \$30,974 million, 0.7% above the request and 1.8% below FY2012. **Table 8** lists the enacted amounts for the individual components of Title II for FY2012 (as of August 1, 2012), the Administration's request for these components for FY2013, and the House-passed and Senate-reported appropriations for the same.

Table 8. Title II: Security, Enforcement, and Investigations, FY2012-FY2013

(budget authority in millions of dollars)

	FY2012 Enacted	FY2013 Appropriation			Enacted
		Request	House- passed	Senate- reported	
Customs and Border Protection					
Salaries and Expenses	8,680	9,011	8,366	8,770	
Automation Modernization	334	328	700	328	
Border Security Fencing, Infrastructure, and Technology	400	327	334	327	
Air and Marine Interdictions	504	436	519	507	
Facilities Management	237	244	253	244	
US-VISIT ^a	0	0	0	279	
Appropriation	10,155	10,345	10,172	10,454	
Fees, Mandatory Spending, and Trust Funds	1,502	1,626	1,516	1,516	
Total Budgetary Resources	11,657	11,971	11,689	11,971	
Immigration & Customs Enforcement					
Salaries and Expenses	5,529	5,297	5,236	5,295	
Automation & Infrastructure Modernization	22	31	232	31	
Construction	0	5	5	5	
Appropriation	5,551	5,332	5,474	5,330	
Fees, Mandatory Spending, and Trust Funds	312	312	312	312	
Total Budgetary Resources	5,863	5,644	5,786	5,642	

	FY2012 Enacted	FY2013 Appropriation		
		Request	House- passed	Senate- reported
Transportation Security Administration				
Aviation Security (net funding)	3,224	2,914	2,971	2,702
Surface Transportation Security	135	124	126	124
Transportation Threat Assessment and Credentialing (net funding)	164	193	192	193
Transportation Security Support	1,032	970	929	970
Federal Air Marshals	966	930	880	930
Appropriation	5,521	5,130	5,098	4,919
Fees, Mandatory Spending, and Trust Funds	2,320	2,515	2,400	2,715
Total Budgetary Resources	7,841	7,645	7,498	7,633
U.S. Coast Guard				
Operating Expenses ^b	7,051	6,791	6,765	7,073
Environmental Compliance & Restoration	14	13	12	13
Reserve Training	134	133	116	133
Automation Modernization	—	—	45	—
Acquisition, Construction, & Improvements	1,404	1,217	1,429	1,471
Research, Development, Testing, and Evaluation	28	20	20	20
Health Care Fund Contribution ^c	262	203	203	203
Discretionary Appropriation	8,634	8,377	8,589	8,659
Fees, Mandatory Spending, and Trust Funds	1,654	1,640	1,640	1,640
Overseas Contingency Operations Adjustment	258	0 ^d	0	254
Total Budgetary Resources	10,546	10,017	10,229	10,553
U.S. Secret Service				
Salaries and Expenses	1,661	1,544	1,556	1,556
Acquisition, Construction, and Improvements	5	57	57	57
Appropriation	1,667	1,601	1,613	1,613
Fees, Mandatory Spending, and Trust Funds	245	250	250	250
Total Budgetary Resources	1,912	1,851	1,863	1,863
Net Discretionary Budget Authority: Title II	31,527	30,759	30,946	30,974
Total Budgetary Resources for Title II Components before Transfers	37,813	37,128	37,070	37,662

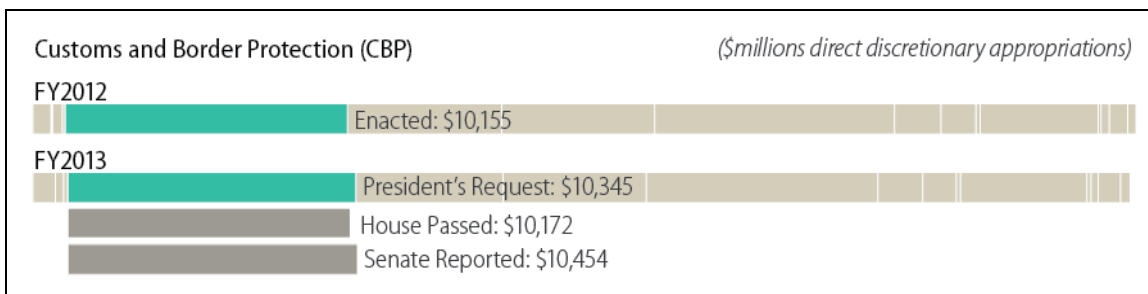
Sources: CRS analysis of the DHS FY2013 Congressional Budget Justification, H.Rept. 112-331 (for FY2012), H.R. 5855, H.Rept. 112-492, and S.Rept. 112-169.

Notes: Amounts may not total due to rounding.

- a. The Administration proposed in the FY2013 budget request moving US-VISIT from NPPD and dividing it between ICE and CBP. As is reflected here, the Senate proposed moving the resources to CBP, then transferring \$18 million to ICE. The House only partially funded the transfer, and did so through the existing appropriations structure.
- b. Overseas contingency operations funding is displayed in this line, but is not added to the appropriations total, in accordance with the appropriations committees' practices for subtotaling this account. This funding is not reflected in the total appropriation for the Coast Guard.
- c. This is permanent indefinite discretionary spending, and therefore scores as being in the bill, despite not being explicitly appropriated in the bills' legislative language.
- d. \$254 million was requested as a permissive transfer from the Department of Defense to cover the Coast Guard's overseas contingency operations costs. However, these charts do not track activity in other appropriations bills or transfers.

Customs and Border Protection⁶⁰

CBP is responsible for security at and between ports of entry (POE) along the border, with a priority mission of preventing the entry of terrorists and instruments of terrorism. CBP officers inspect people (immigration enforcement) and goods (customs enforcement) at POEs to determine if they are authorized to enter the United States. CBP officers and agents enforce more than 400 laws and regulations at the border to prevent illegal entries.



CBP's major programs include *Border Security Inspections and Trade Facilitation*, which encompasses risk-based targeting and the inspection of travelers and goods at POEs; *Border Security and Control between Ports of Entry*, which includes the U.S. Border Patrol; *Air and Marine Interdiction*; *Automation Modernization*, which includes customs and immigration information technology systems; *Border Security Fencing, Infrastructure, and Technology (BSFIT)*; *Facilities Management*; and a number of immigration and customs user *Fee Accounts*. See **Table 8** for account-level detail for all of the agencies in Title II, and **Table 9** for subaccount-level detail for CBP appropriations and funding for FY2012-FY2013.

FY2013 Request

The Administration requested an appropriation of \$10,345 million in net budget authority for CBP for FY2013, an increase of \$190 million (1.9%) over the enacted FY2012 level of \$10,155 million. The Administration's total request includes \$1,626 million in fees, mandatory spending,

⁶⁰ Prepared by Marc R. Rosenblum, Specialist in Immigration Policy, Domestic Social Policy Division.

and trust funds, for a gross budget request of \$11,971 million, which is a \$320 million (2.8%) increase from the enacted FY2012 level of \$11,651 million.

The request included the following program changes from FY2012:

- Transfer of most of the U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) program from the National Protection Programs Directorate (NPPD) into CBP, with a \$261.5 million increase to CBP;
- Increase of \$31 million for the operation and maintenance of the Automated Targeting System (ATS), which screens incoming cargo and travelers, and of \$38.7 million for the Office of Intelligence and Investigative Liaison and \$8 million for the National Targeting Center, both of which work with the ATS to improve security-related targeting rules (see “Cargo Security” below);
- Increase of \$13 million for the Container Security Initiative, which scans certain U.S.-bound cargo in foreign ports (see “Cargo Security” below);
- Increase of \$10 million for intellectual property rights enforcement and of \$3 million to expand CBP’s Centers for Excellence and Expertise, which work with certain industries to facilitate the import process;
- Decrease of \$68.2 million for the Office of Air and Marine Interdictions (OAM) from acquisition of fewer new aircraft than in the last two fiscal years, and a decrease of \$7.1 million for Air and Marine salaries from fewer air missions;
- Decrease of \$52.3 million in management and administration staffing and services from savings related to human resources activities and administrative staff and expenses within the Office of the Commissioner, the Office of Information Technology, the Office of Administration, and the Office of Public Affairs;
- Decrease of \$41.2 million in fleet acquisition and management from deferring acquisition of new non-mission critical vehicles and reducing fuel and maintenance costs;
- Decrease of \$36.8 million for information technology infrastructure and support by deferring replacement of equipment and technical upgrades;
- Decrease of \$31 million for nonintrusive inspection (NII) operations and maintenance by relying exclusively on currently fielded NII equipment;
- Decrease of \$21.1 million in CBP officer overtime expenses, \$9.2 million in field support staff salaries and expenses from reductions in operational support, and \$7 million in Air and Marine salaries and expenses from reducing low priority missions;
- Decrease of \$14.7 million in training expenses by reducing certain specialized training programs; and
- Decrease of \$12.3 million in CBP transportation program from lower workload requirements (due to fewer apprehensions) and cost reductions from a new transportation contract.

House-Passed H.R. 5855

The House approved \$10,172 in net budget authority for CBP for FY2013, an increase of \$17 million (0.2%) from last year's appropriation and a decrease of \$173 million (1.7%) from the President's request. Under the House-passed bill, CBP would have would receive \$11,689 in gross budget authority, which is a \$37 million (0.3%) increase over last year's level and a \$283 million (2.4%) decrease from the President's request.

These numbers include several amendments to the House-reported version of the bill, including amendments to add \$43,000 to CBP salaries and expenses to support completion of a staffing model; to add \$10 million to the BSFIT account to fund communications infrastructure in border communities; and to cut \$3 million from the BSFIT appropriation (a cut targeting environmental mitigation), with \$624,000 added to the Office of Air and Marine Interdiction's Operations, Maintenance and Procurement account.⁶¹

Senate-Reported S. 3216

The Senate Appropriations Committee proposed \$10,454 in net budget authority for CBP for FY2013, an increase of \$299 million (3.0%) from last year's appropriation and of \$109 million (1.1%) from the President's request. The Senate-reported bill includes \$11,971 in gross budget authority, which is a \$319 million (2.7%) increase over last year's appropriation and a \$0.6 million decrease from the President's request.

Table 9. U.S. Customs and Border Protection Account Detail

Budget Authority in Millions of Dollars

	FY2012 Enacted	FY2013 Appropriation			Enacted
		Request	House- passed	Senate- reported	
Salaries and Expenses ^a	8,680	9,011	8,366 ^b	8,770	
<i>Headquarters Management and Administration</i>	1,869	1,882	1,431	1,879	
<i>Border Security Inspections and Trade Facilitation</i>	2,904	2,960	3,044	2,977	
<i>Border Security and Control Between POE</i>	3,620	3,626	3,606	3,626	
<i>Air and Marine Operations—Salaries</i>	288	281	285	288	
<i>US-VISIT</i>	NA	262	NA	279 ^c	
Automation Modernization	334	328	700 ^b	328	
BSFIT	400	327	334	327	
Air and Marine Interdiction	504	436	519	507	

⁶¹ The rules of the House require that appropriations amendments not increase either budget authority or outlays for the coming fiscal year. The BSFIT account draws down its resources more slowly than the Office of Air and Marine interdiction, so it takes a \$3 million cut in one to offset a \$0.624 million increase in the other. For a more detailed discussion of this matter, see pages 5-8 of CRS Report RL31055, *House Offset Amendments to Appropriations Bills: Procedural Considerations*, by Jessica Tollestrup.

	FY2012 Enacted	FY2013 Appropriation		
		Request	House- passed	Senate- reported Enacted
Facilities Management	237	244	253	244
Total Net Appropriation	10,155	10,345	10,172	10,454
Estimated Fees, Mandatory Spending and Trust Funds ^d	1,496	1,626	1,516	1,516
Total CBP Budget Authority	11,651	11,971	11,689	11,971

Source: H.Rept. 112-492, S.Rept. 112-169.

Notes: Amounts may not total due to rounding. POE refers to ports of entry. CBP refers to U.S. Customs and Border Protection. BSFIT refers to Border Security Fencing, Infrastructure, and Technology. US-VISIT refers to the U.S. Visitor and Immigrant Status Indicator Technology program.

- a. The Administration proposed transferring US-VISIT into CBP and ICE in its FY2013 budget request. The House included \$12 million for a portion of US-VISIT's funding under "Border Security Inspectors and Trade Facilitation." The Senate created a new line specifically for funding US-VISIT distinct from other CBP activities.
- b. Includes a realignment of \$375 million for the Office of Information and Technology from Salaries and Expenses Account to Automation Modernization.
- c. The Senate bill provides this amount as a separate appropriation outside the Salaries and Expenses total, and it includes \$18 million to be transferred to U.S. Immigration and Customs Enforcement.
- d. This line includes a decrease of \$8 million due to an adjustment to the Small Airport User Fee and an increase of \$6 million in the Customs Unclaimed Goods Trust Fund.

Continuing Resolution

A continuing resolution (CR) (P.L. 112-175) was signed into law on September 28, 2012, to fund the federal government through March 27, 2013, or until the general appropriations bills for FY2013 are enacted. The CR provides for DHS, with some limitations, to continue operations in FY2013 with the same funding it received in FY2012, plus a 0.612% increase (see "Operating Under a Continuing Resolution"). In addition to the general limitations discussed above, Section 136 of the CR requires that funds in the CBP Salaries and Expenses Account be obligated to maintain staffing for border patrol agents, CBP officers, and Office of Air and Marine interdiction agents at the same levels as those in effect at the end of the fourth quarter of FY2012. In the case of the border patrol, the CR further requires that staffing levels comply with P.L. 112-74, Division D, which establishes a minimum of 21,370 full time equivalent agents. The CR directs the Commissioner of CBP, by October 28, 2012, to provide Congress with a detailed spending plan that specifies how CBP will adjust the Salaries and Expenses account to maintain these staffing levels.

Issues for Congress

A number of policy issues related to CBP have come up during the FY2013 appropriations cycle, including questions about the US-VISIT program, the use of customs user fees, CBP staffing, cargo security, and border surveillance technology (ground-based and aerial).

U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) Program

The US-VISIT program tracks the entry and exit of foreign visitors to and from the United States by collecting and storing biographic and biometric identification information about them. This information is shared with a wide range of federal, state and local government agencies to help identify people who may pose a risk to the United States. US-VISIT stores biographic data (i.e., names, birthdates, and certain migration information) in the Arrival and Departure Information System (ADIS) database, and it stores biometric data (i.e., 10-print digital fingerprints and a photograph) in the Automated Biometric Identification System (IDENT) database. Biographic data are collected from travelers' I-94 forms as they enter the United States; and biometric data are collected from certain non-citizens when they receive visas at U.S. consulates, enter the United States at ports of entry, petition for immigration benefits, or are apprehended by CBP or U.S. Immigration and Customs Enforcement (ICE). With over 138 million records, IDENT is the largest biometric database in the world.⁶²

US-VISIT's place in the DHS organizational structure has changed several times since it was created. Until FY2006, US-VISIT was coordinated out of DHS' Directorate of Border and Transportation Security (BTS), the directorate formerly responsible for CBP and ICE. The "second stage review" (or "2SR") reorganization by former DHS Secretary Chertoff eliminated BTS and proposed placing US-VISIT within a new Screening Coordination Office (SCO) that would have included several DHS screening programs⁶³ and reported directly to the Secretary. Funding for the SCO was never appropriated, however, and US-VISIT became a stand-alone office within Title II of the DHS appropriation in FY2006.⁶⁴ In FY2008, DHS transferred US-VISIT into the new National Protection and Programs Directorate (NPPD).

The FY2013 budget request proposes to move US-VISIT from NPPD, dividing its work between CBP and ICE. Under the proposal, CBP would assume responsibility for most US-VISIT operations, including the management of the ADIS and IDENT databases and watchlist management services. ICE would assume responsibility for US-VISIT's overstay analysis services, which are currently divided between ICE and US-VISIT. Thus, the budget request proposes to reallocate \$262 million and 351 positions from US-VISIT to CBP, and \$18 million and 78 positions from US-VISIT to ICE. According to the President's request, the transfer of US-VISIT to CBP and ICE will allow DHS to "identify potential operational and cost efficiencies through the transition" including through efficiencies in "mission support and 'corporate' functions such as logistics and human resources."⁶⁵

Neither chamber of Congress fully supported the proposal to move US-VISIT to CBP and ICE. The House-passed bill would transfer about \$12 million from US-VISIT to CBP's Office of Field Operations (OFO) to cover program management and planning efforts associated with entry-exit

⁶² U.S. Customs and Border Protection (CBP) Office of Legislative Affairs, December 19, 2011. For more information about US-VISIT see archived CRS Report RL32234, *U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) Program*, by Lisa M. Seghetti and Stephen R. Vina.

⁶³ Programs proposed for transfer to the Screening Coordination Office included the U.S. Visitor and Immigrant Status Indicator Project (US-VISIT); Free and Secure Trade (FAST) and NEXUS/Secure Electronic Network for Travelers Rapid Inspection (SENTRI), from CBP; and Secure Flight, Transportation Worker Identification Credential (TWIC), Registered Traveler, Hazardous Materials (HAZMAT) background checks, and the Alien Flight School background checks program from TSA.

⁶⁴ H.Rept. 109-241.

⁶⁵ CBP, *Congressional Budget Justification* FY2013, p. CBP S&E 86.

policy and operations,⁶⁶ and would transfer about \$61 million to ICE to cover ICE's activities related to the analysis of visa overstays;⁶⁷ but the House would leave the bulk of US-VISIT funding, about \$191 million, within a new Office of Biometric Identity Management within NPPD.⁶⁸ The Senate report supports the transfer of US-VISIT to CBP, but expresses concern about the depth of analysis related to the transfer, and therefore recommends that US-VISIT be transferred as a stand-alone appropriation within CBP, rather than being incorporated within existing lines of CBP's salaries and expenses account as the President requests.⁶⁹

Questions about US-VISIT management are tied to its ability to meet two distinct missions. First, US-VISIT has taken the lead in fulfilling DHS' mandate to develop a comprehensive entry-exit data system that records the entry and exit and verifies the identity of every alien arriving in and departing from the United States, as required by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208, Div. C), as amended.⁷⁰ The system has been operational at almost all U.S. ports of entry since December 2006, and since January 2009 US-VISIT has collected biometric data from most non-citizens entering through air and seaports and most non-citizens subject to secondary inspection at land ports. But two pilot projects on biometric exit systems in 2009 yielded no transition plan to deploy either system,⁷¹ and the President's FY2013 budget request does not include funding for a biometric exit system. DHS officials have testified that the department intends to implement an enhanced system for the collection and analysis of biographic exit data, apparently as an alternative to the collection of biometric exit data.⁷² Some Members of Congress have expressed frustration that a biometric exit system has not been implemented, and both chambers' appropriations reports direct DHS to report on the department's plans for a more comprehensive exit system.⁷³

Second, as manager of the ADIS and IDENT databases, US-VISIT supports several different operational components of DHS, whose agents use ADIS and IDENT data to help determine whether individuals are eligible to receive a visa, enter or remain in the United States, or receive immigration benefits. US-VISIT also shares IDENT data with certain stakeholders outside of DHS, including agencies within the Departments of State, Justice, Defense, and the Intelligence Community. The House report cites this broader data management mission as being beyond CBP's mission and a reason to leave these US-VISIT functions within NPPD.⁷⁴

⁶⁶ H.Rept. 112-492, p. 36.

⁶⁷ Ibid., pp. 107.

⁶⁸ Ibid.

⁶⁹ S.Rept. 112-169, p. 46.

⁷⁰ For a more complete discussion of US-VISIT's entry-exit system requirements see archived CRS Report RL32234, *U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) Program*, by Lisa M. Seghetti and Stephen R. Vira; and CRS Report R42025, *Issues in Homeland Security Policy for the 112th Congress*, coordinated by William L. Painter.

⁷¹ U.S. Government Accountability Office, *Homeland Security: Key US-VISIT Components at Varying Stages of Completion, but Integrated and Reliable Schedule Needed*, GAO-10-13, November 19, 2009.

⁷² Statement of Department of Homeland Security (DHS) Principal Deputy Director for Counterterrorism John Cohen before the U.S. House of Representatives Homeland Security Committee, Subcommittee on Border and Maritime Security, *Ten Years after 9/11: Can Terrorists Still Exploit Our Visa System*, 112th Cong., 1st Sess., September 13, 2011.

⁷³ H.Rept. 112-492, p. 36; S.Rept. 112-169, p. 48.

⁷⁴ H.Rept. 112-492, p. 35.

Customs User Fees

CBP collects several different types of user fees, including fees paid by passengers and by cargo carriers and importers for the provision of customs services. These fees are often referred to as COBRA fees because they were passed as part of the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA, P.L. 99-272). Under 19 U.S.C. §§ 58c(f)(1)-(3), a portion of these fees directly reimburses CBP for certain customs functions, including overtime compensation and certain benefits and premium pay for CBP officers, certain preclearance services, foreign language proficiency awards, and—to the extent funds remain available—certain officer salaries. Another portion of COBRA fees—merchandise processing fees—is deposited in CBP's Customs User Fee Account to pay for additional customs revenue functions but is only available to the extent provided for in appropriations acts.

Certain COBRA passenger fees have been collected and deposited in the Customs User Fee Account without a corresponding appropriation to pay for customs functions. Two recent examples of this have drawn Congressional interest. Section 521 of the NAFTA Implementation Act of 1993 (P.L. 103-182) temporarily increased fees for all passengers entering the United States, including passengers from Canada, Mexico, and the Caribbean islands, who previously had been exempted from such fees. According to the Government Accountability Office, this temporary increase resulted in the collection of about \$639 million from FY1994-FY1997.⁷⁵ Section 601 of the United States-Colombia Trade Promotion Agreement Implementation Act of 2011 (P.L. 112-42) also eliminated a passenger fee exemption for travelers from Mexico, Canada, and certain other Western Hemisphere states, resulting in an estimated increase in COBRA fees of \$83 million in FY2012 and \$110 million in FY2013 and thereafter.⁷⁶ In both these cases, funds were directed (and in the case of Section 601, still are being directed) to the Customs User Fee Account but have not yet been obligated for customs revenue collection, as the provisions that raised this revenue stated that the funds are available only to the extent provided in appropriations Acts.

Some Members of Congress have raised questions about the disposition of these fees. The House Appropriations Committee directs CBP to report to the committee about whether the Department has access to the \$639 million identified by GAO, and how the department will eliminate those funds from its books.⁷⁷ With respect to fees collected pursuant to P.L. 112-42, CBP's budget justification for FY2013 included these fees in its budget for CBP officer salaries and expenses, but neither chamber included language in its appropriation bill to make these funds available to CBP, resulting in a shortfall for the agency. The House would address this shortfall by shifting \$70 million from CBP headquarters to CBP officer salaries, and would rely on other increasing fee revenues to fill the remaining gap.⁷⁸ The Senate report awaits a resolution to the shortfall to be proposed by the department.⁷⁹ Given that P.L. 112-42 authorizes the collection of additional COBRA fees but does not appropriate the fee collections, one challenge to resolving the shortfall is that any legislative change to move the money into a CBP spending account likely will result in

⁷⁵ See U.S. Government Accountability Office, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, GAO-11-318SP, March 2011, pp. 324-325.

⁷⁶ CBP Office of Legislative Affairs, April 27, 2012.

⁷⁷ H.Rept. 112-492, p. 31.

⁷⁸ H.Rept. 112-492, p. 29.

⁷⁹ S.Rept. 112-169, p. 32.

a positive Congressional Budget Office score—and therefore may require offsets elsewhere in the budget.

CBP Staffing

The President's FY2013 budget requests funding for 21,186 CBP officers and 21,370 U.S. Border Patrol agents.⁸⁰ While both chambers' budget proposals support the requested staffing levels, they also raise questions about how DHS sets staffing levels. The Senate report warns of adverse long-term consequences if DHS preserves high staffing levels during a period of budget tightening by cutting its investments in infrastructure,⁸¹ and also expresses concern that inspection fees have not increased in about ten years, which limits funds available for CBP officer salaries.⁸² The House report encourages CBP to consider a number of changes to reduce OFO staffing requirements at POEs, including by reengineering POE processes to make them more automated, by improving risk-based targeting, by better managing short-term staffing demand surges, by exploring public-private partnerships, by expanding trusted trade and traveler programs that facilitate low-risk entries, and by relying on technology to increase officer efficiency.⁸³ The House report also directs CBP to provide a more specific staffing and deployment plan for border patrol agents,⁸⁴ and the Senate report requests a plan for OFO staffing at Northern Border ports of entry.⁸⁵

Some Members may disagree with efforts to reduce CBP staffing (or slow its growth), however. While border patrol staffing has increased 90% since FY2005 (up from 11,264 agents that year), OFO staffing at POEs has increased only 18% (up from 17,881 officers in FY2005), even as OFO responsibilities have expanded to include biometric data collection and enhanced cargo security requirements.⁸⁶ Some people argue that increased enforcement between ports of entry has encouraged illegal migrants and drug smugglers to enter through POEs. Some supporters of increased OFO staffing argue that officers increase security while also facilitating legal admissions, and that officers are more effective at identifying and apprehending bad actors than are automated targeting systems, trusted trade and travel programs, and other technology.

Southwest Border Surveillance

DHS' strategy for achieving and maintaining control of the Southwest Border includes the use of technology to monitor the border, to detect illegal entries, and to support efforts to target and interdict such entries. Since 1998, under a series of different initiatives, DHS and the former Immigration and Naturalization Service have attempted to develop a network of border cameras, radar, and sensors linked into an integrated computer system to provide "situational awareness" along key stretches of the border.⁸⁷ To date, initiatives have failed to deliver the desired level of surveillance, however. The last two major surveillance programs, known as the America's Shield

⁸⁰ CBP Office of Legislative Affairs, February 13, 2012.

⁸¹ S.Rept. 112-169, p. 30.

⁸² S.Rept. 112-169, p. 31.

⁸³ H.Rept. 112-492, pp. 30-31.

⁸⁴ H.Rept. 112-492, pp. 35-56.

⁸⁵ S.Rept. 112-169, p. 34.

⁸⁶ CRS analysis of data provided by CBP Office of Legislative Affairs, February 13, 2012.

⁸⁷ For a fuller discussion of border surveillance programs, see CRS Report R42138, *Border Security: Immigration Enforcement Between Ports of Entry*, by Marc R. Rosenblum.

Initiative and SBInet (part of the Secure Border Initiative), both faced criticism for non-competitive contracting practices, inadequate oversight of contractors, and cost overruns.⁸⁸

The Obama Administration cancelled SBInet in January 2011 and replaced it with the Arizona Border Technology Plan. The new plan calls for the rapid deployment of existing technology, including a mix of fixed and mobile video surveillance systems and existing SBInet integrated towers, and emphasizes the use of different technologies for different border regions.⁸⁹

House and Senate appropriations reports express frustration with DHS' implementation of the new plan. The House report admonishes CBP for not having procured and implemented new surveillance equipment during the first 16 months after announcing the plan.⁹⁰ The Senate report describes CBP's April 2012 call for proposals to use SBInet technology along certain stretches of the Arizona border premature given that existing SBInet towers have not yet proven successful.⁹¹ In light of these concerns, while both chambers recommend fully funding the President's request for the BSFIT account, indicating their overall support for the border surveillance mission, they each recommend rescinding unobligated balances from the account, with the House report calling for \$40,412,000 in rescissions⁹² and the Senate calling for \$92,000,000.⁹³

CBP also relies on manned and unmanned aircraft to complement ground-based surveillance. The President's FY2013 budget request for the Office of Air and Marine Interdiction (OAM) would support 277 aircraft,⁹⁴ which are involved in both drug interdiction and border surveillance activities, and includes \$3 million to support the "Big Pipe" project to transmit real time and near real time video and other data from aerial assets. OAM was projected to fly 81,400 hours in FY2012 and 65,000 hours in FY2013,⁹⁵ down from 94,968 flight hours in FY2011 and 106,069 in FY2010.⁹⁶ In December 2011, DHS announced that the Department of Defense would scale back existing National Guard troops at the border in 2012 in favor of providing enhanced aerial assets to augment DHS air surveillance efforts.⁹⁷ As of May 2012, CBP also operated nine unmanned aerial systems (UAS), with a tenth system expected to be operational in 2012.⁹⁸ UAS systems expand CBP's air surveillance capacity because UASs can fly longer missions with fewer limits related to pilot fatigue.

⁸⁸ Ibid.

⁸⁹ Statement of Mark Borkowski, Assistant Chief, U.S. Border Patrol, before the Subcommittees on Border and Maritime Security, Committee on Homeland Security, House of Representatives, *After SBInet: The Future of Technology on the Border*, 112th Cong., 1st Sess., March 15, 2011.

⁹⁰ H.Rept. 112-492, 43.

⁹¹ S.Rept. 112-169, p. 40.

⁹² H.Rept. 112-492, p. 45.

⁹³ S.Rept. 112-169, p. 42.

⁹⁴ CBP, *Congressional Budget Justification* FY2013, p OAM – 1.

⁹⁵ H.Rept. 112-492, 46.

⁹⁶ CBP Office of Air and Marine, "2011 Air and Marine Milestones and Achievements," December 6, 2011, http://www.cbp.gov/xp/cgov/border_security/am/operations/2011_achiev.xml; CBP Office of Air and Marine, "2010 Air and Marine Milestones and Achievements," December 6, 2011, http://www.cbp.gov/xp/cgov/border_security/am/operations/2010_achiev.xml.

⁹⁷ DHS, "DHS and DOD Announce Continued Partnership in Strengthening Southwest Border Security," December 20, 2011, <http://www.dhs.gov/ynews/releases/20111220-dhs-dod-partnership-southwest-border-security.shtm>.

⁹⁸ DHS Office of Inspector General, *CBP's Use of Unmanned Aircraft Systems in the Nation's Border Security*, OIG-12-85, Washington, DC, May 2012.

Some Members of Congress support the use of aircraft for border surveillance, including UASs in particular. Both Appropriations Committees recommended increases to the OAM budget over the President's request, with the House recommending an increase of \$82,700,000 (partly funded by the BSFIT rescission)⁹⁹ and the Senate recommending an increase of \$70,997,000.¹⁰⁰ Both increases would be targeted toward upgrading the OAM fleet, increasing flight hours, and supporting UAS operations. On the other hand, the use of UASs in border security remains somewhat controversial because of concerns that UASs threaten people's privacy. And a May 2012 DHS Inspector General report also criticized CBP's unmanned aircraft systems program on the grounds that its planning process fails to provide UAS systems with adequate support resources and may result in under-utilization of UAS assets.¹⁰¹

Cargo Security

CBP is responsible for screening cargo passing through U.S. ports of entry for contraband and dangerous materials. Under the Security and Accountability For Every Port Act of 2006 (SAFE Port Act, P.L. 109-347), as amended, CBP must ensure that all maritime cargo is scanned through radiation detection and nonintrusive inspection imaging scanners prior to being loaded on ships bound for the United States. Section 1701 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (The 9/11 Act, P.L. 110-53) established a deadline of July 1, 2012, for DHS to begin excluding cargo that has not been scanned, though the law allows DHS to extend this deadline under certain circumstances, and DHS officials have indicated that they intend to seek such an extension.¹⁰²

CBP currently operates two programs to scan cargo in foreign ports: the Secure Freight Initiative (SFI) and Container Security Initiative (CSI). SFI was initiated as a pilot program in 2007 to test the feasibility of scanning 100% of U.S.-bound cargo at certain foreign ports. After an initial evaluation identified several obstacles to implementing 100% scanning at all foreign ports,¹⁰³ SFI was scaled back and as of May 2012 only operated at Port Qasim in Pakistan. CSI, which was initiated in 2002, is a partnership program among CBP, ICE, and law enforcement agencies in CSI countries. Under the program, CBP officers and other federal agents screen cargo manifests and other data to identify high-risk containers; and 100% of containers identified as high-risk are scanned in foreign ports. Host state law enforcement agents typically conduct physical scans, and CBP personnel evaluate the scan results. When the scan detects an abnormality, containers are subject to additional physical inspection prior to being loaded on a U.S.-bound ship. As of March 2012, the CSI was active in 58 ports in 30 countries; these ports account for about 80% of incoming cargo flows.¹⁰⁴ About 1% of all cargo passing through CSI ports is identified as high-risk and targeted for scanning and possible inspection.¹⁰⁵

⁹⁹ H.Rept. 112-492, p. 45.

¹⁰⁰ S.Rept. 112-169, p. 42.

¹⁰¹ DHS Office of Inspector General, *CBP's Use of Unmanned Aircraft Systems in the Nation's Border Security*, OIG-12-85, Washington, DC, May 2012.

¹⁰² See for example, testimony of DHS Secretary Janet Napolitano before Committee on Homeland Security, House of Representatives, *An Examination of the President's FY2013 Budget Request for the Department of Homeland Security*, 112th Cong., 2nd Sess., February 15, 2012.

¹⁰³ See U.S. CBP, *Report to Congress on Integrated Scanning System Pilots (Security and Accountability for Every Port Act of 2006, Section 231)*, http://www.apl.com/security/documents/sfi_finalreport.pdf.

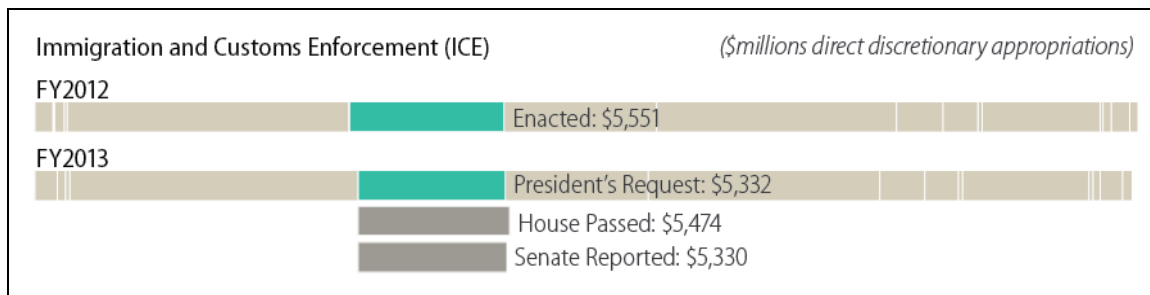
¹⁰⁴ Data provided by CBP Office of Legislative Affairs, March 19, 2012.

¹⁰⁵ Data provided by CBP Office of Legislative Affairs, March 19, 2012.

The 100% scanning requirement and the operation of SFI and CSI have raised questions about how to balance the security benefits of scanning more U.S.-bound cargo against the costs of such scans, including increased paperwork, the costs of maintaining scanning technology and personnel to operate scanners, and longer wait times for U.S. importers. DHS officials and some others have argued that the department should focus scanning on high-risk cargo, along with a random sample of lower-risk cargo, in order to cut costs, facilitate legal trade, and make the best use of existing resources.¹⁰⁶ After requesting reductions to international cargo security screening programs in FY2011 and FY2012—with Congress providing funding levels above the President’s request both years—the FY2013 budget request includes a \$13 million increase to the CSI, along with a total of \$78 million in proposed increases to the Automated Targeting System and related programs used to screen incoming goods and travelers for security threats. House and Senate Appropriations Committee reports both support the President’s request for these programs. The House report also acknowledges DHS’ concerns about the costs of implementing a 100% scanning program at foreign ports, and calls on DHS to propose an alternative scanning plan.¹⁰⁷

Immigration and Customs Enforcement¹⁰⁸

ICE focuses on enforcement of immigration and customs laws within the United States. ICE develops intelligence to reduce illegal entry into the United States and is responsible for investigating and enforcing violations of the immigration laws (e.g., alien smuggling, hiring unauthorized alien workers). ICE is also responsible for locating and removing aliens who have overstayed their visas, entered illegally, or have become deportable. In addition, ICE develops intelligence to combat terrorist financing and money laundering, and to enforce export laws against smuggling, fraud, forced labor, trade agreement noncompliance, and vehicle and cargo theft.



See **Table 8** for account-level detail for all of the agencies in Title II. For ICE sub-account level detail, including appropriations and funding for FY2012 and FY2013, see **Table 10**.

¹⁰⁶ See for example, testimony of DHS Assistant Secretary David Heyman before Subcommittee on Borders and Maritime Security, Committee on Homeland Security, House of Representatives, *Balancing Maritime Security and Trade Facilitation: Protecting Ports, Increasing Commerce and Securing the Supply Chain, Part I*, 112th Cong., 2nd Sess., February 7, 2012.

¹⁰⁷ H.Rept. 112-492, p. 33.

¹⁰⁸ Prepared by Alison Siskin, Specialist in Immigration Policy, Domestic Social Policy Division.

FY2013 Request

For FY2013 for ICE, the Administration requested \$5,332 million in net budget authority, which represents a decrease of \$218 million (3.9%) from the enacted FY2012 level of \$5,551 million. Overall, the Administration requested \$5,644 million in gross budget authority for ICE in FY2013, a decrease of \$218 (3.7%) from the FY2012 enacted amount. The budget request included the following changes:

- Increase of \$40 million to expand the Alternatives to Detention (ATD) program;
- Increase of \$6 million for ICE to consolidate personnel and operations (i.e., co-location strategy);
- Increase of \$7 million for video conferencing expansion in detention facilities and Executive Office of Immigration Review (EOIR) courtrooms and offices;
- Increase of \$18 million to transfer the U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) Program¹⁰⁹ overstay analysis function from National Protection and Programs Directorate (NPPD) to ICE;
- Reduction of \$17 million for the 287(g) program;
- Reduction of \$5 million for the Office of Principle Legal Advisor (OPLA);
- Reduction of \$53 million for detention beds; and
- Reduction of \$41 million for Secure Communities.

House-Passed H.R. 5855

The House-passed H.R. 5855 would give \$5,474 million in net budget authority for FY2013, a figure which represents a decrease of \$77 million (1.4%) from the FY2012 enacted level and an increase of \$142 million (2.7%) over the Administration's request. House-passed H.R. 5855 would provide ICE with total funding authority of \$5,786 million, representing a decrease of \$77 million (1.3%) from the FY2012 enacted level and an increase of \$142 million (2.5%) over the Administration's request.

Senate-Reported S. 3216

The Senate Appropriations Committee recommended that ICE receive \$5,330 million¹¹⁰ in net budget authority for FY2013, a figure which represents a decrease of \$2 million (less than 0.1%) from the Administration's request, and a decrease of \$220 million (4.0%) from the FY2012 enacted amount. Senate-reported S. 3216 would provide ICE with gross funding authority of \$5,642 million, which represents a \$2 million (less than 0.1%) decrease from the Administration's request, and a decrease of \$220 million (3.8%) from the FY2012 enacted level.

¹⁰⁹ For more on US-VISIT, see the Customs and Border Protection section of this report, or Department of Homeland Security, *US-VISIT Enrollment Requirements*, March 4, 2011, http://www.dhs.gov/files/programs/editorial_0527.shtm.

¹¹⁰ This excludes an additional \$18 million for the transfer of the overstay analysis function of US-VISIT to ICE, and includes \$5 million to be transferred to the Executive Office of Immigration Review in the Department of Justice to reduce the nondetained docket.

Table 10. Immigration and Customs Enforcement (ICE) Sub-Account Detail
(budget authority in millions of dollars)

Activity	FY2012 Enacted	FY2013 Appropriations			
		Request	House- passed	Senate- reported	Enacted
Salaries and Expenses	5,529	5,297	5,236^a	5,295^b	
HQ Management & Administration	417	377	226 ^a	371	
Legal Proceedings	216	208	207	208	
Investigations	1,874	1,816	1,837	1,803	
<i>Investigations—Domestic</i>	<i>1,725</i>	<i>1,673</i>	<i>1,687</i>	<i>1,654^c</i>	
<i>Investigations—International</i>	<i>115</i>	<i>110</i>	<i>115</i>	<i>115</i>	
<i>Visa Security Program</i>	<i>34</i>	<i>33</i>	<i>35</i>	<i>33</i>	
<i>Intelligence</i>	<i>82</i>	<i>79</i>	<i>78</i>	<i>79</i>	
Detention and Removal Operations	2,751	2,679	2,750	2,696	
<i>Custody Operations</i>	<i>2,051</i>	<i>1,959</i>	<i>2,026</i>	<i>1,986</i>	
<i>Fugitive Operations</i>	<i>155</i>	<i>133</i>	<i>145</i>	<i>133</i>	
<i>Criminal Alien Program</i>	<i>197</i>	<i>217</i>	<i>217</i>	<i>217</i>	
<i>Alternatives to Detention</i>	<i>72</i>	<i>112</i>	<i>91</i>	<i>97^d</i>	
<i>Transportation and Removal Program</i>	<i>277</i>	<i>258</i>	<i>270</i>	<i>263</i>	
Comprehensive Identification and Removal of Criminal Aliens (Secure Communities)	189	139	138	139	
Automation and Infrastructure Modernization	22	31	232^a	31	
Construction	0	5	5	5	
ICE Direct Appropriations	5,551	5,332	5,474	5,330	
Fee Accounts	312	312	312	312	
ICE Gross Budget Authority	5,862	5,644	5,786	5,642	

Source: CRS Analysis of the FY2013 DHS Congressional Budget Justifications, the FY2013 DHS Budget in Brief, P.L. 112-10, S.Rept. 112-169, S. 3216, as reported by the Senate Appropriations Committee, H.Rept. 112-492, H.R. 5855, as passed by the House.

Notes: ICE refers to U.S. Immigration and Customs Enforcement.

- Unlike the Administration's request and the Senate-reported S. 3216, this amount does not include funds for Headquarters-Managed IT investments. In H.R. 5855, as passed by the House, the appropriation for this purpose (\$162 million) is included in ICE's Automation Modernization account.
- This amount does not include the impact of an \$18 million transfer to ICE to pay for of the overstay analysis function of the US-VISIT program or a \$5 million transfer from ICE to DOJ's Executive Office of Immigration Review.
- This amount does not include the impact of an \$18 million transfer to ICE to pay for of the overstay analysis function of the US-VISIT program.
- This amount does not include the impact of a \$5 million transfer to the Department of Justice, Executive Office of Immigration Review (EOIR) to reduce the nondetained docket.

Continuing Resolution

A continuing resolution (CR) was signed into law on September 28, 2012, to fund the federal government through March 27, 2013, or until the general appropriations bills for FY2013 are enacted (P.L. 112-175). The CR provides for DHS, with some limitations, to continue operations in FY2013 with the same funding it received in FY2012, plus a 0.612% increase (see “Operating Under a Continuing Resolution”). In addition to the general limitations discussed above, Section 136 of the CR requires that funds in the CBP Salaries and Expenses Account be obligated to maintain staffing for border patrol agents, CBP officers, and Office of Air and Marine interdiction agents at the same levels as those in effect at the end of the fourth quarter of FY2012. In the case of the border patrol, the CR further requires that staffing levels comply with P.L. 112-74, Division D, which establishes a minimum of 21,370 full time equivalent agents. The CR directs the Commissioner of CBP, by October 28, 2012, to provide Congress with a detailed spending plan that specifies how CBP will adjust the Salaries and Expenses account to maintain these staffing levels.

Issues for Congress

ICE is responsible for many divergent activities due to the breadth of the civil and criminal violations of law that fall under its jurisdiction. As a result, how ICE resources are allocated in order to best achieve its mission is a continuously debated issue. The FY2013 appropriations process has involved discussions about ICE’s role in detaining and removing (deporting) aliens and on the role of state and local law enforcement agencies in immigration enforcement.

Enforcement and Removal Operations

Part of ICE’s mission includes locating and removing deportable aliens, which involves determining the appropriate amount of detention space as well as which aliens should be detained. There are an estimated 10.8 million unauthorized aliens in the United States.¹¹¹ In addition, there are an estimated 1.9 million aliens in the United States who have committed a crime.¹¹² According to ICE, they have the capacity to remove 400,000 aliens a year.¹¹³ As a result, there has been ongoing debate about how ICE should prioritize the removal of removable

¹¹¹ U.S. Department of Homeland Security, Office of Immigration Statistics, *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2011*, by Michael Hoefler, Nancy Rytina, and Bryan C. Baker, March 2012.

¹¹² DHS, *U.S. Immigration and Customs Enforcement Salaries and Expenses Congressional Budget Justifications FY2013*, p. 61.

¹¹³ John Morton, *Memorandum on Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens*, U.S. Immigration and Customs Enforcement, Washington, DC, March 2, 2011.

aliens.¹¹⁴ During the floor debate of House-passed H.R. 5855, several amendments were accepted that would attempt to direct the Agency's immigration enforcement priorities.¹¹⁵

ICE's Office of Enforcement and Removal Operations (ERO) provides custody management of the aliens who are in removal proceedings or who have been ordered removed from the United States.¹¹⁶ ERO also is responsible for ensuring that aliens ordered removed actually depart from the United States. Some contend that ERO does not have enough detention space to house all those who should be detained. Concerns have been raised that decisions regarding which aliens to release and when to release them may be based on the amount of detention space, not on the merits of individual cases, and that detention conditions may vary by area of the country leading to inequities. Some policymakers have advocated for the increased use of alternatives to detention programs for noncriminal alien detainees, citing these programs as a lower cost option than detention and a more proportional treatment relative to the violation.¹¹⁷

ICE maintained 34,000 detention bed spaces in FY2012, and the President's FY2013 budget requested a decrease of \$53 million to reduce the current amount of bed space by 1,200 beds, for a total of 32,800 beds. The Administration has requested the decrease in conjunction with a request of an additional \$40 million to expand the Alternatives to Detention (ATD) program.¹¹⁸ H.R. 5855, as passed by the House, would fund 34,000 detention beds, and increase funding for the ATD program by \$20 million. Senate-reported S. 3216 would fund 33,400 detention beds.¹¹⁹ Senate-reported S. 3216 would also increase funding for the ATD program by \$24 million.¹²⁰

¹¹⁴ In March 2011, John Morton, Director of Immigration and Customs Enforcement, published agency guidelines that define a three-tiered priority scheme that applies to all ICE programs and enforcement activities related to civil immigration enforcement. Under these guidelines, ICE's top three civil immigration enforcement priorities are to (1) apprehend and remove aliens who pose a danger to national security or a risk to public safety, (2) apprehend and remove recent illegal entrants, and (3) apprehend aliens who are fugitives or otherwise obstruct immigration controls. For more on the debate surrounding prosecutorial discretion in immigration enforcement see U.S. Congress, House Committee on Homeland Security, Subcommittee on Border and Maritime Security, *Does Administrative Amnesty Harm our Efforts to Gain and Maintain Operational Control of the Border?*, 112th Cong., 2nd sess., October 4, 2011.

¹¹⁵ For example, see H.Amdt. 1266 to H.R. 5855, introduced by Representative Steve King. See also, Mickey McCarter, "Democrats Find Plenty to Dislike in Final House DHS Appropriations Bill for FY 2013," *Homeland Security Today*, June 11, 2012, <http://www.hstoday.us/single-article/democrats-find-plenty-to-dislike-in-final-house-dhs-appropriations-bill-for-fy-2013/5c2b80ad16fbd2361b3d82b0bb8497ed.html>.

¹¹⁶ For more information on detention issues see CRS Report RL32369, *Immigration-Related Detention: Current Legislative Issues*, by Alison Siskin. Under the INA aliens can be removed for reasons of health, criminal status, economic well-being, national security risks, and others that are specifically defined in the act. In 2010, ICE changed the name of DRO to Enforcement and Removal Operations (ERO). The House and Senate Appropriations Committees have not adopted the name change in their reports.

¹¹⁷ U.S. Congress, House Committee on Homeland Security, Subcommittee on Border, Maritime, and Global Counterterrorism, *Moving Toward More Effective Immigration Detention Management*, 111th Cong., 1st sess., December 10, 2009 (Washington: GPO, 2009).

¹¹⁸ DHS, *U.S. Immigration and Customs Enforcement Salaries and Expenses Congressional Budget Justifications FY2013*, pp. 3-4.

¹¹⁹ In FY2010 and FY2011, Congress funded 33,400 detention beds.

¹²⁰ H.R. 5855, as passed by the House, and Senate-reported S. 3216 would give ICE the authority to sell any ICE-owned detention facilities if the facilities no longer meet the mission need.

Immigration Enforcement in State and Local Jails

The Administration's request included \$139 million (a \$50 million decrease from FY2012 since most of the deployment has been completed) for Secure Communities, an information sharing program between DHS and the Department of Justice to check the fingerprints of arrestees against DHS immigration records. ICE has already deployed Secure Communities to 89% of all jurisdictions nationally, and is requesting the resources needed to finish expanding the system nationwide by the end of FY2013.¹²¹ ICE has the resources to confirm the identification of an estimated 282,000 more removable aliens in FY2012 than in FY2010, including an estimated 73,000 Level 1 offenders.¹²² House and Senate appropriators both expressed strong support for the continued expansion of Secure Communities and would appropriate approximately the same amount as the Administration requested.

The enforcement of immigration laws by state and local law enforcement agents through agreements pursuant to §287(g) of the INA (the §287(g) program) and through screening for immigration violations in state and local jails through the §287(g) program and Secure Communities has sparked debate about the proper role of state and local law enforcement officials in this area.¹²³ Many have expressed concern over proper training, finite resources at the local level, possible civil rights violations, and the overall impact on communities. Nonetheless, some observers contend that the federal government has scarce resources to enforce immigration law and that state and local law enforcement entities should be used.

The Administration requested \$51 million for 287(g) agreements, a decrease of \$17 million from the FY2012 enacted level. The Administration contends that the Secure Communities screening process is more efficient and cost effective than 287(g) agreements in identifying and removing criminal and other priority aliens. ICE plans to discontinue the least productive 287(g) task force agreements in jurisdictions where Secure Communities is active and will not consider any requests for new 287(g) task forces.¹²⁴ Senate-reported S. 3216 would appropriate \$51 million for 287(g) agreements while H.R. 5855, as passed by the House, would fund the 287(g) program at the FY2012 level of \$68 million. During floor action, the House adopted an amendment to H.R. 5855 would also prohibit any funds under the act from being used to terminate a 287(g) agreement that is in existence on the date of enactment of the act.¹²⁵

¹²¹ DHS, *U.S. Immigration and Customs Enforcement Salaries and Expenses Congressional Budget Justifications* FY2013, p. 4.

¹²² *Ibid.*, p. 51. "Level 1" offenders include aliens convicted of an aggravated felony as defined in §101(a)(43) of the Immigration and Nationality Act, or of two or more crimes each punishable by more than one year (i.e., two or more felonies); see John Morton, *Memorandum on Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens*, U.S. Immigration and Customs Enforcement, Washington, DC, March 2, 2011, <http://www.ice.gov/doclib/news/releases/2011/110302washingtondc.pdf>.

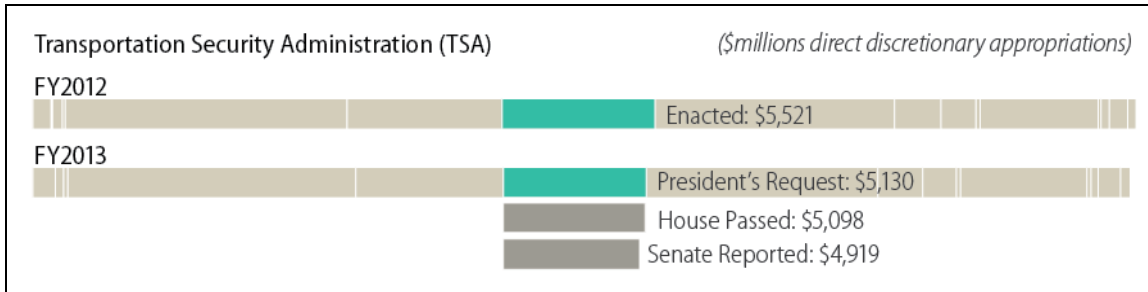
¹²³ For a fuller discussion of Secure Communities and the §287(g) program see CRS Report R42057, *Interior Immigration Enforcement: Programs Targeting Criminal Aliens*, by Marc R. Rosenblum and William A. Kandel; and CRS Report R41423, *Authority of State and Local Police to Enforce Federal Immigration Law*, by Michael John Garcia and Kate M. Manuel.

¹²⁴ DHS, *U.S. Immigration and Customs Enforcement Salaries and Expenses Congressional Budget Justifications* FY2013, p. 4.

¹²⁵ H.Amdt. 1270 was offered by Rep. John Sullivan on June 7, 2012. It passed by a vote of 250-164 (Roll call vote no. 366).

Transportation Security Administration¹²⁶

TSA, created in 2001 by the Aviation and Transportation Security Act (ATSA, P.L. 107-71), is charged with protecting air, land, and rail transportation systems within the United States to ensure the freedom of movement for people and goods. In 2002, TSA was transferred from the Department of Transportation to DHS with the passage of the Homeland Security Act (P.L. 107-296). TSA's responsibilities include protecting the aviation system against terrorist threats, sabotage, and other acts of violence through the deployment of passenger and baggage screeners; detection systems for explosives, weapons, and other contraband; and other security technologies. TSA also has certain responsibilities for marine and land modes of transportation including assessing the risk of terrorist attacks to all nonaviation transportation assets, including seaports; issuing regulations to improve security; and enforcing these regulations to ensure the protection of these transportation systems. TSA is further charged with serving as the primary liaison for transportation security to the law enforcement and intelligence communities.



The TSA budget is one of the most complex components of the DHS Appropriations bill. The graphic above reflects net direct discretionary appropriations for the TSA, but that represents only a portion of the budgetary resources it has available. An airline security fee collection offsets a portion of aviation security costs, including \$250 million dedicated for capital investments in screening technology. Other fees offset the costs of transportation threat assessment and credentialing. Since these amounts are not set through traditional appropriations provisions, they are not reflected in the above graphic. **Table 11** presents a breakdown of the total additional budgetary resources from all non-appropriated sources requested for TSA in the President's budget.

Table 11. TSA, Requested Budgetary Resources, FY2013

(budget authority, in millions of dollars)

Funding Source	Amount
Total Offsetting Fees	2,515
Aviation Security Capital Fund	250
Aviation Passenger Security Fee ^a	1,650
Aviation Passenger Security Fee (Revenue from proposed increase) ^a	115
Aviation Security Infrastructure Fees ^a	420
Credentialing Fees (including Alien Flight Student Program)	80

¹²⁶ Prepared by Bart Elias, Specialist in Aviation Policy, Resources, Science, and Industry Division.

Funding Source	Amount
Direct appropriations	5,130
Total Budgetary Resources	7,645

Source: S.Rept. 112-169, pp. 57-59.

Note:

- a. Counted as part of Offsetting Collections under TSA in the comparative statement of budget authority in the back of the Appropriations committee reports on the DHS appropriations bill.

FY2013 Request

The President’s request included gross budget authority of \$7,645 million for TSA, offset by \$2,515 million in proposed collections and fees, for a net direct discretionary appropriation of \$5,130 million. This represents roughly a 2.5% decrease from the gross funding provided in FY2012, but a 7.1% drop in net appropriations.

Of this request, \$5,099 million in gross budget authority was for aviation security, a decrease of \$155 million (3.0%) compared to FY2012. However, due to proposed increases in offsetting passenger security fees (discussed in more detail below), only \$2,914 million in net appropriations would have been provided, a decrease of \$310 million (9.6%) from FY2012 levels.

The President’s request proposed \$124 million for Surface Transportation Security, a decrease of \$10 million (7.8%) from FY2012. Requested decreases in funding amounts reflected planned reductions in procurement for both checked baggage and passenger checkpoint technologies, a reduction in screening technology maintenance costs, a 50% reduction in the Federal Flight Deck Officer (FFDO) program and flight crew training, and miscellaneous improvements in management efficiencies, such as reduced travel, training, and overtime costs.

Funding for transportation threat assessment and credentialing (TTAC) would increase by \$68 million (33%) under the request to \$272 million. This includes a one-time increase of \$30 million for TTAC infrastructure modernization (TIM) and adjustments to the fee-based Transportation Worker Identification Credential (TWIC) based on higher-than-anticipated turnover in the maritime industry.

The requested funding level for Transportation Security Support was set at \$970 million, a decrease of \$62 million (6%) from FY2012 levels, and requested funding for the Federal Air Marshals Service (FAMS) specified \$930 million, a decrease of \$36 million (3.8%). See **Table 8** for account level detail for all agencies in Title II and **Table 12** for amounts specified for TSA budget activities.

House-Passed H.R. 5855

House-passed H.R. 5855 included gross budget authority of \$7,498 million for TSA, offset by \$2,400 million in collections and fees, for a net direct discretionary appropriation of \$5,098 million. This represents a \$147 million (1.9%) decrease from the gross funding requested by the administration, and a 0.6% drop in net appropriations from the request.

The House-passed bill specified \$5,041 million in gross budget authority for aviation security, \$57 million (1.1%) less than requested. The House rejected the Administration’s proposed

increases in offsetting passenger security fees. Therefore, with a smaller offset, the appropriations for aviation security proposed in the bill actually rose \$58 million (2.0%) above the Administration's request. The House report recommended additional cuts to screening operations including reductions in screener workforce costs and additional reductions in checked baggage explosives detection equipment procurement.¹²⁷

The House-passed bill specified \$126 million for surface transportation security, \$2 million (1.7%) above the request, but \$8 million (6.2%) less than the FY2012 enacted amount. The bill specified \$193 million in direct appropriations and \$80 million in fee collections for TTAC, roughly in line with the request. The House-passed bill, however, specified \$929 million for transportation security support, \$41 million (4.2%) below the request, and \$880 million for FAMS, \$50 million (5.4%) below the request. The House committee noted that many of these reductions to the request were made to offset a budget shortfall created by the administration's reliance on passenger security fee increases that have not been enacted.¹²⁸

Senate-Reported S. 3216

The Senate-reported bill would specify gross budget authority of \$7,633 million for TSA, offset by \$2,715 million in collections and fees, for a net discretionary appropriation of \$4,919 million. This represents an \$11 million (0.2%) decrease from the gross funding requested by the Administration, and a \$211 million (4%) reduction in net appropriations.

This amount includes \$5,087 million in gross budget authority for aviation security, \$11 million (0.2%) less than requested. The Senate accepted the Administration's proposed increases on offsetting passenger security fees, incorporating the full \$315 million in revenue raised into their offset. Therefore, with a larger offset, the appropriations proposed in the bill for aviation security dropped \$211 million (7.3%) from the Administration's request. These cuts reflect a \$5 million (4.2%) reduction to checkpoint equipment procurement, and a \$10 million (8.5%) reduction for explosives detection systems procurement, citing large unobligated prior-year balances for these activities. The amount also includes a \$8 million (0.3%) reduction to screener staffing due to delayed fielding of checkpoint body scanners. The committee specified \$24 million for the FFDO program, \$12 million (92%) above the request.¹²⁹ The Senate Appropriations Committee recommended funding surface transportation security, TTAC, transportation security support, and FAMS at requested levels.¹³⁰

¹²⁷ H.Rept. 112-492, pp. 65-67.

¹²⁸ *Ibid.*, pp. 72-78.

¹²⁹ S.Rept. 112-169, pp. 58-69.

¹³⁰ *Ibid.*, pp. 69-74.

Table 12. TSA Gross Budget Authority by Budget Activity

(gross budget authority in millions of dollars)

	FY2013 Appropriations				FY2013 Enacted
	FY2012 Enacted	FY2013 Request	FY2013 House- passed	FY2013 Senate- reported	
Aviation Security	5,254	5,099	5,041	5,087	
Screening Partnership Program (SPP)	144	143	158	143	
Screener Personnel Compensation & Benefits	3,026	3,108	3,052 ^a	3,100	
Screener Training & Other	250	225	225	225	
Checkpoint Support	205	120	120	115	
EDS/ETD Purchase/Installation	223	117	100	107	
Screening Technology Maintenance & Utilities	320	309	304 ^a	309	
Aviation Regulation and Other Enforcement	370	372	374	372	
Airport Management, IT, and Support	570	570	550	570	
FFDO & Flight Crew Training	25	13	35 ^a	24	
Air Cargo Security	121	122	122	122	
Federal Air Marshal Service	966	930	880	930	
Management and Administration	843	816	777	816	
Travel and Training	124	114	103	114	
Threat Assessment and Credentialing (TTAC)	204	272	272	272	
Secure Flight	92	107	107	107	
Other Vetting / Screening Administration and Operations	72	86	85	86	
Credentialing Fees	40	80	80	80	
Surface Transportation Security	135	124	126	124	
Operations and Staffing	39	37	36	37	
Security Inspectors	96	88	90	88	
Transportation Security Support	1,032	970	929	970	
HQ Administration	292	282	271	282	
Information Technology	447	417	397	417	
Human Capital Services	249	226	216	226	
Intelligence	43	45	45	45	
Aviation Security Capital Fund (ASCF) (mandatory)	250	250	250	250	
TSA Gross Total	7,841	7,645	7,498	7,633	

Source: CRS Analysis of the FY2013 DHS Congressional Budget Justifications, the FY2013 DHS Budget in Brief, P.L. 112-10, S.Rept. 112-169, S. 3216, as reported by the Senate Appropriations Committee, H.Rept. 112-492, H.R. 5855, as passed by the House.

Notes Amounts may not total due to rounding.

- a. H.Amdt. 1248 redirected \$10 million to the FFDO program for a total funding level of \$35 million. This is offset by a \$5 million reduction from Screener Personnel Compensation & Benefits and a \$5 million reduction in Screening Technology Maintenance & Utilities.

Issues for Congress

Passenger Security Fees

Under ATSA, passenger security fees have been set at \$2.50 per flight segment, not to exceed \$5.00 per one-way trip. The fee has not been increased since 2001, and concerns have been raised that the per segment application does not accurately reflect passenger usage, since individuals are typically only screened once at the initial departure airport. Nonetheless, airlines have argued against fee increases raising concerns over their potential impact on passenger air travel.

In the FY2013 budget submittal, the administration proposed a change in the fee structure by applying a flat fee of \$5.00 per one-way trip. This would, in effect, double the fee on direct flights, but would not change the fee currently paid by customers taking connecting flights. The administration estimated that this change would increase revenue collections by \$317 million, and proposed to apply \$117 million of this amount as offsetting collections for aviation security costs and credit the additional \$200 million toward deficit reduction.

Both the Bush and Obama administrations have previously submitted proposals to increase passenger security fees. While these past efforts garnered little congressional support, the current proposal was supported by the Senate Appropriations Committee, which included a provision to increase FY2013 fee collections to \$5.00 per one-way trip. However, whereas the request sought to apply a portion of the increased revenue toward deficit reduction, the Senate committee measure applies all passenger security fees as offsetting collections assigned to aviation security. While the Senate committee approved the proposal for FY2013, it noted that it lacked jurisdiction to provide permanent authority for the fee increase. The House Appropriations committee, on the other hand, did not include the proposal, noting that it lacked jurisdiction with regard to fee increases. The committee instead commented that it “was forced to find \$115,000,000 in offsets to make up for the budget request’s persistent and flawed assumption of increased aviation passenger fee collections.”¹³¹

Management Efficiencies

TSA congressional justifications identify over \$100 million in savings from improved management efficiencies compared to FY2012. This includes almost \$99 million for aviation security programs, \$9 million for surface transportation, more than \$2 million for TTAC, and over \$7 million for FAMS. Management efficiencies include reductions in items such as travel, conferences, miscellaneous purchasing, use of support contracts, and overtime pay. The identified savings through management efficiencies may raise oversight questions as to why inefficiencies were not corrected sooner, and additional questions regarding procedures and policies established to ensure that FY2013 efficiency goals can be met.

Risk-Based Screening Initiatives

TSA has initiated a number of risk-based screening initiatives to focus its resources and apply directed measures based on intelligence-driven assessments of security risk. Initiatives include a new trusted traveler trial program called PreCheck, modified screening procedures for children 12

¹³¹ H.Rept. 112-492, p. 4.

and under, and a trial program for screening known flight crew members using modified procedures. Trial programs are also underway for modified screening of elderly passengers similar to those procedures put in place for children. These various trial programs may allow for improved screening efficiencies and potential savings, which TSA indicates will be identified in future budgets.

A cornerstone of TSA's risk-based initiatives is the PreCheck program. PreCheck is TSA's latest version of a trusted traveler program that has been modeled after similar CBP programs including Global Entry, SENTRI, and NEXUS. It is currently available on a trial basis to members of those programs, frequent flyer program members of three major airlines, and, in some cases, to military service members, at a limited number of airports. The House committee cited the PreCheck program as an example of a more rational risk-based approach to screening that can help increase screening efficiency and reduce screener workforce requirements.¹³² The Senate committee also expressed support for TSA plans to expand the PreCheck program. It directed TSA to report on its expansion plans for PreCheck, including statistics on expansion of the eligible population, success indicators such as passenger satisfaction, efforts to raise public awareness of the program, time savings derived from PreCheck screening procedures, and security measures to ensure that PreCheck enrollees are verified to be low-risk. The Senate committee also expressed specific concern that TSA's known crew member pilot program is currently limited only to pilots, and included bill language to require TSA to expand the program to include flight attendants.¹³³

While TSA's risk-based screening pilot programs have been viewed positively, its efforts to conduct behavioral-based observation and screening of passengers continue to come under scrutiny and criticism. While TSA proposed to increase the numbers of Behavior Detection Officers (BDOs) by 72 to 3,131, the House committee report did not support this increase, citing TSA's lack of clear evidence that BDOs provide protection against potential aviation security threats. The committee called for a formal cost-benefit analysis of the BDO program along with a robust risk-based strategy for BDO deployment.¹³⁴

Armed Pilots and Crew Member Self-Defense Training

The budget justification specified a \$13 million reduction (roughly a 50% cut) in funds for the Federal Flight Deck Officer (FFDO) program that trains and deploys armed pilots and for the crew member self-defense training program. Neither the House nor the Senate Appropriations Committee have adopted this proposal. In addition to the House Appropriations Committee recommending to keep the FFDO program at FY2012 level, the House passed an amendment offered by Representative Cravaack to increase FFDO funding by an additional \$10 million to \$36 million, \$23 million above the request. The additional \$10 million for the FFDO program is offset by reductions of \$5 million each for Screener Payroll, Compensation, and Benefits (PC&B) and Screening Technology Maintenance.¹³⁵ The House also included report language directing the TSA to revisit the use of FFDOs and other federal law enforcement assets that fly on commercial aircraft to serve as a force multiplier to complement the presence of air marshals through better coordinated scheduling, communications, and training.¹³⁶ The Senate Appropriations Committee

¹³² H.Rept. 112-492, pp. 69-70.

¹³³ S.Rept. 112-169, pp. 63-64.

¹³⁴ H.Rept. 112-492, pp. 65-66.

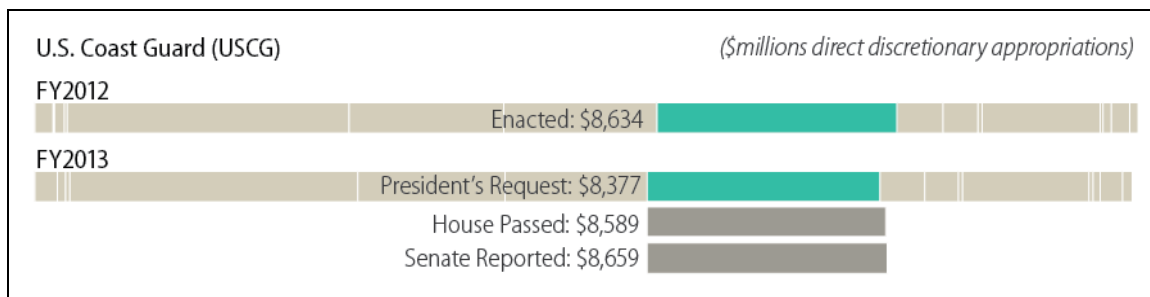
¹³⁵ H.Amdt. 1248 to H.R. 5855, 112th Congress, 2nd Session.

¹³⁶ H.Rept. 112-492, p.77.

similarly disagreed with the request to reduce FFDO funding. It recommended \$24 million for FFDO and crew member training programs, noting that the slight decrease compared to FY2012 reflects the constrained budget environment.¹³⁷

U.S. Coast Guard¹³⁸

The Coast Guard is the lead federal agency for the maritime component of homeland security. As such, it is the lead agency responsible for the security of U.S. ports, coastal and inland waterways, and territorial waters. The Coast Guard also performs missions that are not related to homeland security, such as maritime search and rescue, marine environmental protection, fisheries enforcement, and aids to navigation. The Coast Guard was transferred from the Department of Transportation to the DHS on March 1, 2003.



FY2013 Request

The President requested a total of \$8,377 million in discretionary appropriations for the Coast Guard, \$257 million less than FY2012's enacted amount. This amount includes \$6,791 million in operating expenses and \$1,217 million in capital acquisitions.

House-Passed H.R. 5855

The House approved \$212 million more than the President requested. Most of the difference is for the capital account which includes acquisition of vessels, aircraft, and improvements to shore facilities, as discussed further below.

Senate-Reported S. 3216

The Senate Appropriations Committee recommended about \$282 million more than the President requested. Much of the difference is due to the Senate funding overseas contingency operations directly under the Coast Guard rather than transferring this amount from the DOD budget as the President requested. The largest differences with the President's request has to do with vessel procurement as shown in the following table and discussed further below.

¹³⁷ S.Rept. 112-169, p.68.

¹³⁸ Prepared by John Frittelli, Specialist in Transportation Policy, Resources, Science, and Industry Division.

Table 13. Coast Guard Operating (OE) and Acquisition (ACI) Sub-Account Detail
(budget authority in millions of dollars)

	FY2013 Appropriations				FY2013 Enacted
	FY2012 Enacted	FY2013 Request	FY2013 House- passed	FY2013 Senate- reported	
Operating Expenses	7,051	6,791	6,765	7,073	
Military pay and allowances	3,413	3,416	3,426	3,429	
Civilian pay and benefits	784	790	786	790	
Training and recruiting	213	213	213	214	
Operating funds and unit level maintenance	1,110	1,092	1,063	1,098	
Centrally managed accounts	337	350	301	351	
Intermediate and depot level maintenance	936	930	970	937	
Global war on terror	258	[254]	[254]	254	
Floor Amendment			5		
Acquisition, Construction, and Improvements	1,404	1,217	1,429	1,471	
Vessels	642	880	938	1,123	
Aircraft	290	75	205	75	
Other Equipment	161	77	59	77	
Shore Facilities and ATON	181	69	110	69	
Military Housing	20	-	-	10	
Personnel & Related Support	110	117	117	117	

Source: H.Rept. 112-492, S.Rept. 112-169.

Notes: Amounts may not total due to rounding. Numbers in brackets are a transfer from the Defense Department and not included in total.

Issues for Congress

Vessels and Aircraft

The largest differences in FY2013 funding recommendations between the President's request and House and Senate bills concerns vessel and aircraft acquisition. The President requested \$139 million for two new fast response cutters. The House bill funds four (\$224 million), and the Senate bill funds six (\$335 million). The President requested no funds for additional Response Boat Medium vessels. The House bill also provides no funds for the vessels but the Senate requested \$8 million to build four more. Regarding aircraft, the House provides \$90 million for one long-range fixed wing aircraft, and \$28 million for two MH-60 helicopters. The President requested \$64 million for the long-range aircraft, but made this request in the DOD's budget (to

be transferred to the Coast Guard) and requested no funds for MH-60 helicopters. The Senate did not request funds for either of these aircraft under the Coast Guard's appropriation.

The Coast Guard's effort to replace or modernize its fleet of vessels and aircraft has been a major issue for Congress over the last several years.¹³⁹

Shore Facilities

The House bill provides \$56 million for Coast Guard housing and aids to navigation, which is about \$41 million more than the \$15 million requested by the President and recommended by the Senate committee. The \$41 million recommended by the House includes \$31 million to address a shore facilities backlog list produced by the Coast Guard (the list was requested by Congress in FY2012 appropriations) and \$10 million for the Coast Guard's new headquarters building on the St. Elizabeths campus in Washington, DC.

Maritime Security

The House Appropriations Committee Report calls on the Coast Guard to issue a final rule for implementing card readers at ports and on vessels for the Transportation Worker Identification Credential (TWIC), a biometric security card that port and vessel workers must have to access security sensitive areas.¹⁴⁰ The Senate Committee on Appropriations requests a Coast Guard briefing on actions taken regarding Interagency Operations Centers at ports in light of a GAO report critical of the agency's development of these centers.¹⁴¹

U.S. Secret Service¹⁴²

The U.S. Secret Service (USSS)¹⁴³ has two broad missions, criminal investigations and protection. Criminal investigation activities encompass financial crimes, identity theft, counterfeiting, computer fraud, and computer-based attacks on the nation's financial, banking, and telecommunications infrastructure, among other areas. The protection mission is the most prominent, covering the President, Vice President, their families, and candidates for those offices, along with the White House and Vice President's residence, through the Service's Uniformed Division. Protective duties also extend to foreign missions in the District of Columbia and to designated individuals, such as the DHS Secretary and visiting foreign dignitaries. Aside from these specific mandated assignments, USSS is responsible for security activities at National Special Security Events (NSSE),¹⁴⁴ which include the major party quadrennial national conventions as well as international conferences and events held in the United States. The NSSE designation by the President gives the USSS authority to organize and coordinate security

¹³⁹ For background on this issue, see archived CRS Report RL33753, *Coast Guard Deepwater Acquisition Programs: Background, Oversight Issues, and Options for Congress*, by Ronald O'Rourke.

¹⁴⁰ H.Rept. 112-492, pp. 79-80.

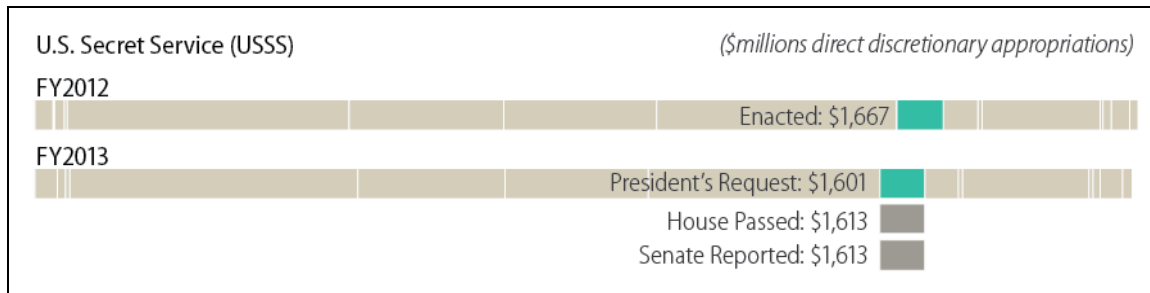
¹⁴¹ S.Rept. 112-169, pp. 89-90.

¹⁴² Prepared by Shawn Reese, Analyst in Emergency Management and Homeland Security Policy, Government and Finance Division.

¹⁴³ For more information, see CRS Report RL34603, *The U.S. Secret Service: An Examination and Analysis of Its Evolving Missions*, by Shawn Reese.

¹⁴⁴ For more information, see CRS Report RS22754, *National Special Security Events*, by Shawn Reese.

arrangements involving various law enforcement units from other federal agencies and state and local governments, as well as from the National Guard.



FY2013 Request

For FY2013, the Administration requested an appropriation of \$1,601 million for the USSS.¹⁴⁵ The Administration's request is \$66 million (4%) less than was appropriated for the USSS in FY2012. The Administration requested approximately \$988 million for its protection mission, \$324 million for its investigation mission, and total of 7,061 FTE to meet its personnel needs.¹⁴⁶

House-Passed H.R. 5855

For FY2013, the House-passed version of the DHS appropriations bill recommended an appropriation of \$1,613 million.¹⁴⁷ This amount represents a decrease of \$54 million (3.2%) from the FY2012 USSS appropriation. However, it is \$12 million (0.8%) more than the Administration's FY2013 request.

The decrease compared to FY2012 reflects the anticipated conclusion of the 2012 Presidential campaign season and the reduced demand for major presidential candidate protection.¹⁴⁸ It is mitigated by restoration of \$8 million in specific funding for USSS support for the Center for Missing and Exploited Children, which had been zeroed out in the Administration's request, and an \$8 million increase for Electronic Crimes Special Agent Program and Electronic Crimes Task Forces.

Senate-Reported S. 3216

For FY2013, the Senate-reported version of the DHS appropriations bill recommended an appropriation of \$1,613 million.¹⁴⁹ This amount reflects a total decrease of \$54 million (3.2%)

¹⁴⁵ U.S. Department of Homeland Security, U.S. Secret Service, *Fiscal Year 2013 Overview: Congressional Justification*, p. 3.

¹⁴⁶ *Ibid.*

¹⁴⁷ U.S. Congress, House Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2013*, 112th Cong., 2nd sess., May 23, 2012, H.Rept. 112-492, p. 93.

¹⁴⁸ *Ibid.*

¹⁴⁹ U.S. Congress, Senate Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2013*, 112th Cong., 2nd sess., May 22, 2012, S.Rept. 112-169, p. 91.

from the FY2012 USSS appropriation. However, it is \$12 million (0.8%) above the Administration’s FY2013 request.

Although the structure is different for two programs, the Senate also restored \$8 million in specific funding for USSS support for the Center for Missing and Exploited Children, and provided \$4 million above the request for unspecified priority domestic investigations.

Additionally, the Senate Committee notes and approves the USSS Director’s actions to address the “improper behavior involving 12 Secret Service agents and officers in Cartagena, Colombia, on April 12, 2012.”¹⁵⁰

Table 14. FY2012 and FY2013 Budget Authority for the U.S. Secret Service

(amounts in millions of dollars)

Programs and Activities	FY2012 Enacted	FY2013 Budget Request	FY2013 House-passed	FY2013 Senate-reported	FY2013 Enacted
Salaries and Expenses	1,661	1,544	1,556	1,556	
Protection	1,052	988	988	988	
<i>Protection of persons and facilities</i>	832	838	838	858	
<i>Protective intelligence activities</i>	68	68	68	68	
<i>National Special Security Events</i>	19	5	5	5	
<i>Candidate nominee protection</i>	113	58	58	58	
<i>White House mail screening</i>	18	20	20	^a	
Investigations	318	324	340	336	
<i>Domestic field operations</i>	224	239	239	298	
<i>International field operations</i>	33	31	31	31	
<i>Electronic crimes program</i>	53	55	62	^b	
<i>Forensic support to the National Center for Missing and Exploited Children</i>	8	-	8	8	
Management and Administration	192	175	171	175	
Information Integration & Technology Transformation	44	53	1	1	
James J. Rowley Training Center	55	56	56	56	
Acquisition, construction, and improvements	5	57	57	57	
Total	1,667	1,601	1,613	1,613	

Source: CRS Analysis of the FY2013 DHS Congressional Budget Justifications, the FY2013 DHS Budget in Brief, S.Rept. 112-169, H.Rept. 112-492 .

Notes: Amounts may not total due to rounding.

a. Funded under “Protection of Persons and Facilities.”

b. Funded under “Domestic Field Operations.”

¹⁵⁰ Ibid.

Issue for Congress

One issue of interest to Congress concerning the FY2013 appropriations for the USSS was the balancing of the investigative and protective missions of the Service, and how serving both missions may affect USSS overall operations.

Protection and Investigation Missions Funding and Activities

USSS's protection mission, as opposed to its investigative mission, employs the majority of the Service's agents and receives a larger share of the agency's resources. Additionally, the majority of congressional action concerning USSS has been related to its protection mission and recent USSS agent misconduct.¹⁵¹ While Congress has maintained the Service's role in investigating financial crimes, such as combating counterfeiting, congressional action has primarily addressed, and continues to address, the Service's protection mission. Potential terrorist attacks and potential threats to the President have resulted in an increase in the need for the Service's protection activities. Advocates for expansion of the investigation mission, however, may contend that protection is enhanced through better threat investigation efforts.¹⁵²

Title III: Protection, Preparedness, Response, and Recovery

Title III of the DHS appropriations bill contains the appropriations for the National Protection and Programs Directorate (NPPD), the Office of Health Affairs (OHA), and the Federal Emergency Management Agency (FEMA). The Administration requested \$5,911 million for these accounts in FY2013, an increase of \$231 million above the enacted level. The House-passed bill provides \$5,930 million, an increase of 0.3% above the requested level and 4.4% above FY2012. In addition, both House-passed and Senate-reported versions of this title also include a requested \$5,481 million for disaster relief that is offset by an adjustment under the Budget Control Act. The adjustment is \$919 million smaller than the adjustment provided in the FY2012 Disaster Relief Appropriations Act (P.L. 112-77). **Table 15** lists the enacted amounts for the individual components of Title III for FY2012 (as of August 1, 2012), the Administration's request for these components for FY2013, and the House-passed and Senate-reported appropriations for the same.

¹⁵¹ U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *Secret Service on the Line: Restoring Trust and Confidence*, 112th Cong., 2nd sess., May 23, 2012.

¹⁵² Herrera-Flanigan, Jessica, "Secret Service—Its Mission, Its Future," *Homeland Security Watch*, October 20, 2009. <http://www.hlswatch.com/2009/10/20/secret-service-its-mission-its-future/>.

Table 15. Title III: Protection, Preparedness, Response, and Recovery, FY2012-FY2013
(budget authority in millions of dollars)

	FY2013 Appropriation				FY2013 Enacted
	FY2012 Enacted	FY2013 Request	FY2013 House-passed	FY2013 Senate-reported	
National Protection and Programs Directorate					
Management and Administration	51	50	45	50	
Infrastructure Protection and Information Security	888	1,167	1,110	1,170	
US-VISIT	307	—	—	—	
Office of Biometric Identity Management ^a	—	—	191	—	
Appropriation	1,246	1,217	1,347	1,220	
Fees, Mandatory Spending, and Trust Funds	1,262	1,302	1,302	1,302	
Total Budgetary Resources	2,508	2,519	2,649	2,522	
Office of Health Affairs					
Appropriation	167	166	132	168	
Fees, Mandatory Spending, and Trust Funds	0	0	0	0	
Total Budgetary Resources	167	166	132	168	
Federal Emergency Management Agency					
Salaries and Expenses	895	789	720	979	
Automation Modernization	—	—	58	—	
Grants and Training	2,375	2,900	2,798	2,670	
U.S. Fire Administration	44	43	42	44	
Disaster Relief Fund ^b	7,100	6,089	6,089	6,089	
Flood Hazard Mapping and Risk Analysis	98	89	92	97	
Pre-disaster Mitigation Fund	36	0	14	35	
Emergency Food and Shelter	120	100	120	150	
Radiological Emergency Preparedness	-1	-1	-1	-1	
Appropriation	4,267	4,528	4,451	4,582	
Fees, Mandatory Spending, and Trust Funds	3,273	3,551	3,551	3,551	
Disaster Relief Adjustment	6,400	5,481	5,481	5,481	
Total Budgetary Resources	13,940	13,560	13,483	13,614	
Net Budget Authority: Title III	5,680	5,911	5,930	5,971	
Total Budgetary Resources for Title III Components before Transfers	16,624	16,245	16,264	16,304	

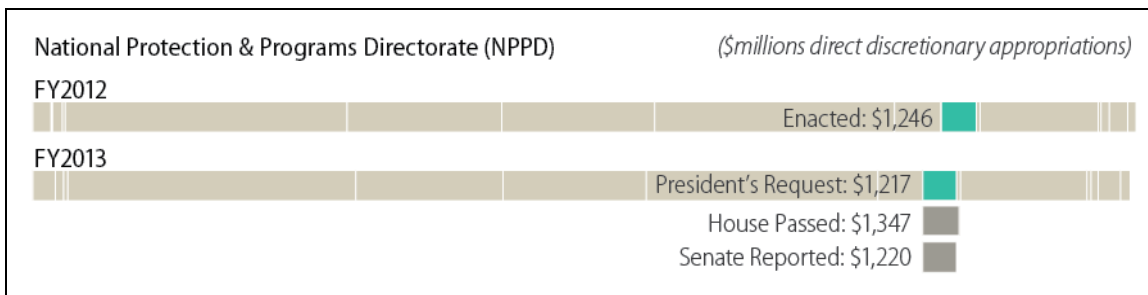
Sources: CRS analysis of the DHS FY2013 Congressional Budget Justification, H.Rept. 112-331 (for FY2012), H.R. 5855, H.Rept. 112-492, and S.Rept. 112-169.

Notes: Amounts may not total due to rounding.

- a. The Administration proposed in the FY2013 budget request moving US-VISIT from NPPD and dividing it between ICE and CBP. The House proposed retaining this portion of US-VISIT in NPPD.
- b. Disaster relief funding is displayed in this line, but is not added to the appropriations total, in accordance with the appropriations committees' practices for subtotalling this account. This funding is not reflected in the total appropriation for FEMA.

National Protection and Programs Directorate¹⁵³

The National Protection and Programs Directorate (NPPD) was formed by the Secretary for Homeland Security in response to the Post-Katrina Emergency Management Reform Act of 2006. The Directorate includes the Office of the Under Secretary for NPPD and accompanying administrative support functions (budget, communications, etc.), the Office of Infrastructure Protection and the Office of Cybersecurity and Communications, the latter including the National Cyber Security Division, the National Communications System and the Office of Emergency Communications. The Administration has proposed moving the activities of the US-VISIT program from NPPD to other locations within the Department. The House has proposed keeping some of those functions within the Directorate in a newly established Office of Biometric Identify Management.



FY2013 Request

The activities of the Office of the Under Secretary are supported by the Management and Administration Program. The activities of the Office of Infrastructure Protection and the Office of Cybersecurity and Communications are supported by the Infrastructure Protection and Information Security Program (IPIS). The IPIS program can be further broken down into projects related to infrastructure protection, cybersecurity, and communications.

The Administration requested \$1,217 million for NPPD activities in FY2013, \$29 million (2.3%) less than what was appropriated for FY2012. The FY2013 Management and Administration budget request was \$50 million (roughly even with the FY2012 level) and represents a current services¹⁵⁴ budget request. It also reflects the transfer of functions previously performed by the Directorate's Office of Risk Management and Analysis to the DHS Office of Policy. The FY2013

¹⁵³ Prepared by John D. Moteff, Specialist in Science and Technology Policy, Resources, Science, and Industry division.

¹⁵⁴ A current services budget request takes into account inflation, including proposed salary increases, and any projected changes in workload without any expansion or reductions in type or quality of services beyond what is currently provided.

request for IPIS was \$1,167 million, an increase of \$278 million (31.3%) above the FY2012 appropriation.

A large share of the increase in the IPIS budget request was directed toward securing the federal government's information systems. The request included two major program increases. The first, a new \$202 million initiative within the Federal Network Security project, would directly facilitate other federal agencies' compliance with Federal Information Security Management (FISMA) requirements, including development of continuous monitoring capabilities. The second is a \$116 million (50.7%) increase to expand the Network Security Deployment project. The Network Security Deployment project supports deployment of the National Cybersecurity Protection System (NCPS, also known as the EINSTEIN project). The NCPS is an intrusion detection system that uses digital signatures developed by the National Security Agency. The extra funding would expand deployment of the 3.0 version of the system (which allows for active defenses against an intrusion) and development of version 2.2 (which would augment threat visualization and information sharing capabilities) across federal agencies.

Other programmatic increases of note included \$15 million for US-CERT to support analysis of the additional data being generated by the NCPS and \$5 million in additional support for the Multi-State Information Security and Analysis Center (MS-ISAC) to assist state, local, territorial and tribal governments in their cybersecurity efforts and to integrate them with NPPD's national efforts.

The FY2013 request decreased funding in other areas of the IPIS budget. Infrastructure protection funding was reduced \$40 million (13.7%) below the FY2012 appropriation and activities in communications were reduced \$7 million (4.7%) below FY2012 appropriated levels. Most of the reduction in infrastructure protection was due to a \$19 million (20.1%) reduction in the budget requested for the Infrastructure Security Compliance project. This project supports activities to ensure compliance with Chemical Facility Anti-Terrorism Standards (CFATS) at covered facilities. The Administration considered the reduction a baseline adjustment, with \$16 million of the adjustment attributed to the ability of NPPD to obligated funds. Another \$8 million in reductions was associated with elimination of contract support for incident planning exercises. Incident planning exercise activities would continue as those activities, and the federal personnel associated with them, were transferred to other infrastructure protection projects.

House-Passed H.R. 5855

The House provided \$1,347 million for NPPD: \$45 million for Management and Administration, \$1,110 million for IPIS, and \$191 million for the Office of Biometric Identity Management (OBIM is discussed elsewhere in this report). The House provided \$5 million (10%) less than requested for Management and Administration citing the Administration's use of unauthorized TSA fee increases, flaws in the treatment of CBP fee revenues, and the department's poor compliance with statutory requirements.¹⁵⁵ Much of the reduction in the IPIS request was made in the Security Compliance project. Based on an internal review of the program which revealed major problems with the program's implementation, and the existence of unobligated funds, the House provided \$29 million less than requested. The House also reduced by \$17 million the funding requested for deployment of the NCPS, noting concern about NPPD's ability to obligate

¹⁵⁵ H.Rept. 112-492, p. 99.

the funds.¹⁵⁶ The House also directed the NPPD to work with the Coast Guard on program implementation, personnel management, and inspector training, and to consider the potential for using alternative security programs developed by the private sector for approving security plans under CFATS.¹⁵⁷

Other reductions made by the House included \$3 million in the Global Cybersecurity Management project (due to lack of sufficient justification) and \$7 million in the Programs to Study and Enhance Telecommunications project.¹⁵⁸

The House provided the full \$202 million increase for the Federal Network Security project initiative. However, rather than transferring those funds to other agencies to develop continuous monitoring capabilities, the House directed NPPD to use the funds to develop security capabilities, including continuous monitoring, that other agencies could use.¹⁵⁹

Senate-Reported S. 3216

The Senate Appropriations Committee recommended \$1,220 million for NPPD. The Committee recommended the requested amount for Management and Administration, but required an expenditure plan.¹⁶⁰ The Committee recommended \$1,170 million for IPIS. This included amounts above those requested for bombing prevention and vulnerability assessments.¹⁶¹ It also included \$12 million more in funding than requested for the Security Compliance project. Acknowledging the existence of unobligated funds for the project and the Directorate's continuing internal deliberation on planning its way forward, the Committee stated that funds above those requested would be needed to implement any subsequent implementation plan later in the fiscal year.¹⁶²

The Committee provided \$18 million less than requested for the initiative within the Federal Network Security project to support the development of continuing monitoring capability and other security measures. In addition, the Committee recommended withholding \$120 million of the \$184 million proposed by the Senate for this effort until NPPD produces an expenditure plan for the initiative. Noting that NPPD had originally proposed a federated effort, but had restructured the project to a more unified project managed by DHS, the Committee also recommended that the expenditure plan explain how this new centralized structure will work.¹⁶³

The Committee also recommended funding above that requested for the Global Cybersecurity Management project (setting aside \$17 million for cybersecurity education) and the Critical Infrastructure Cybersecurity and Awareness project (citing the importance the Committee placed on improving the cybersecurity posture of state, local, territorial, tribal governments). On a related topic, the Committee cited the first National Cyber Security Review conducted by NPPD

¹⁵⁶ *Ibid.*, p. 100.

¹⁵⁷ *Ibid.*, 101-103.

¹⁵⁸ *Ibid.*, p. 100.

¹⁵⁹ *Ibid.*, p. 104-105.

¹⁶⁰ S.Rept. 112-169, pp. 95-96.

¹⁶¹ *Ibid.*, p. 97.

¹⁶² *Ibid.*, P. 98.

¹⁶³ *Ibid.* p. 99.

which assessed the cybersecurity capabilities of states, local, territorial, and tribal governments, and expressed its expectation that the review would be conducted annually to chart progress.¹⁶⁴

The Committee also recommended increases for the Office of Emergency Communications and to other emergency communication-related projects, including the Next Generation Telecommunications project (which it increased \$5 million above the requested level).¹⁶⁵

Table 16. Budget Authority for Infrastructure Protection and Information Security
(budget authority in millions of dollars)

Program	FY2013 Appropriations				FY2013 Enacted
	FY2012 Enacted	FY2013 Request	FY2013 House-passed	FY2013 Senate-passed	
Infrastructure Protection	295	255	226	270	
<i>Identification, Analysis, and Planning</i>	71	57	57	60	
<i>Sector Management and Governance</i>	74	67	67	67	
<i>Regional Field Operations</i>	57	56	56	56	
<i>Infrastructure Security Compliance</i>	93	75	45	86	
National Cybersecurity Division	443	769	749	756	
<i>Cybersecurity Coordination</i>	5	4	4	4	
<i>US-CERT Operations</i>	79	93	93	93	
<i>Federal Network Security</i>	35	236	236	218	
<i>Network Security Deployment</i>	229	345	328	345	
<i>Global Cybersecurity Management</i>	24	22	19	26	
<i>Critical Infrastructure Cyber Protection and Awareness</i>	60	63	63	64	
<i>Business Operations</i>	12	6	6	6	
Communications	150	143	136	144	
<i>Office of Emergency Communications</i>	43	39	39	42	
<i>Priority Telecommunications Services</i>	56	53	53	53	
<i>Next Generation Networks</i>	25	20	20	25	
<i>Programs to Study and Enhance Telecommunications</i>	13	20	13	13	
<i>Critical Infrastructure Protection</i>	11	11	11	11	
Total, Infrastructure Protection and Information Security	888	1,167	1,110	1,170	

Source: CRS analysis of the DHS FY2013 Congressional Budget Justification, H.Rept. 112-331 (for FY2012), H.R. 5855, H.Rept. 112-492, and S.Rept. 112-169.

Note: Amounts may not total due to rounding.

¹⁶⁴ Ibid., p. 100.

¹⁶⁵ Ibid., p. 101.

Continuing Resolution

A continuing resolution (CR) (P.L. 112-175) was signed into law on September 28, 2012, to fund the federal government through March 27, 2013, or until the general appropriations bills for FY2013 are enacted. The CR provides for DHS, with some limitations, to continue operations in FY2013 with the same funding it received in FY2012, plus a 0.612% increase (see “Operating Under a Continuing Resolution”). In addition to the general limitations discussed above, Section 137 of the CR allows DHS to expend funds for the IPIS program at a rate of operations of \$1.170 billion. This is the amount recommended for IPIS by the Senate Appropriations Committee and is higher than the FY2012 IPIS appropriation plus 0.612% (\$893 million) and higher than that requested by the Administration for FY2013. Of the \$1.170 billion provided for IPIS, the Resolution provides \$328 million for Network Security Deployment (as approved by the House) and \$218 million for Federal Network Security (as recommended in the Senate), both of which are substantially above the FY2012 plus 0.612% level, but less than that requested by the Administration for FY2013 for those two programs.

Issues for Congress

CFATS Compliance

An internal review by NPPD at the end of last calendar year identified some major problems with implementing the CFATS compliance program. The Directorate is continuing to review the program and to develop ways to mitigate the problems identified. Congress, which has shown a continued interest in developing and ensuring compliance with CFATS, will likely be interested in oversight of this issue.

Cybersecurity

Congress has focused a fair amount of attention on cybersecurity during the 112th Congress, including consideration of a number of bills addressing various aspects of the issue; e.g., information sharing, education and workforce development, clarifying roles and responsibilities in protecting federal information systems, and protecting information systems of critical infrastructure assets, including those owned and operated by the private sector. These bills and issues are beyond the scope of this report. However, any legislation expanding DHS’s role in protecting the information systems of critical infrastructure may require DHS, presumably NPPD, to assume additional duties, which would likely require additional resources.¹⁶⁶

Federal Protective Service¹⁶⁷

The Federal Protective Service (FPS), within the National Protection and Programs Directorate (NPPD),¹⁶⁸ is responsible for the protection and security of federal property, personnel, and

¹⁶⁶ For the latest CRS analysis on cybersecurity issues, please refer to the “Issues in Focus” page on cybersecurity on CRS.gov, including CRS Report R42619, *Cybersecurity: CRS Experts*, by Eric A. Fischer. CRS Report R42507, *Cybersecurity: Authoritative Reports and Resources*, by Rita Tehan, provides an excellent index to resources beyond those found on that page.

¹⁶⁷ Prepared by Shawn Reese, Analyst in Emergency Management and Homeland Security Policy, Government and Finance Division.

federally owned and leased buildings.¹⁶⁹ In general, FPS operations focus on security and law enforcement activities that reduce vulnerability to criminal and terrorist threats.¹⁷⁰ FPS protection and security operations include all-hazards based risk assessments; emplacement of criminal and terrorist countermeasures, such as vehicle barriers and closed-circuit cameras; law enforcement response; assistance to federal agencies through Facility Security Committees; and emergency and safety education programs. FPS also assists other federal agencies, such as the U.S. Secret Service (USSS) at National Special Security Events (NSSE), with additional security.¹⁷¹ FPS is the lead “Government Facilities Sector Agency” for the National Infrastructure Protection Plan (NIPP).¹⁷² Currently, FPS employs approximately 1,225 law enforcement officers, investigators, and administrative personnel, and administers the services of approximately 13,000 contract security guards.

President’s FY2013 Request

The President’s FY2013 budget request included 1,279 FTEs and \$1,302 million for FPS. This is \$40 million (3%) more than FPS received in FY2012. FPS does not receive a typical appropriation, but instead has a budget wholly offset by security fees charged to GSA building tenants in FPS-protected buildings and facilities. Of the total funding projected in the request, \$272 million in fees would be collected for basic security operations, \$509 million for building-specific security operations, and \$521 million for Security Work Authorizations.¹⁷³

House-Passed H.R. 5855

For FY2013, House-passed H.R. 5855 projected no specific changes to the FPS budget and provided no additional direction for the service. As the actual funding for FPS services is included in other appropriations bills, it is not discussed here.

Senate-Reported S. 3216

The Senate Appropriations Committee recommended no specific changes to the FPS budget. However, the Senate Appropriations Committee report required the Office of Under Secretary for NPPD, in conjunction with the FPS Director, to brief the committee on FPS management and budget improvement efforts.¹⁷⁴

(...continued)

¹⁶⁸ FPS was transferred to NPPD from ICE following the enactment of the FY2010 DHS appropriations, P.L. 111-83.

¹⁶⁹ 40 U.S.C. 1315.

¹⁷⁰ For more information on FPS, see CRS Report RS22706, *The Federal Protective Service and Contract Security Guards: A Statutory History and Current Status*, by Shawn Reese.

¹⁷¹ For information on NSSEs, see CRS Report RS22754, *National Special Security Events*, by Shawn Reese.

¹⁷² For information on the NIPP, see http://www.dhs.gov/xprevprot/programs/editorial_0827.shtm.

¹⁷³ U.S. Department of Homeland Security, *National Protection & Programs Directorate, Federal Protective Service: Fiscal Year 2013 Congressional Justification*, February 2012, p. 4.

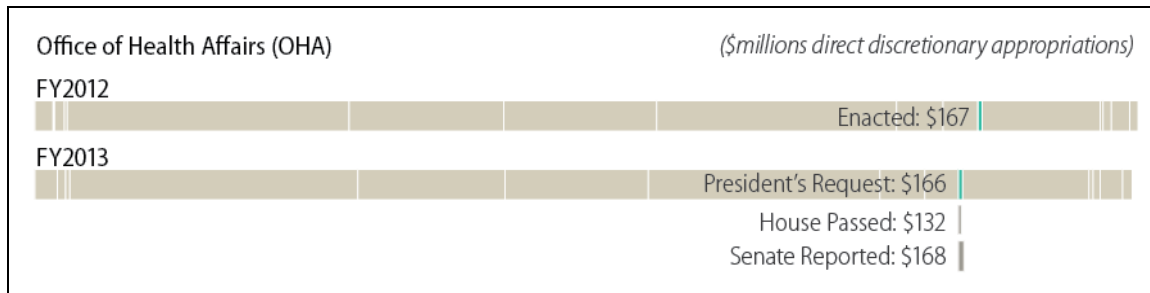
¹⁷⁴ U.S. Congress, Senate Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2013*, 112th Cong., 2nd sess., May 22, 2012, S.Rept. 112-169, p. 103.

Issues for Congress

Congress continues to express concern over certain aspects of the FPS mission and how FPS is funded. Appropriators have expressed an interest in improving training of contract guards, federalizing contract guards, developing standards for checkpoint detection technologies for explosives and other dangerous items at federal facilities, and coordinating DHS efforts with the Interagency Security Committee for building security standards.¹⁷⁵ Several pieces of legislation have been introduced in the House and Senate in the 112th Congress—including H.R. 176, H.R. 2658 and S. 772—to improve federal building security and strengthen the ability of FPS to protect the buildings, the federal employees who work in them, and the visiting public.

Office of Health Affairs¹⁷⁶

The Office of Health Affairs (OHA) has operational responsibility for several programs, including the BioWatch program, the National Biosurveillance Integration Center (NBIC), and the department’s occupational health and safety programs.¹⁷⁷ OHA also coordinates or consults on DHS programs that have a public health or medical component; these include several of the homeland security grant programs, and medical care provided at ICE detention facilities. OHA received \$167 million in FY2012 appropriations.



FY2013 Request

The President requested \$166 million for OHA for FY2013, \$1 million (0.6%) less than was appropriated for FY2012. The requested funding level would support 101 FTEs, 2 more than in FY2012. The proposed allocation is: \$125 million for the BioWatch program; \$8 million for NBIC; \$1 million for the Chemical Defense Program; \$5 million for Planning and Coordination (under which numerous leadership and coordination activities are implemented); and \$28 million for Salaries and Expenses.¹⁷⁸ (See **Table 17.**)

House-Passed H.R. 5855

The House Appropriations Committee recommended \$132 million for OHA for FY2013, \$35 million (21.2%) less than for FY2012, and \$34 million (20.7%) less than the President’s

¹⁷⁵ For more information about federal building security and role of FPS, see CRS Report R41138, *Federal Building, Courthouse, and Facility Security*, by Lorraine H. Tong and Shawn Reese.

¹⁷⁶ Prepared by Sarah A. Lister, Specialist in Public Health and Epidemiology, Domestic Social Policy Division.

¹⁷⁷ DHS, Office of Health Affairs, http://www.dhs.gov/xabout/structure/editorial_0880.shtm.

¹⁷⁸ OHA, *Fiscal Year 2013 Congressional Justification*, p. 4.

request.¹⁷⁹ The decrease largely reflects a recommendation of \$85 million for the BioWatch program (discussed further below); \$29 million below the FY2012 amount, and \$40 million below the President’s request. The House approved these recommendations. (See **Table 17**.)

Senate-Reported S. 3216

The Senate Appropriations Committee recommended \$168 million for OHA for FY2013, \$1 million (0.5%) more than for FY2012 and \$2 million (1.1%) more than the President’s request.¹⁸⁰ The committee recommended the amounts requested by the President for the BioWatch program, NBIC, and salaries and expenses.¹⁸¹ The committee also recommended small increases for Planning and Coordination and Salaries and Expenses; and \$2 million for the Chemical Defense Program, to support additional pilot programs. (See **Table 17**.)

Table 17. Office of Health Affairs
(budget authority in millions of dollars)

Program or Activity	FY2012 Enacted	FY2013 Appropriations			
		Request	House- passed	Senate- reported	Enacted
BioWatch	114	125	85	125	
National Biosurveillance Integration Center	12	8	13	8	
Chemical Defense	5	1	1	2	
Planning and Coordination	6	5	5	5	
Salaries and Expenses	30	28	28	28	
Total OHA budget authority	167	166	132	168	

Sources: OHA, *Fiscal Year 2013 Congressional Justification*, H.Rept. 112-492, pp. 110-112, and S.Rept. 112-169, pp. 102-105.

Issues for Congress

Consolidation of DHS WMD Defense Programs

In its report on FY2013 funding recommendations for DHS, the House Appropriations Committee commented on the separation of the department’s activities to monitor threats posed by weapons of mass destruction (WMD). In particular, the committee noted the separation of the Domestic Nuclear Detection Office (DNDO), responsible for monitoring radiological and nuclear threats, and OHA, responsible for monitoring chemical and biological threats. The Committee directed the Secretary to develop, and submit to Congress, a consolidation plan to merge DNDO

¹⁷⁹ H.Rept. 112-492, pp. 110-112.

¹⁸⁰ S.Rept. 112-169, pp. 102-105.

¹⁸¹ However, the committee recommended withholding from obligation \$29 million of the BioWatch amount—a portion of the \$40 million intended for Gen-3 deployment, as discussed below—until the Secretary certifies the soundness of the technology to the committee. *Ibid*, p. 103.

and OHA into an Office of Weapons of Mass Destruction Defense for FY2014, and directed GAO to review the consolidation plan.¹⁸²

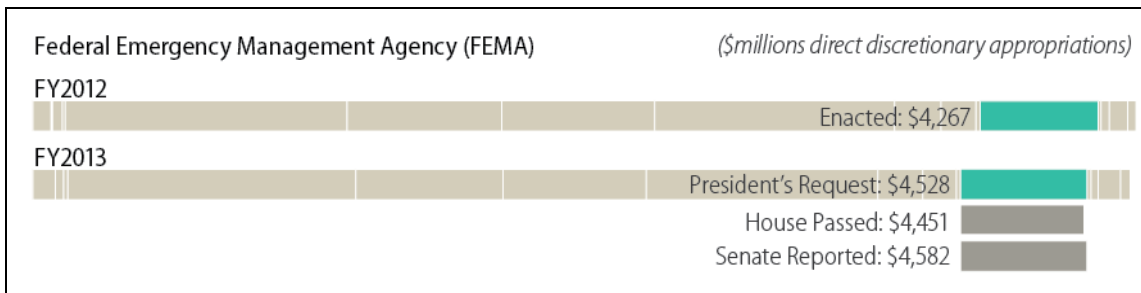
The Senate report carries no parallel directive.

BioWatch: Effectiveness and Deployment

The BioWatch program deploys sensors in more than 30 large U.S. cities to detect the possible aerosol release of a bioterrorism pathogen, in order that medications could be distributed before exposed individuals became ill. Operation of the BioWatch program accounts for the lion’s share of OHA’s budget. The program has sought for several years to deploy more sophisticated sensors (so-called “Generation-3” or “Gen-3” sensors) that could detect airborne pathogens in a few hours, rather than the day or more that is currently required. Some Members of Congress have expressed concerns about the Gen-3 development and deployment processes, however, citing technical and scientific concerns, as well as concerns about cost, deployment delays, and large carryover balances.¹⁸³

Federal Emergency Management Agency

The Federal Emergency Management Agency (FEMA) is responsible for leading and supporting the nation’s preparedness through a risk-based and comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation. This comprehensive emergency management system is intended to reduce the loss of life and property, and protect the nation from all hazards. These hazards include natural and accidental man-made disasters, and acts of terrorism.¹⁸⁴



FEMA executes its mission through a number of activities such as providing assistance through its administration of the Disaster Relief Fund (DRF) and the Pre-Disaster Mitigation Fund. Additionally, FEMA provides assistance to state, local, and tribal governments, and non-

¹⁸² H.Rept. 112-492, pp. 12-14.

¹⁸³ See for example H.Rept. 112-492, pp. 110-111; Jennifer Scholtes, “Members Wary About Investing More in BioWatch,” *CQ Homeland Security*, March 30, 2012, online news; Carol Wolf, “Anthrax Alert System at Risk as Cost Estimate Hits \$5.7 Billion,” *Bloomberg Government*, June 12, 2002; and GAO, *Biosurveillance: DHS Should Reevaluate Mission Need and Alternatives before Proceeding with BioWatch Generation-3 Acquisition*, GAO-12-810, September 10, 2012, <http://www.gao.gov/products/GAO-12-810>.

¹⁸⁴ U.S. Department of Homeland Security, Federal Emergency Management Agency, *About FEMA: FEMA Mission*, Washington, DC, November 2008, at <http://www.fema.gov/about/index.shtm>.

governmental entities through its management and administration of programs such as State and Local Programs, the Assistance to Firefighters Grants, and the Emergency Food and Shelter program.

FY2013 Request

The Administration requested a total discretionary appropriation of \$4,528 million in net budget authority for FEMA for FY2013, an increase of \$261 million (6.1%) over the enacted FY2012 level of \$4,267 million. In addition, the Administration requested an additional \$5,481 million for the DRF, paid for by an adjustment to the discretionary budget cap under a mechanism established by the Budget Control Act. This adjustment, which is \$919 million below the additional funding provided for the DRF in FY2012, is discussed more in detail below and earlier in the report.

House-Passed H.R. 5855

House-passed H.R. 5855 provides a total discretionary appropriation of \$4,451 million for FEMA for FY2013, a decrease of \$76 million (1.7%) from the President's request and an increase of 185 million (4.3%) from FY2012. This includes \$23 million added to FEMA's budget through floor amendments. The House also included the requested additional funding for the DRF, paid for by the allowable adjustment for disaster relief.

Senate-Reported S. 3216

Senate-reported S. 3216 provides a total discretionary appropriation of \$4,582 million for FEMA for FY2013, an increase of \$55 million (1.2%) from the President's request and an increase of \$316 million (7.4%) from FY2012. The Senate Appropriations Committee also included the requested additional funding for the DRF, paid for by the allowable adjustment for disaster relief.

DHS State and Local Preparedness Grants¹⁸⁵

State and local governments have primary responsibility for most domestic public safety functions. When facing difficult fiscal conditions, state and local governments may reduce resources allocated to public safety and, consequently, homeland security preparedness, due to increasing pressure to address tight budgetary constraints and fund competing priorities. Since state and local governments fund the largest percentage of public safety expenditures, this may have a significant impact on the national preparedness level.

Prior to 9/11, there were only three federal grant programs available to state and local governments to address homeland security: the State Domestic Preparedness Program administered by the Department of Justice, the Emergency Management Performance Grant (EMPG) administered by the Federal Emergency Management Agency (FEMA), and the Metropolitan Medical Response System (MMRS) administered by the Department of Health and Human Services. Since that time, several additional homeland security grant programs were

¹⁸⁵ Prepared by Natalie M. Keegan, Analyst in American Federalism and Emergency Management Policy, nkeegan@crs.loc.gov, 7-9569.

added to ensure state and local preparedness, including the State Homeland Security Grant Program (SHSGP), Citizen Corps Program (CCP), Urban Area Security Initiative (UASI), Driver's License Security Grants Program (REAL ID), Operation Stonegarden grant program (Stonegarden), Regional Catastrophic Preparedness Grant Program (RCPG), Public Transportation Security Assistance and Rail Security Assistance grant program (Transit Grants), Port Security Grants (Port Security), Over-the-Road Bus Security Assistance (Over-the-Road), Buffer Zone Protection Program (BZPP), Interoperable Emergency Communications Grant Program (IECGP), and Emergency Operations Center Grant Program (EOC).

While state and local governments receive federal assistance for preparedness activities, this federal assistance accounts for only a small percentage of overall state and local spending for public safety. On average, total expenditures for all state and local governments for public safety is \$218 billion annually.¹⁸⁶ Public safety expenditures include costs associated with the functions of police protection, fire protection, corrections, and protective inspections and regulations.¹⁸⁷ By comparison, in FY2012, Congress appropriated approximately \$2,375 million to federal grant programs for state and local preparedness through DHS.¹⁸⁸ This amount accounts for a little more than 1% of state and local government public safety expenditures.

As has frequently been the case over the recent history of FEMA's grant and training programs, the Administration proposed changes to the structure of the accounts, making a direct comparison to previous years more challenging. Congress has generally funded Emergency Management Performance Grants (EMPG), Fire Grants, and SAFER Act Grants outside the State and Local Programs function, and allowed a portion of the funds for these programs to cover administrative costs by transferring funds to FEMA's management accounts. For FY2013, the Administration proposed rolling EMPG, Fire Grants, and SAFER Act Grants into State and Local Programs, and providing a separate line under the State and Local Programs function for management and administration. These changes allowed the Administration to present a State and Local Programs request of \$2,900 million for FY2013. However, the House and Senate Appropriations Committees rejected the structural changes, and an analysis of funding using the enacted structure indicates a comparable request of roughly \$1,880 million for FY2013, \$531 million more than was appropriated for FY2012.¹⁸⁹ A detailed breakdown of the proposed structure of that funding follows in **Table 18**.

The requested funding level would include funding to support the establishment of a National Preparedness Grant Program (NPGP), which was proposed as a means to consolidate the activities previously funded under a number of state and local preparedness grant programs and

¹⁸⁶ U.S. Census Bureau, *State and Local Government Finance Summary Report*, April 2011, p. 7.

¹⁸⁷ The definition of state and local public safety expenditures is based on the U.S. Census Bureau's definition of public safety for the annual surveys of state and local government finances.

¹⁸⁸ This amount only includes funds provided to state and local programs, which does not include funding provided for the Firefighter Assistance Grants, Emergency Management Performance Grants, and the Radiological Emergency Preparedness Program.

¹⁸⁹ The \$1.8 billion amount calculated for the President's request includes \$1.5 billion for a consolidated national preparedness grant program, \$279 million for management and administration (including activities traditionally funded by the National Exercise Program, Center for Domestic Preparedness, and technical assistance, evaluation, and assessment), and \$60 million for a training partnership grant (including activities traditionally funded by the National Domestic Preparedness Consortium, and Continuing Training Grants program). In an equivalent comparison, Congress provided \$1.4 billion in FY2013 for these activities, of which \$1.1 billion was for state and local programs (of which \$50 million was carved out for Operation Stonegarden), and \$232 million for training, exercises, and technical assistance.

ensure federal grants are better aligned with meeting preparedness policy goals.¹⁹⁰ The House Appropriations Committee denied the consolidation request, noting in the report accompanying the bill that the proposal had not been authorized by Congress, lacked sufficient details regarding the implementation of the program, and lacked sufficient stakeholder participation in the development of the proposal.¹⁹¹ The Senate Appropriations Committee also expressed concern with the consolidation proposal because it was unclear how risk assessments would be used and how funding would be allocated.¹⁹² The Senate Committee also noted its concern over the uncertainty surrounding the allocation of funding to individual grant programs.¹⁹³

National Preparedness Goal

On March 30, 2011, President Obama issued a presidential policy directive that directed the Secretary of DHS to develop and submit to the President a national preparedness goal. Presidential Policy Directive 8 (PPD-8) directed the Secretary to develop a national preparedness goal in coordination with federal, state, local, tribal, and territorial governments:

The national preparedness goal shall be informed by the risk of specific threats and vulnerabilities – taking into account regional variations – and include concrete, measurable, and prioritized objectives to mitigate that risk. The national preparedness goal shall define the core capabilities necessary to prepare for the specific types of incidents that pose the greatest risk to the security of the Nation.¹⁹⁴

This presidential policy directive builds on a previous national preparedness homeland security directive (HSPD-8) issued by President George W. Bush after 9/11, which initiated the following national preparedness goal:

Strengthen the preparedness of the United States to prevent and respond to threatened or actual domestic terrorist attacks, major disasters, and other emergencies by requiring a national domestic all-hazards preparedness goal.¹⁹⁵

On October 7, 2011, The Secretary of DHS released the first National Preparedness Goal (NPG) developed under the provisions of PPD-8. The NPG identifies the set of nation-wide core capabilities needed to reach the desired end-state objective in each of the five mission areas of preparedness: prevention, protection, mitigation, response, and recovery. The NPG also identifies preliminary performance targets for these capabilities.¹⁹⁶ Ultimately, the NPG defines the overall desired end-state as:

A secure and resilient Nation with the capabilities required across the whole community to prevent, protect against, mitigate, respond to, and recover from the threats and hazards that pose the greatest risk.¹⁹⁷

¹⁹⁰ For more, on the proposal, see Department of Homeland Security, *FY2013 National Preparedness Grant Program: Vision Document*, February 2012, http://www.fema.gov/pdf/government/grant/fy2013_npgp_grant_program_overview.pdf.

¹⁹¹ Ibid.

¹⁹² U.S. Congress, Senate Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2013*, report to accompany S. 3216, 112th Congress, 2d sess., S.Rept. 112-169, (Washington, DC: GPO, 2012), p. 113.

¹⁹³ Ibid.

¹⁹⁴ Presidential Policy Directive 8, *National Preparedness* (PPD-8), issued on March 30, 2011. For more on PPD-8, see CRS Report R42073, *Presidential Policy Directive 8 and the National Preparedness System: Background and Issues for Congress*, by Jared T. Brown.

¹⁹⁵ Homeland Security Directive 8, *National Preparedness* (HSPD-8), issued on December 17, 2003.

¹⁹⁶ Department of Homeland Security, *National Preparedness Goal*, First Edition, Washington, DC, September 2011, p. 1, <http://www.fema.gov/pdf/prepared/npg.pdf>.

¹⁹⁷ Ibid, p. 1.

For FY2013, the House Appropriations Committee recommended \$1,763 million for State and Local Programs, approximately \$413 million more than for FY2012, and roughly \$117 million less than the President’s request. As the House Appropriations Committee rejected the proposal for the NPGP, it recommended that the grant structure enacted in FY2012 for state and local programs be continued in FY2013. That structure provided a single amount of grant funding to be distributed at the discretion of the Secretary of Homeland Security under the authorities provided by the State Homeland Security Grant Program, Urban Area Security Initiative, Metropolitan Medical Response System, Citizen Corps Program, Public Transportation Security Assistance and Railroad Security Assistance, Over-the-Road Bus Security Assistance, Port Security Grants, Driver’s License Security Grants Program, Interoperable Emergency Communications Grant Program, Emergency Operations Centers, Buffer Zone Protection Program, and high-risk non-profit organizations described under section 501(c)(3) of the Internal Revenue Code.

The House approved this recommendation, adding \$10 million through a floor amendment offered by Representative Yvette Clarke. Of the \$1,773 billion that would be appropriated for State and Local Programs under the House-passed bill, \$55 million would be directed to Operation Stonegarden, \$150 million would go to areas at the highest threat of a terrorist attack, and \$232 million for training, exercises, technical assistance, and other programs.

The Senate Appropriations Committee recommended \$1,645 million for State and Local Programs FY2013, \$295 million more than was appropriated in FY2012, and roughly \$125 million less than the President’s request. Of the \$1,645 million, the committee recommended \$470 million for the State Homeland Security Grant Program, of which \$55 million was recommended for Operation Stonegarden; \$676 million for Urban Area Security Initiative, of which \$13 million was recommended for non-profit security grants; \$132 million for Public Transportation Security/Bus Assistance, of which \$13 million was recommended for Amtrak; \$132 million for Port Security Grants; and \$234 million for education, training, and exercises.

Table 18. State and Local Grant Programs and Training
(budget authority in millions of dollars)

Programs	FY2012 Enacted	FY2013 Appropriations			
		Budget Request ^a	House-passed	Senate-reported	Enacted
State and Local Programs (grants)	1,118 ^b	-	1,531	1,411	
State Homeland Security Grant Program	-	-	-	470	
<i>Operation Stonegarden</i>	50 ^c	-	55 ^c	55 ^d	
Urban Area Security Initiative	-	-	-	677	
<i>Non-Profit Security Grants (included in UASI)</i>	-	-	-	13	
Public Transportation Security Assistance, Railroad Security Assistance, Over-the-Road Bus Security Assistance	-	-	-	132	
<i>Amtrak Security (included in above security assistance programs)</i>	-	-	-	13	

Programs	FY2012 Enacted	FY2013 Appropriations			
		Budget Request ^a	House- passed	Senate- reported	Enacted
Port Security	-	-	-	132	
Education, Training, and Exercises	232	-	232	234	
<i>Emergency Management Institute</i>	16	-	16	18	
<i>Center for Domestic Preparedness</i>	63	-	63	65	
<i>National Domestic Preparedness Consortium</i>	93	-	93	93	
<i>National Exercise Program</i>	34	-	34	32	
<i>Continuing Training</i>	26	-	26	26	
National Preparedness Grant Program	-	1,541	-	-	
Training Partnership Grant	-	60	-	-	
Management and Administration		279			
Total, State and Local Programs	1,350	1,880	1,763	1,645	

Sources: H.Rept. 112-492, pp. 115-118, and S.Rept. 112-169, pp. 109-115.

Notes: Amounts may not total due to rounding.

- a. The Administration's budget request included a proposal to shift the Emergency Management Performance Grants, Fire Grants, SAFER Act Grants, and a new series of Training Partnership Grants into a category of First Responder Assistance Grants under State and Local Programs. This proposal was rejected by the House and Senate Appropriations Committees, and therefore is not reflected in this table.
- b. P.L. 112-74 included \$1,118 million for most of the State and Local Programs account (National Level/Training, Exercises, and Technical Assistance programs excepted) without making specific allocations among the programs in the FY2012 request, except for \$50 million for Operation Stonegarden.
- c. Included in State and Local Programs (grants).
- d. Included in the State Homeland Security Grant Program.

Assistance to Firefighters Grant Program (AFG)¹⁹⁸

The Administration's FY2013 budget proposed \$670 million for firefighter assistance, including \$335 million for AFG and \$335 million for SAFER.¹⁹⁹ This is a decrease of \$5 million from the FY2012 level. Under the Administration proposal, firefighter assistance grants would be categorized under First Responder Assistance Programs (FRAP), one of three activities under FEMA's State and Local Programs (SLP) appropriation. Historically, DHS has requested that a percentage of AFG funding (up to 5%) be set aside for management and administration of the grant program. Starting in FY2013, grant administration would be shifted to the SLP Management and Administration office. Regarding SAFER grants, the Administration requested that all previous SAFER waivers again be enacted for FY2013.

¹⁹⁸ Prepared by Lennard G. Kruger, Specialist in Science and Technology Policy, Resources, Science and Industry Division.

¹⁹⁹ For further information see CRS Report RL32341, *Assistance to Firefighters Program: Distribution of Fire Grant Funding*, by Lennard G. Kruger, and CRS Report RL33375, *Staffing for Adequate Fire and Emergency Response: The SAFER Grant Program*, by Lennard G. Kruger.

The House-passed bill is identical to the Administration's requested level of \$670 million, including \$335 million for AFG and \$335 million for SAFER. The House-passed bill denied the Administration's request to shift AFG and SAFER into the State and Local Programs account. Unlike the Administration request, the House-passed bill would designate up to 4.7% of the amount appropriated to firefighter assistance for program administration. The Committee also specified that SAFER restrictions not be applied to the FY2013 SAFER grants.

During floor action on June 6, 2012, an amendment was offered by Representative Runyan to increase funding for AFG and SAFER 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 AFG, \$337.5 million SAFER), which is identical to the FY2012 level.

The Senate-reported bill proposed \$675 million for firefighter assistance, including \$337.5 million for AFG and \$337.5 million for SAFER. The Senate level is identical to the FY2012 level. Like the House-passed bill, the Senate Committee denied the Administration's request to shift AFG and SAFER into the State and Local Programs account. However, the Committee did include program and administration costs separately under the FEMA Salaries and Expenses account. The Senate-reported bill also included SAFER waiver authority language, and the Committee stated its expectation that DHS will take into consideration economic hardship when exercising the waiver authority.

Disaster Relief Fund²⁰⁰

The DRF is the main account used to fund a wide variety of programs, grants, and other forms of emergency and disaster assistance to states, local governments, certain nonprofit entities, and families and individuals affected by disasters.²⁰¹ The DRF is funded yearly through regular appropriations; however, the account often is depleted before the end of the fiscal year due to accumulated need for disaster assistance. This is due in part to ongoing recovery efforts from major events such as the Gulf Coast hurricanes of 2005. However, in recent years it has been argued that the reliance on supplemental funding has primarily been due to underfunding the DRF. For example, between 2005 and 2011, the average regular appropriation for the DRF has been \$1,749 million. Yet, the average monthly expenditures for the DRF are \$383 million (which would extrapolate to \$4,596 million annually).

The Administration has requested \$6,088 million for the DRF. This is a decrease of \$1,011 million (14.2%) from the \$7,100 million enacted for FY2012—however, that total included a \$6,400 million supplemental. The request can be broken out into two categories: \$5,481 million for disaster relief costs for major disasters under the Stafford Act, and \$608 million for activities not tied to major disasters under the Stafford Act (including activities such as assistance provided to states for emergencies and fires).

²⁰⁰ This section prepared by Bruce R. Lindsay, Analyst, Emergency Management Policy, Government and Finance Division.

²⁰¹ In most cases, funding from the DRF is released after the President has issued a declaration pursuant to the Robert T. Stafford Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). For further analysis on the DRF, see CRS Report R40708, *Disaster Relief Funding and Emergency Supplemental Appropriations*, by Bruce R. Lindsay and Justin Murray. For further analysis on declaration process, see CRS Report RL34146, *FEMA's Disaster Declaration Process: A Primer*, by Francis X. McCarthy.

This year's request is more than three times the size of the request from FY2012. The Administration requested funding for the DRF based on what FEMA plans to spend on all past declared catastrophic events, plus the 10-year average for non-catastrophic events,²⁰² and a \$500 million reserve to prevent shortfalls. This was adjusted downward by \$1,200 million to account for projected recovery of funds not needed for past disasters.²⁰³

Both the House-passed bill and the Senate-reported bills carried the same level of funding for the DRF as the Administration requested for FY2013. Both pieces of legislation also contained an unrequested transfer of \$24 million out of the DRF to the DHS Office of Inspector General to conduct audits and investigations on disaster-related spending.

Disaster Relief Fund (DRF) and the Budget Control Act (BCA)

The Budget Control Act (BCA)²⁰⁴ included a series of provisions that directed the Office of Management and Budget (OMB) to annually calculate an “allowable adjustment” for disaster relief to the BCA’s discretionary spending caps. That adjustment, if used, would make additional budget authority available for disaster relief for major disasters declared under the Stafford Act beyond what is allowed in the regular discretionary budget allocation. Without the adjustment, spending over the allocation could trigger a sequestration.²⁰⁵

It is important to note that “disaster relief” funding under the BCA and the Disaster Relief Fund are not the same. The BCA defines funding for “disaster relief” as funding for activities carried out pursuant to a major disaster declaration under the Stafford Act. This funding comes not only from FEMA, but from accounts across the federal government. While a portion of funding for the DRF is eligible for the allowable adjustment under the BCA, it is not wholly “disaster relief” by the BCA definition.

The total amount provided for disaster relief in FY2012 thus far is \$11,252 million—\$799 million below the allowable adjustment.²⁰⁶ The monthly report issued by FEMA on June 6, 2012, indicates that there is \$2,174 million unallocated funds remaining in the disaster relief account.²⁰⁷ A large disaster or active hurricane season (or both) could deplete the remaining amount, necessitating a supplemental appropriation for additional funds for disaster relief. The amount needed for disaster relief could exceed the available allowable adjustment, and might therefore require additional action to avoid triggering sequestration under the BCA.

²⁰² In previous years, a five-year rolling average of non-catastrophic disaster costs was used.

²⁰³ Department of Homeland Security, Fiscal Year 2013 Congressional Justification, Washington DC, 2012, pp. 5-6.

²⁰⁴ For in-depth discussion of the Budget Control Act, see CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan.

²⁰⁵ For further analysis on disaster relief spending and the Budget Control Act see CRS Report R42352, *An Examination of Federal Disaster Relief Under the Budget Control Act*, by Bruce R. Lindsay, William L. Painter, and Francis X. McCarthy.

²⁰⁶ Office of Management and Budget, *OMB Final Sequestration Report to the President and Congress for Fiscal Year 2012*, Washington DC, January 18, 2012, p. 8.

²⁰⁷ Federal Emergency Management Agency, *Disaster Relief Fund: Monthly Report*, Fiscal Year 2012 Report to Congress, June 6, p. 4.

Pre-Disaster Mitigation (PDM) Program²⁰⁸

The Administration's proposal for the PDM program suggested its eventual elimination.²⁰⁹ No additional funds were requested and it was suggested that the program duplicated the work of the Hazard Mitigation Grant Program (HMGP) which is Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act and other mitigation programs funded by the National Flood Insurance Program.²¹⁰ While the HMGP program and the PDM program fund similar projects, PDM is distinguished from HMGP by uniquely making such awards prior to disaster events.²¹¹ In addition, while programs under NFIP address similar projects, they only apply to flood hazards. PDM and HMGP on the other hand, apply to all types of hazards.

The Administration noted that there is more than \$174 million in unobligated balances that would permit the PDM program to continue awarding grants for several years as it was phased out. Neither the House-passed bill nor the Senate-reported bill includes legislative language ending the program. However, the small amounts proposed to be appropriated, \$14.3 million by the House-passed bill and \$35 million by the Senate-reported bill, appear to signal a concern with the slow pace of awards made by the program and the recognition of the large unobligated balance. In addition to the reduced awards from the \$36 million level of FY2012, each chamber would also rescind some funding from the unobligated balance, specifically congressionally directed funding that local communities have not used.

Emergency Food and Shelter (EFS) Program²¹²

For several years the Administration has proposed reduced funding for the EFS program. FY2013 continued that practice by again requesting \$100 million for the program, a reduction of \$20 million from the appropriated level of funding in FY2012.²¹³ The program has historically received increased funding during times of high unemployment.²¹⁴ In FY2012, Congress funded the program at \$120 million, \$20 million over the requested level. For FY2013, the House has placed the funding level again at \$120 million while the Senate has suggested raising the amount to \$150 million.

²⁰⁸ This section prepared by Francis X. McCarthy, Analyst, Emergency Management Policy, Government and Finance Division.

²⁰⁹ FY2013 Budget Justification, Department of Homeland Security, Federal Emergency Management Agency, National Pre-Disaster Mitigation Fund, IV Program Justification Changes, p. 6.

²¹⁰ For information regarding flood mitigation programs, see CRS Report R40650, *National Flood Insurance Program: Background, Challenges, and Financial Status*, by Rawle O. King.

²¹¹ For a discussion of these programs see CRS Report R40471, *FEMA's Hazard Mitigation Grant Program: Overview and Issues*, by Natalie Keegan, and CRS Report RL34537, *FEMA's Pre-Disaster Mitigation Program: Overview and Issues*, by Francis X. McCarthy and Natalie Keegan.

²¹² This section prepared by Francis X. McCarthy, Analyst, Emergency Management Policy, Government and Finance Division.

²¹³ FY2013 Budget Justification, Department of Homeland Security, Federal Emergency Management Agency, Emergency Food and Shelter, III Current Services Program Discussion by PPA, p. 3.

²¹⁴ For additional information on the EFS program see CRS Report RL30442, *Homelessness: Targeted Federal Programs and Recent Legislation*, coordinated by Libby Perl, pp. 9&10.

Title IV: Research and Development, Training, and Services

Title IV of the DHS appropriations bill contains the appropriations for U.S. Citizenship and Immigration Services (USCIS), the Federal Law Enforcement Training Center (FLETC), the Science and Technology directorate (S&T), and the Domestic Nuclear Detection Office. The Administration requested \$1,561 million for these accounts in FY2013, a decrease of \$229 million below the enacted level. The House-passed bill provides \$1,510 million, an increase of 3.3% above the requested level and 13.4% above FY2012. The Senate-reported bill provides \$1,535 million, 1.7% below the request and 15.2% above FY2012. **Table 19** lists the enacted amounts for the individual components of Title IV for FY2012 (as of August 1, 2012), the Administration's request for these components for FY2013, and the House-passed and Senate-reported appropriations for the same.

Table 19. Title IV: Research and Development, Training, and Services, FY2012-FY2013
(budget authority in millions of dollars)

	FY2013 Appropriation				
	FY2012 Enacted	FY2013 Request	FY2013 House-passed	FY2013 Senate-reported	FY2013 Enacted
Citizenship and Immigration Services					
Appropriation	102	143	112	117	
Fees, Mandatory Spending, and Trust Funds	2,976	2,862	2,882	2,882	
Total Budgetary Resources	3,078	3,005	2,994	2,999	
Federal Law Enforcement Training Center					
Salaries and Expenses	239	229	228	229	
Acquisition, Construction, Improvements and Related Expenses	32	29	27	29	
Appropriation	271	258	256	258	
Fees, Mandatory Spending, and Trust Funds	0	0	0	0	
Total Budgetary Resources	271	258	256	258	
Science and Technology					
Management and Administration	135	138	130	138	
Research, Development, Acquisition, and Operations	533	693	696	693	
Appropriation	668	831	826	831	
Fees, Mandatory Spending, and Trust Funds	0	0	0	0	
Total Budgetary Resources	668	831	826	831	
Domestic Nuclear Detection Office					
Management and Administration	38	40	38	40	
Research, Development, and Operations	215	237	227	237	
Systems Acquisition	37	51	51	51	

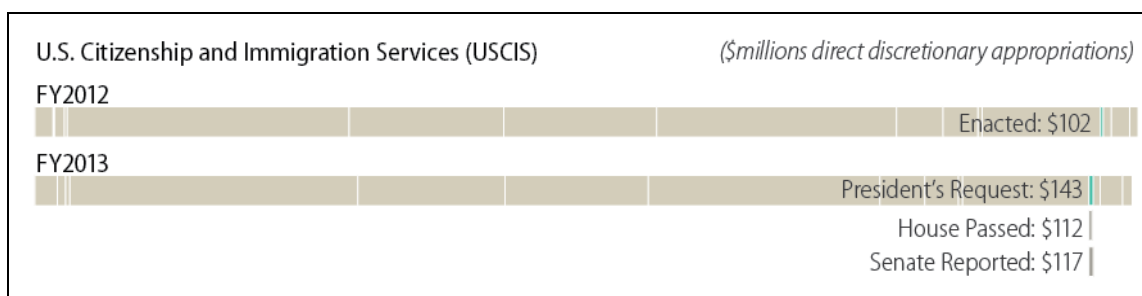
	FY2013 Appropriation				FY2013 Enacted
	FY2012 Enacted	FY2013 Request	FY2013 House-passed	FY2013 Senate-reported	
Appropriation	290	328	316	328	
Fees, Mandatory Spending, and Trust Funds	0	0	0	0	
Total Budgetary Resources	290	328	316	328	
Net Budget Authority: Title IV	1,332	1,561	1,510	1,535	
Total Budgetary Resources for Title IV Components before Transfers	4,308	4,423	4,392	4,417	

Sources: CRS analysis of the DHS FY2013 Congressional Budget Justification, H.Rept. 112-331 (for FY2012), H.Rept. 112-492, and S.Rept. 112-169.

Notes: Amounts may not total due to rounding.

U.S. Citizenship and Immigration Services²¹⁵

Three major activities dominate the work of the U.S. Citizenship and Immigration Services (USCIS): (1) adjudication of all immigration petitions, including nonimmigrant change of status petitions, relative petitions, employment-based petitions, work authorizations, and travel documents; (2) adjudication of naturalization petitions for legal permanent residents to become citizens; and (3) consideration of refugee and asylum claims, and related humanitarian and international concerns.



The above graphic only indicates the amount of direct appropriations for USCIS. This does not include fee income, which, while referenced in the comparative statement of budget authority found in the back of the report, is not appropriated by this bill. USCIS funds the processing and adjudication of immigrant, nonimmigrant, refugee, asylum, and citizenship benefits largely through revenues generated by the Examinations Fee Account.²¹⁶ As part of the former Immigration and Naturalization Service (INS), USCIS was directed to transform its revenue structure with the creation of the Examinations Fee Account.²¹⁷ Although the agency has received

²¹⁵ This section was prepared by William Kandel, Analyst in Immigration Policy, Domestic Social Policy Division.

²¹⁶ §286 of the Immigration and Nationality Act, 8 U.S.C. §1356.

²¹⁷ There are two other fee accounts at USCIS, known as the H-1B Nonimmigrant Petitioner Account and the Fraud Prevention and Detection Account. The revenues in these accounts are drawn from separate fees that are statutorily (continued...)

annual direct appropriations in the last decade, they have been largely directed towards specific projects such as backlog reduction and the E-verify programs. The agency receives most of its revenue from adjudication fees of immigration benefit applications and petitions.

Table 20 below shows the requested USCIS gross budget authority for FY2013 at \$3,005 million. This figure includes \$143 million from direct appropriations and \$2,862 million from fee collections. The requested direct appropriation of \$143 million includes \$112 million for the E-Verify program and \$11 million for the Immigrant Integration Initiative. It also includes \$20 million for the Systematic Alien Verification Entitlements (SAVE) Program to assist state, local, and federal agencies to determine individuals' eligibility for public benefits based on their immigration status.

The remaining \$2,862 million in gross budget authority in the request was expected to be funded by fee collections. Of this FY2013 amount, \$2,391 million would fund the USCIS adjudication services, \$89 million would fund information and customer services, and \$382 million would fund administrative expenses.

Table 20. USCIS Budget Account Detail
(budget authority in millions of dollars)

Program/Project Activity	FY2012 Enacted	FY2013 Appropriations			
		Request	House-passed	Senate-reported	Enacted
Appropriations	102	143	112	117	
- E-Verify	102	112	112	112	
- Immigrant Integration Initiative ^a	0	11	0	5	
- Asylees and Refugees ^a	0	0	0	0	
- Military Naturalizations Processing ^b	0	0	0	0	
- SAVE	0	20	0	0	
Fee Collections (Mandatory)	2,976	2,862	2,882	2,882	
- Immigration Examination Fee Account	2,924	2,815	2,835	2,835	
- H-1B Visa	13	13	13	13	
- H-1B/L Fraud	39	35	35	35	
Programs to be paid through Fee Collections (Recommended)					
- SAVE		0	20	20	
- Immigrant Integration Initiative		0	9	5	
- Digital conversion of immigrant records		0	29	0	
Total USCIS Budgetary Resources	3,078	3,005	2,994	2,999	

(...continued)

determined (P.L. 106-311 and P.L. 109-13, respectively). USCIS receives 5% of the H-1B Nonimmigrant Petitioner Account revenues and 33% of the Fraud Detection and Prevention Account revenues. U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *Fiscal Year 2013 Congressional Budget Justifications*.

Source: CRS Analysis of the *FY2013 DHS Congressional Budget Justifications*, the *FY2013 DHS Budget in Brief*, H.R. Rept. 112-492, and S.Rept. 112-169.

Notes: Amounts may not strictly accord with budgetary documents due to rounding.

- a. Sec. 541 of H.R. 5855 directs USCIS to fund \$9 million in costs associated with the Immigrant Integration Initiative and asylee and refugee processing from fee revenue.
- b. H.Rept. 112-492 directs USCIS to establish a memorandum of understanding with DoD to have the latter fund military naturalizations (p. 126).

House-Passed H.R. 5855

The House-passed H.R. 5855 proposes USCIS gross budget authority for FY2013 at \$2,994 million, comprised of \$112 million from direct appropriations and \$2,882 million from fee collections. The proposed appropriations would be \$31 million less than the requested amount but \$10 million above the amount provided in FY2012.

The House Appropriations Committee continues to direct USCIS to use fee revenues for all its costs with the exception of E-Verify for which it recommends funding as requested. The Committee stresses the importance of monitoring USCIS' fee revenues and obligations against its fee collections. The Committee recommends that USCIS allocate \$20 million of its user fee revenues for the Systematic Alien Verification for Entitlements (SAVE) program. The Committee also directs USCIS to allocate at least \$29 million of fee revenues toward digital conversion of immigration records.

The Committee provided no funding for military naturalizations which it contends should be funded by the Department of Defense (DoD). It directs USCIS to codify this agreement in a memorandum of understanding with DoD. The Committee continues to direct USCIS to pay for the cost of immigrant integration programs and processing asylum claims and refugee applications through fee revenue rather than appropriations.

Senate-Reported S. 3216

Senate-reported S. 3216 proposes USCIS gross budget authority for FY2013 at \$2,999 million, comprised of \$117 million from direct appropriations and \$2,882 million from fee collections. The proposed appropriations would be \$26 million less than the requested amount but \$15 million above the amount provided in FY2012. The Committee recommends no direct appropriations for the SAVE program, and instead recommends that USCIS allocate \$20 million of its user fee revenues for the program. The Senate Appropriations Committee recommends \$112 million for the E-Verify program, as requested.

The Committee recommends \$5 million for Immigrant Integration grants in direct appropriations and directs that an additional \$5 million be made available for these grants via fees. However, the Committee directs that no appropriations be used to operate the Office of Citizenship Services and that its operations continue to be fee-funded.²¹⁸ Additionally, the Committee continues to be concerned that costs to administer the Immigrant Integration grant program currently may exceed

²¹⁸ According to USCIS, the mission of the Office of Citizenship is to “engage and support partners to welcome immigrants, promote English language learning and education on the rights and responsibilities of citizenship, and encourage U.S. citizenship.”

11% of the grant award total and directs that no more than 5% of the grant funding level from either appropriated dollars or fees be used to administer the program in FY2013.

Issues for Congress

For the FY2013 budget cycle, potential issues for Congress continue to include declines in immigrant and nonimmigrant applications, the use of fee-generated funding, and the USCIS Transformation program to convert the immigration benefit application and petition process from a paper-based to a computerized online-based system.

Application Declines and Fee-Generated Funding

Because USCIS supports itself primarily through fee revenue, it must accurately project the number of anticipated applications to avoid building backlogs or over-budgeting projects. USCIS was criticized for its alleged unpreparedness in the face of surging applications prior to its 2007 fee increases.²¹⁹ The global economic downturn of the past several years has raised concerns about declining application volume and agency revenue. Such declines could affect future projects and require additional congressional appropriations. In response, USCIS has moved to more accurately project its application volume to better inform the budgeting process.²²⁰

E-Verify, Processing Efficiency, and Other Administrative Concerns

The House bill extends the authorization of E-Verify for one year, as proposed by the President's budget request. To ensure no work-authorized individual is falsely identified as ineligible to work, the Committee directs USCIS to create a review process for E-Verify final non-confirmations. The Committee directs USCIS to continue making improvements to the Enterprise Document Management System (EDMS) to address user concerns and make electronic files more searchable. It directs USCIS and CBP to brief on progress toward eliminating the paper I-94. The Committee also highlighted concerns over the efficient processing of refugee applications, the findings of the Office of the Inspector General (OIG) in its January 2012 report regarding fraud detection, and discrepancies surrounding USCIS' EB-5 Immigrant Investor program.

USCIS Transformation

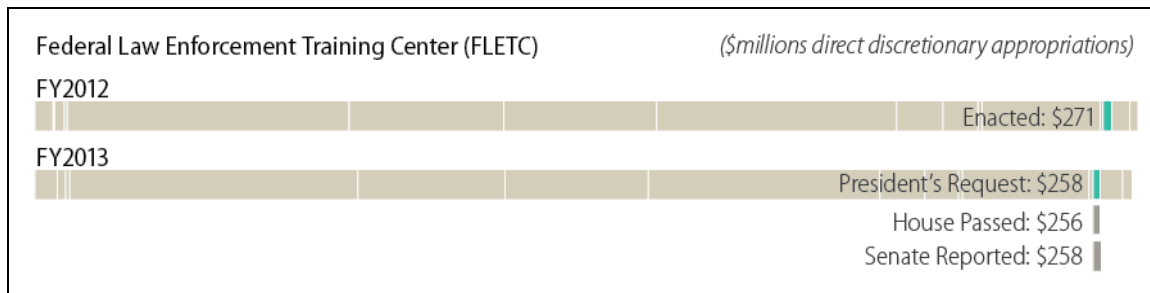
The House Committee continues to express disappointment with the lack of progress on the USCIS Transformation program that would convert the application and petition process for immigration benefits from a paper-based system to a computerized online-based system. The Committee questions whether continued investment in the current contract is justified given that the obligated \$597 million from FY2006 to January 2012 has delivered little capability to USCIS customers.

²¹⁹ For more information, see CRS Report RL34040, *U.S. Citizenship and Immigration Services' Immigration Fees and Adjudication Costs: Proposed Adjustments and Historical Context*, by William A. Kandel.

²²⁰ Information is based upon CRS discussions with the USCIS Chief Financial Officer in 2009. The House Committee report regards as critical that USCIS continue to monitor its fee revenues and obligations against its fee collections.

Federal Law Enforcement Training Center²²¹

The Federal Law Enforcement Training Center (FLETC) provides basic and advanced law enforcement instruction to 90 federal entities with law enforcement responsibilities. FLETC also provides specialized training to state and local law enforcement entities, campus police forces, law enforcement organizations of Native American tribes and international law enforcement agencies. By training officers in a multi-agency environment, FLETC intends to promote consistency and collaboration across its partner organizations. FLETC administers four training sites throughout the United States, but also uses online training and provides training at other locations when its specialized facilities are not needed. The Center employs approximately 1,100 personnel.



FY2013 Request

The Administration proposed a budget of \$258 million for FLETC, a reduction of \$13 million (4.8%) from FY2012's appropriation of \$271 million. The budget is made up of two appropriations—Salaries and Expenses (proposed at \$229 million, down \$10 million from FY2012), and Acquisition, Construction, Improvements, and Related Expenses (proposed at \$29 million, down \$3 million from FY2012). Most of the reduction in the Salaries and Expenses appropriation is from efficiencies, along with a \$4 million reduction in the budget for basic training. The reduction in Acquisition, Construction, Improvements, and Related Expenses is the result of deferring construction work.

House-Passed H.R. 5855

House-passed H.R. 5855 included \$256 million for FLETC, \$16 million (5.7%) below last year's level and \$2 million (1.0%) below the request. The House-passed bill would cut less than \$1 million (0.2%) from Salaries and Expenses and reduce the Acquisition, Construction, Improvements, and Related Expenses appropriation by \$2 million (6.8%). The House Appropriations Committee report accompanying the bill cites the Administration's reliance on as-yet-unauthorized fee increases to fund parts of its budget as the reasoning behind the reductions to the acquisition budget.

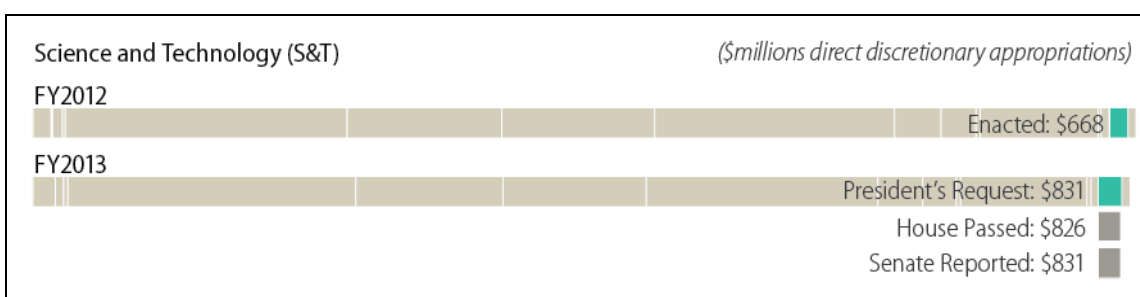
²²¹ Prepared by William L. Painter, Analyst in Emergency Management and Homeland Security Policy, Government and Finance Division.

Senate-Reported S. 3216

Senate-reported S. 3216 included \$258 million for FLETC, the same level and distribution of funding as requested by the President.

Science and Technology Directorate²²²

The Directorate of Science and Technology (S&T) is the primary DHS organization for research and development (R&D). Headed by the Under Secretary for Science and Technology, it performs R&D in several laboratories of its own and funds R&D performed by the DOE national laboratories, industry, universities, and others. It also conducts testing and other technology-related activities in support of acquisitions by other DHS components. See **Table 21** for a breakdown of S&T Directorate funding for FY2012 and FY2013.



FY2013 Request

The Administration requested \$831 million for the S&T Directorate for FY2013. This was 25% more than the FY2012 appropriation of \$668 million. Funding for Research, Development, and Innovation (RDI) would increase by \$212 million (79.9%) over the FY2012 level. Of the six thrust areas within RDI, the largest requested increase (from \$61 million in FY2012 to \$144 million in FY2013) is for disaster resilience R&D. A reduction of \$50 million in the request for Laboratory Facilities was due in part to the lack of a request for construction funding for the National Bio and Agro-Defense Facility (NBAF), a planned replacement for the current Plum Island Animal Disease Center. The \$50 million appropriated in FY2012 for the start of NBAF construction was one-third of what the Administration had requested. DHS has announced plans for an assessment of whether and for what purpose a facility like NBAF should be built. The assessment will consider current threats and will review cost, safety, and alternatives to the NBAF plan.

House-Passed H.R. 5855

The House-passed bill would provide \$826 million for the S&T Directorate, or \$6 million less than the request. Within this total, it includes \$72 million less than the request for RDI. The House Appropriations Committee directed DHS to determine how to allocate that reduction across the six thrust areas.²²³ In Laboratory Facilities, the bill would provide \$75 million more

²²² Prepared by Daniel Morgan, Specialist in Science and Technology Policy, Resources, Science and Industry Division.

²²³ H.Rept. 112-492, pp. 132-133.

than the request. The committee directed that this increase should be spent on NBAF construction.²²⁴

Senate-Reported S. 3216

The Senate committee recommended S&T funding levels that were the same as the Administration's request. Within RDI, however, it specified separate amounts for each of the six thrust areas, rather than a single total.²²⁵ In recommending no funding for NBAF construction, the committee noted a total cost estimate for the facility of \$1.138 billion.²²⁶

Table 21. Directorate of Science and Technology
(budget authority in millions of dollars)

	FY2013 Appropriations				
	FY2012 Enacted	FY2013 Request	FY2013 House-passed	FY2013 Senate-reported	FY2013 Enacted
Directorate of Science and Technology	668	831	826	831	
Management and Administration	135	138	130	138	
R&D, Acquisition, and Operations	533	693	696	693	
<i>Research, Development, and Innovation</i>	266	478	406	478	
<i>Laboratory Facilities</i>	177	127	202	127	
<i>Acquisition and Operations Support</i>	54	48	48	48	
<i>University Programs</i>	37	40	40	40	

Sources: FY2012 from P.L. 112-74 and H.Rept. 112-331. FY2013 request from DHS FY2013 congressional budget justification, <http://www.dhs.gov/xabout/budget/dhs-budget.shtm>. FY2013 House from H.R. 5855 as passed by the House and H.Rept. 112-492. FY2013 Senate-reported from S. 3216 as reported and S.Rept. 112-169.

Note: Amounts may not total due to rounding.

Domestic Nuclear Detection Office²²⁷

The Domestic Nuclear Detection Office (DNDO) is the primary DHS organization for combating the threat of nuclear attack. It is responsible for all DHS nuclear detection research, development, testing, evaluation, acquisition, and operational support. See **Table 22** for a breakdown of DNDO funding for FY2011 through FY2013.

²²⁴ Ibid., p. 134.

²²⁵ S.Rept. 112-169, pp. 126-128.

²²⁶ Ibid., p. 129.

²²⁷ Prepared by Daniel Morgan, Specialist in Science and Technology Policy, Resources, Science and Industry Division.

Domestic Nuclear Detection Office (DNDO)	(\$millions direct discretionary appropriations)
FY2012	Enacted: \$290
FY2013	President's Request: \$328 House Passed: \$316 Senate Reported: \$328

FY2013 Request

The Administration requested \$328 million for DNDO for FY2013, an increase of 13% above the FY2012 appropriation of \$290 million. The request included an increase of \$44 million (109.7%) for Transformational R&D. The Administration no longer proposes transferring this program to S&T. The increase for Transformational R&D was partially offset by a reduction of \$23 million (44.3%) for Systems Development. In the Systems Acquisition account, funding for human-portable radiation detectors would increase by \$20 million (251.3%), while funding for radiation portal monitors would decrease to \$1 million (80.6%) from \$7 million in FY2012.

House-Passed H.R. 5855

House-passed H.R. 5855 would provide \$316 million for DNDO, or \$12 million (3.6%) less than the request. Most of the reduction would be in the Transformational R&D program. The House-passed bill directs DHS to provide an updated implementation plan for its responsibilities under the domestic portion of the global nuclear detection architecture. The House Appropriations Committee states in its report accompanying the bill that it intends this to be annual requirement.²²⁸ The committee report also advocated consolidation of DNDO with the DHS Office of Health Affairs (OHA). It stated that consolidation could result in cost savings and “could provide greater awareness and coordination ... by creating a more visible focal point for ... coordination and strategic planning” of efforts against weapons of mass destruction. The committee directed DHS to develop and submit a plan to merge DNDO and OHA into an Office of Weapons of Mass Destruction Defense for FY2014.²²⁹

Senate-Reported S. 3216

The Senate Appropriations Committee recommended DNDO funding levels that were the same as the Administration’s request. Like the House Appropriations Committee, the Senate committee directs DHS to provide an updated implementation plan for its responsibilities under the domestic portion of the global nuclear detection architecture.²³⁰

²²⁸ H.Rept. 112-492, p. 137.

²²⁹ Ibid., pp. 12-14. Note that this language is in the introductory section of the committee report, separate from the main discussions of OHA and DNDO.

²³⁰ S.Rept. 112-169, p. 131.

Table 22. Domestic Nuclear Detection Office

(budget authority in millions of dollars)

	FY2013 Appropriations				
	FY2012 Enacted	FY2013 Request	FY2013 House-passed	FY2013 Senate-reported	FY2013 Enacted
Domestic Nuclear Detection Office	290	328	316	328	
Management and Administration	38	40	38	40	
Research, Development, and Operations	215	237	227	237	
<i>Systems Engineering and Architecture</i>	30	30	30	30	
<i>Systems Development</i>	51	28	28	28	
<i>Transformational R&D</i>	40	84	75	84	
<i>Assessments</i>	38	33	33	33	
<i>Operations Support</i>	33	36	36	36	
<i>National Technical Nuclear Forensics Center</i>	23	26	26	26	
Systems Acquisition	37	51	51	51	
<i>Radiation Portal Monitors Program</i>	7	1	1	1	
<i>Securing the Cities</i>	22	22	22	22	
<i>Human Portable Radiation Detection Systems</i>	8	28	28	28	

Sources: FY2012 from P.L. 112-74 and H.Rept. 112-331. FY2013 request from DHS FY2013 congressional budget justification, <http://www.dhs.gov/xabout/budget/dhs-budget.shtm>. FY2013 House from H.R. 5855 as passed by the House and H.Rept. 112-492. FY2013 Senate Committee from S. 3216 as reported and S.Rept. 112-169.

Note: Amounts may not total due to rounding.

Title V: General Provisions

Title V of the DHS appropriations bill contains the general provisions for the bill. General provisions typically include rescissions of funding from previous years that partially offset the score of the bill. Occasionally appropriations for special initiatives are found here as well. This section of the report limits its discussion to new general provisions not mentioned elsewhere in the report and those with a direct impact on the budgetary scoring of the bill.

FY2013 Request

The Administration generally requests rescissions in the accounts where they are made, rather than in this title, and requested no direct funding through general provisions for FY2013.

The Administration proposed not carrying forward 35 of the general provisions from the FY2012 DHS Appropriations bill (Division D of P.L. 112-74).

Three of these were rescissions, which are one-time provisions. Eleven other provisions were viewed as one-time provisions, including two appropriations and one provision on fees. Five of

the provisions the Administration suggested not carrying forward were permanent changes in the U.S. Code—therefore not requiring repetition—and one the Administration said was obsolete. The other fifteen were deemed by the Administration to be “restrictive” in one form or another and therefore a hindrance to the ability of the Department to manage its affairs or conduct its mission.

The Administration also proposed adding five new general provisions:

- To add a new provision extending the termination deadline for E-Verify, which is still technically a pilot program, until the end of FY2013.
- To add a new provision allowing FEMA to use earmarked Predisaster Hazard Mitigation grant funds that have not or will not be applied for by their intended recipient.
- To add a new provision to establish an outreach program connected to FEMA’s dam safety efforts.
- To add a new provision intended to make certain fees collected under the United States Colombia Trade Promotion Agreement available for pay for customs inspectors and equipment.
- To add a new provision that would allow CBP to enter into reimbursable fee agreements to provide services.

House-Passed H.R. 5855

House-passed H.R. 5855 includes \$292 million in rescissions in Title V, all of which reduce the net scoring of the bill. Those are the only provisions in this title that impact the score of the bill.

The House concurred with the Administration’s request to drop 22 general provisions, although it did not concur with the Administration’s position that 13 other provisions did not merit repetition or were no longer necessary. The House Appropriations Committee added one of the five general provisions requested by the Administration, extending the termination deadline for E-Verify.

The House added 13 general provisions to the bill during floor action. These amendments prohibited the use of funds made available by the legislation to do the following:

- Contravene several key constitutional and legal protections against racial, ethnic or religious profiling;
- Finalize or enforce a proposed ICE rule that would allow undocumented aliens with children eligible for U.S. citizenship to stay in the country while seeking a waiver of a re-entry ban based on their illegal presence in the United States;
- Pay for the position of Public Advocate within ICE;
- Enforce a section of the Energy Independence and Security Act of 2007 (P.L. 110-140) that prohibits the government from contracting for alternative transportation fuels (other than for research) that do not produce less greenhouse gases over their lifecycle than the equivalent conventional petroleum fuel;
- Implement, administer or enforce section 1301(a) of title 31, United States Code (31 U.S.C. 1301(a)) with respect to the use of CBP funds, thereby allowing CBP

to use its Salaries and Expenses appropriation to pay for CBP operations in Puerto Rico in the event of a shortfall in the Puerto Rico Trust Fund;

- Restrict a government official from sending or receiving information regarding an individual's immigration status to or from the Immigration and Naturalization Service, in violation of current law;
- Lease or buy new light duty vehicles except in accordance with the May 24, 2011, Presidential Memorandum on alternative-fuel vehicles;
- Contravene Title 8, Chapter 12 of the U.S. Code, and all laws, conventions, and treaties of the United States relating to the immigration, exclusion, deportation, expulsion, or removal of aliens;
- Buy, operate, or maintain armed unmanned aerial vehicles;
- Contravene section 236(c) of the Immigration and Nationality Act (8 U.S.C. 1226(c)), which outlines the authority of the Attorney General to detain and release criminal aliens;
- Enforce an executive order requiring federal agencies to implement a system that allows people with limited English-language proficiency to meaningfully access their services without unduly burdening the fundamental mission of the agencies;
- Finalize, implement, administer, or enforce three policy memos issued by the director of ICE that establish priorities for civil immigration enforcement activities; and
- Terminate an existing agreement allowing local officials to act as immigration officers under section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)).

Senate-Reported S. 3216

Senate-reported S. 3216 includes \$192 million in rescissions in Title V, as well as several other provisions that impact the scoring of the bill, including appropriations and changes in fee programs. Taken together, these Senate bill provisions offset its cost by \$68 million.

The Senate concurred with the Administration's request to drop 15 general provisions, although it did not agree that 17 other provisions did not merit repetition or were no longer necessary. In addition, three provisions providing funding to DHS initiatives were essentially modified to apply to FY2013, rather than being dropped as proposed by the Administration: Reimbursement of security costs to state and local governments for National Special Security Events (\$8 million); migration and consolidation of DHS data centers (\$65 million); and DHS headquarters consolidation (\$89 million) were all funded in the general provisions of the Senate-reported bill.

Like the House, the Senate Appropriations Committee added one of the five general provisions requested by the Administration, although they chose to add the provision allowing CBP to enter into reimbursable fee agreements for providing CBP services.

Appendix A. Appropriations Terms and Concepts

Budget Authority, Obligations, and Outlays

Federal government spending involves a multi-step process that begins with the enactment of budget authority by Congress. Federal agencies then obligate funds from the enacted budget authority to pay for their activities. Finally, payments are made to liquidate those obligations; the actual payment amounts are reflected in the budget as outlays.

Budget authority is established through appropriations acts or direct spending legislation and determines the amounts that are available for federal agencies to spend. The Antideficiency Act²³¹ prohibits federal agencies from obligating more funds than the budget authority that was enacted by Congress. Budget authority may also be indefinite, as when Congress enacts language providing “such sums as may be necessary” to complete a project or purpose. Budget authority may be available on a one-year, multi-year, or no-year basis. One-year budget authority is only available for obligation during a specific fiscal year; any unobligated funds at the end of that year are no longer available for spending. Multi-year budget authority specifies a range of time during which funds can be obligated for spending; no-year budget authority is available for obligation for an indefinite period of time.

Obligations are incurred when federal agencies employ personnel, enter into contracts, receive services, and engage in similar transactions in a given fiscal year. Outlays are the funds that are actually spent during the fiscal year.²³² Because multi-year and no-year budget authorities may be obligated over a number of years, outlays do not always match the budget authority enacted in a given year. Additionally, budget authority may be obligated in one fiscal year but spent in a future fiscal year, especially with certain contracts.

In sum, budget authority allows federal agencies to incur obligations and authorizes payments, or outlays, to be made from the Treasury. Discretionary agencies and programs, and appropriated entitlement programs, are funded each year in appropriations acts.

Discretionary and Mandatory Spending

Gross budget authority, or the total funds available for spending by a federal agency, may be composed of discretionary and mandatory spending. Discretionary spending is not mandated by existing law and is thus appropriated yearly by Congress through appropriations acts. The Budget Enforcement Act of 1990²³³ defines discretionary appropriations as budget authority provided in annual appropriation acts and the outlays derived from that authority, but it excludes appropriations for entitlements. Mandatory spending, also known as direct spending, consists of budget authority and resulting outlays provided in laws other than appropriation acts and is typically not appropriated each year. However, some mandatory entitlement programs must be

²³¹ U.S.C. §§1341, 1342, 1344, 1511-1517.

²³² Appropriations, outlays, and account balances for government treasury accounts can be viewed in the end of year reports published by the U.S. Treasury titled *Combined Statement of Receipts, Outlays, and Balances of the United States Government*. The DHS portion of the report can be accessed at <http://fms.treas.gov/annualreport/cs2005/c18.pdf>.

²³³ P.L. 101-508, Title XIII.

appropriated each year and are included in the appropriations acts. Within DHS, the Coast Guard retirement pay is an example of appropriated mandatory spending.

Offsetting Collections²³⁴

Offsetting funds are collected by the federal government, either from government accounts or the public, as part of a business-type transaction such as offsets to outlays or collection of a fee. These funds are not counted as revenue. Instead, they are counted as negative outlays. DHS net discretionary budget authority, or the total funds that are appropriated by Congress each year, is composed of discretionary spending minus any fee or fund collections that offset discretionary spending.

Some collections offset a portion of an agency's discretionary budget authority. Other collections offset an agency's mandatory spending. These mandatory spending elements are typically entitlement programs under which individuals, businesses, or units of government that meet the requirements or qualifications established by law are entitled to receive certain payments if they establish eligibility. The DHS budget features two mandatory entitlement programs: the Secret Service and the Coast Guard retired pay accounts (pensions). Some entitlements are funded by permanent appropriations, others by annual appropriations. The Secret Service retirement pay is a permanent appropriation and as such is not annually appropriated, whereas the Coast Guard retirement pay is annually appropriated. In addition to these entitlements, the DHS budget contains offsetting Trust and Public Enterprise Funds. These funds are not appropriated by Congress. They are available for obligation and included in the President's budget to calculate the gross budget authority.

²³⁴ Prepared with assistance from Bill Heniff Jr., Analyst in American National Government.

Appendix B. DHS Appropriations in Context

Federal-Wide Homeland Security Funding

Since the terrorist attacks of September 11, 2001, there has been an increasing interest in the levels of funding available for homeland security efforts. The Office of Management and Budget, as originally directed by the FY1998 National Defense Authorization Act, has published an annual report to Congress on combating terrorism. Beginning with the June 24, 2002, edition of this report, homeland security was included as a part of the analysis. In subsequent years, this homeland security funding analysis has become more refined, as distinctions (and account lines) between homeland and non-homeland security activities have become more precise. This means that while **Table B-1** is presented in such a way as to allow year-to-year comparisons, they may in fact not be strictly comparable due to the increasing specificity of the analysis, as outlined above.

With regard to DHS funding, it is important to note that DHS funding does not comprise all federal spending on homeland security efforts. In fact, while the largest component of federal spending on homeland security is contained within DHS, the DHS homeland security budget for FY2012 accounts for nearly 52% of total federal funding for homeland security. The Department of Defense comprises the next highest proportion at nearly 26% of all federal spending on homeland security. The Department of Health and Human Services at 6%, the Department of Justice at nearly 6%, and the Department of State at more than 3% round out the top five agencies in spending on homeland security. These five agencies collectively account for approximately 93% of all federal spending on homeland security. It is also important to note that not all DHS funding is classified as pertaining to homeland security activities. The legacy agencies that became a part of DHS also conduct activities that are not homeland security related. Therefore, while the enacted FY2012 budget bills and existing law included total *homeland security* budget authority of \$35.1 billion for DHS, the *total budget authority* for DHS is \$52.5 billion as of the date of publication.²³⁵ Moreover, the amounts shown in **Table B-1** will not be consistent with total amounts shown elsewhere in the report. This same inconsistency between homeland security budget authority and requested total budget authority is also true for the budgets of the other agencies listed in the table.

²³⁵ Includes appropriations, rescissions, fee funded programs, mandatory budget authority, disaster relief, and overseas contingency operations funding.

Table B-1. Federal Homeland Security Funding by Agency, FY2002-FY2013
(budget authority in millions of dollars)

Department	FY2002	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013 Request	FY2013 as % of Total
Department of Homeland Security (DHS)	17,381	23,063	22,923	24,549	26,571	29,554	32,486	38,988	33,236	34,901	35,125	35,534	51.6%
Department of Defense (DOD) ^a	16,126	8,442	7,024	17,188	17,510	16,538	18,032	19,483	19,054	16,994	17,358	17,995	26.1%
Department of Health and Human Services (HHS)	1,913	4,144	4,062	4,229	4,352	4,327	4,301	4,677	7,196	4,182	4,147	4,112	6.0%
Department of Justice (DOJ)	2,143	2,349	2,180	2,767	3,026	3,518	3,528	3,715	4,119	3,966	4,055	3,993	5.8%
Department of State (DOS)	477	634	696	824	1,108	1,242	1,719	1,809	2,016	1,949	2,283	2,354	3.4%
Department of Energy (DOE)	1,220	1,408	1,364	1,562	1,702	1,719	1,827	1,939	1,793	1,994	1,923	1,875	2.7%
Department of Agriculture (AG)	553	410	411	596	597	541	575	513	611	580	570	551	0.8%
National Science Foundation (NSF)	260	285	340	342	344	385	365	407	390	386	444	426	0.6%
Department of Veterans Affairs (VA)	49	154	271	249	298	260	309	310	427	413	396	384	0.6%
Department of Commerce	116	112	125	167	181	205	207	271	284	262	290	304	0.4%
Other Agencies	3,750	1,445	1,436	1,909	1,429	1,545	1,751	1,960	1,533	1,351	1,467	1,418	2.1%
Total Federal Budget Authority	43,848	42,447	40,834	54,383	57,118	59,833	65,099	72,201	70,661	66,983	67,989	68,905	100%

Sources: CRS analysis of data contained in Section 24. “Homeland Security Funding Analysis” of the Analytical Perspectives volume of the FY2013 President’s Budget (for FY2011-FY2013), Section 24. “Homeland Security Funding Analysis” of the Analytical Perspectives volume of the FY2012 President’s Budget (for FY2010), Section 3. “Homeland Security Funding Analysis,” and Appendix K of the Analytical Perspectives volume of the FY2011 President’s Budget (for FY2009); Section 3. “Homeland Security Funding Analysis,” and Appendix K of the Analytical Perspectives volume of the FY2010 President’s Budget (for FY2008); Section 3. “Homeland Security Funding Analysis,” and Appendix K of the Analytical Perspectives volume of the FY2009 President’s Budget (for FY2007); Section 3. “Homeland Security Funding Analysis,” of Analytical Perspectives volume of the FY2008 President’s Budget (for FY2006); Section 3. “Homeland Security Funding Analysis,” of Analytical Perspectives volume of the FY2008 President’s Budget (for FY2005); Section 3. “Homeland Security Funding Analysis,” of Analytical Perspectives volume of the FY2006 President’s Budget (for FY2004); Section 3. “Homeland Security Funding Analysis,” of Analytical Perspectives volume of the FY2005 President’s Budget (for FY2003) and Office of Management and Budget, *2003 Report to Congress on Combating Terrorism*, Sept. 2003, p. 10; CRS analysis of FY2002-2006 re-estimates of DOD homeland security funding provided by OMB, March 17, 2005.

Notes: Amounts may not total due to rounding. FY totals shown in this table include enacted supplemental funding. Year to year comparisons using particularly FY2002 may not be directly comparable, because as time has gone on agencies have been able to distinguish homeland security and nonhomeland security activities with greater specificity.

- a. Amounts for FY2011 are estimates from the FY2012 President's Budget request based upon the annualized levels contained within the continuing resolution in operation at the time of publication. At the time of the publication of the President's Budget request Congress had yet to enact appropriations for FY2011.

Amounts for FY2002-FY2004 do not include re-estimates of DOD homeland security funding, for FY2007 DOD changed the manner in which they account for their homeland security activities. This new method has been applied for forward. Re-estimates of FY2002-FY2004 DOD funding using this new method were not available for inclusion.

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