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Homeland Security Department: FY2006 Appropriations

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The annual consideration of appropriations bills (regular, continuing, and supplemental) by Congress is part of a complex set of budget processes that also encompasses the consideration of budget resolutions, revenue and debt-limit legislation, other spending measures, and reconciliation bills. In addition, the operation of programs and the spending of appropriated funds are subject to constraints established in authorizing statutes. Congressional action on the budget for a fiscal year usually begins following the submission of the President's budget at the beginning of each annual session of Congress. Congressional practices governing the consideration of appropriations and other budgetary measures are rooted in the Constitution, the standing rules of the House and Senate, and statutes, such as the Congressional Budget and Impoundment Control Act of 1974.

This report is a guide to one of the regular appropriations bills that Congress considers each year. It is designed to supplement the information provided by the House and Senate Appropriations Subcommittees on Homeland Security. It summarizes the status of the bill, its scope, major issues, funding levels, and related congressional activity, and is updated as events warrant. The reports lists the key CRS staff relevant to the issues covered and related CRS products.

Note: A web version of this document with active links is available to congressional staff at [http://www.crs.gov/products/appropriations/apppage.shtml].

Homeland Security Department: FY2006 Appropriations

Summary

This report describes the FY2006 appropriations for the Department of Homeland Security (DHS). The report includes tables that compare the FY2005 appropriations for the programs and activities of DHS, and the President's FY2006 request.

The President's budget request for FY2006 was submitted to Congress on February 7, 2005. The Administration requested $41.1 billion in gross budget authority for FY2006 (including mandatory expenditures, fees, and special funds). The Administration is requesting a net appropriation of $30.6 billion in net budget authority for FY2006, of which $29.6 billion is discretionary budget authority, and $1 billion is mandatory budget authority. On May 10, 2005, the full House Appropriations Committee reported its bill (H.R. 2360) and report (H.Rept. 109-79) containing the FY2006 appropriations for DHS. H.R. 2360 passed the House on May 17, 2005, providing a net appropriation of $31.9 billion for DHS. This amount includes $30.8 billion in discretionary budget authority, which represents an increase of $1.3 billion or 4% compared to the FY2005 enacted level; and an increase of $1.2 billion or nearly 4% compared to the FY2006 request.

The President's request for appropriations includes the following break out of net budget authority for the four Titles of the DHS appropriation bill: (I) Departmental Management and Operations, $748 million; (II) Security, Enforcement and Investigations, $20,566 million; (III) Preparedness and Response, $6,710 million; and (IV) Research and Development, Training, Assessments, and Services, $2,546 million. The introduced version of H.R. 2360 would provide the following amounts for each title: (I) $685 million; (II) $21,990 million; (III) $6,612 million; (IV) $2,580 million.

The requested net appropriation, and amounts in House-passed H.R. 2360 (in parentheses) for major components of the department include the following: $5,575 ($5,785) million for Customs and Border Protection (CBP); $3,648 ($3,830) million for Immigration and Customs Enforcement (ICE); $1,641 ($3,263) million for the Transportation Security Administration (TSA); $7,962 ($7,458) million for the U.S. Coast Guard; $1,204 ($1,232) million for the Secret Service; $3,565 ($3,665) million for the Office of State and Local Government Preparedness (SLGCP); $3,135 ($3,013) million for the Emergency Preparedness and Response Directorate (EPR); $80 ($120) million for Citizenship and Immigration Services (USCIS); $873 ($853) million for Information Analysis and Infrastructure Protection (IAIP); and $1,368 ($1,290) million for the Science and Technology Directorate (S&T).

This report will be updated as events warrant.

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Most Recent Developments

House Passes H.R. 2360. On May 17, 2005, the House passed H.R. 2360 424-1. The bill provides a net appropriation of $31.9 billion for DHS. This amount includes $30.8 billion in discretionary budget authority, which represents an increase of $1.3 billion, or 4%, compared to the baseline FY2005 enacted level (without advance or emergency appropriations); and an increase of $1.2 billion, or nearly 4%, compared to the FY2006 request.

President's FY2006 Budget Submitted. The President's budget request for FY2006 was submitted to Congress on February 7, 2005. The Administration requested $41.1 billion in gross budget authority for FY2006 (including mandatories, fees, and funds). The Administration is requesting a net appropriation of $30.6 billion in net budget authority for FY2006, of which $29.6 billion is discretionary budget authority, and $1 billion is mandatory budget authority. The FY2005 enacted net appropriated budget authority for DHS was $40.2 billion, including an advance appropriation of $2.058 billion for Bioshield and $7.145 billion in emergency appropriations; without Bioshield or the emergency appropriations, the FY2005 net appropriated budget authority for DHS was $30.6 billion. Without including Bioshield, the FY2006 request for an appropriation of $30.6 in net budget authority represents no increase over the FY2005 enacted amount.

Table 1 summarizes the legislative status of DHS appropriations for FY2006.

Table 1. Legislative Status of Homeland Security Appropriations

Subcommittee Markup		House Report	House Passage	Senate Report	Senate Passage	Confer. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
05/04 (vv)	—	05/10 (vv)	05/17 (424-1)	—	—	—	—	—	—

Note: vv = voice vote

Note on Most Recent Data. Data used in this report include data from the President's Budget Documents, the *FY2006 DHS Congressional Budget Justifications*, the FY2006 DHS *Budget in Brief*, and the House Appropriations Committee Homeland Security tables of May 20, 2005. Data used in **Table 3** and **Table 12** are taken from various sections of the FY2006 President's Budget. These

amounts do not correspond to amounts presented in **Tables 4-11**, which are based on data from tables supplied by the Appropriations Subcommittees and from the *FY2006 DHS Congressional Budget Justifications* in order to best reflect the amounts that will be used throughout the congressional appropriations process. The most recent update of this report uses amounts contained in the House passed version of H.R. 2360, and the attached report (H.Rept. 109-79).

Background

This report describes the President's request for funding for DHS programs and activities, as submitted to Congress on February 7, 2005. This report compares the enacted FY2005 amounts to the amounts requested for FY2006. This report will also track legislative action and congressional issues related to the FY2006 DHS appropriations bill, with particular attention paid to discretionary funding amounts. However, this report does not follow specific funding issues related to mandatory funding — such as retirement pay — nor does the report systematically follow any legislation related to the authorization or amendment of DHS programs.

302(a) and 302(b) Allocations

The maximum budget authority for annual appropriations (including DHS) are 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 various 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 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 as the various appropriations bills progress towards final enactment.

The Senate budget resolution, S.Con.Res. 18 was introduced on March 11, 2005, and passed the Senate on March 17, 2005. S.Con.Res. 18 provides $848.8 billion in discretionary spending. The House budget resolution, H.Con.Res. 95, was introduced on March 11, 2005, and passed the House on March 17, 2005. H.Con.Res. 95 proposed $843 billion in discretionary budget authority. On April 28, 2005 the conference committee reported, and both the House and Senate passed, H.Rept. 109-62 providing $843 billion in discretionary budget authority for FY2006. The House Appropriations Committee adopted its 302(b) allocations on May 10, 2005, which allocates $30.8 billion in discretionary budget authority for homeland security. The Senate Appropriations Committee adopted its 302(b) allocation on

June 9, 2005, and reported S.Rept. 109-77 which allocates $30.8 billion in discretionary budget authority for DHS.

Table 2. FY2006 302(b) Discretionary Allocations for DHS
(budget authority in billions of dollars)

FY2005 Comparable	FY2006 Request Comparable	FY2006 House Allocation	FY2006 Senate Allocation	FY2006 Enacted Comparable
32,000	29,554	30,846	30,846	—

Source: House Appropriations Committee tables of March 15, 2005; House Appropriation Committee 302(b) table of May 10, 2005; and Senate Appropriations Committee 302(b) allocations in S.Rept. 109-77.

Budget Authority, Obligations, and Outlays[1]

Federal government spending involves a multi-step process that begins with the enactment of a budget authority by Congress in an appropriations act. 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 Act[2] prohibits federal agencies from obligating more funds than the budget authority that was enacted by Congress. Budget authority may be indefinite, however, 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.[3] 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,

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[1] Prepared with assistance from Bill Heniff Jr., Analyst in American National Government, Government and Finance Division.

[2] 31 U.S.C. §§1341, 1342, 1344, 1511-1517.

[3] 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/cs2004/c18.pdf].

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[4]

Gross budget authority, or the total funds available for spending by a federal agency, may be composed of discretionary and mandatory spending. Of the $41 billion gross budget authority requested for DHS in FY2006, 83% is composed of discretionary spending and 17% is composed of mandatory spending.

Discretionary spending is not mandated by existing law and is thus appropriated yearly by Congress through appropriations acts. The Budget Enforcement Act[5] of 1990 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 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 Collections[6]

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. Some of these fees offset spending at the account level and are subtracted from the Appropriations Committee tables directly below the program they offset. An example of this is the Federal Protective Service, which is immediately offset in the appropriations tables by an intergovernmental transfer from the General Services Administration. Other discretionary fees offset spending at the agency level and are thus subtracted from the discretionary budget authority of the agency to arrive at the actual appropriated level. An example of this is the Immigration Inspection fee,

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[4] Prepared with assistance from Bill Heniff, Jr., Analyst in American National Government.

[5] P.L. 101-508, Title XIII.

[6] Prepared with assistance from Bill Heniff, Jr., Analyst in American National Government.

which is collected at Ports of Entry by CBP personnel and is used to offset both the CBP and ICE appropriations.

Other collections offset an agency's mandatory spending. They 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 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, while 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.

Table 3 tabulates all of the offsets within the DHS budget as enacted for FY2005 and in the FY2006 request.

Table 3. FY2006 Request: Moving From Gross Budget Authority to Net Appropriation: Fee Accounts, Offsetting Fees, and Trust and Public Enterprise Accounts

(budget authority in millions of dollars)

Account/Agency	Account Name	FY2005	FY2006
DHS gross budget authority (gross discretionary + fees+ mandatory + funds)		**41,018**	**41,067**
Account level discretionary offset			
Office of Screening Operations	TWIC	50	245
	Hazmat	17	44
	Registered traveler	—	23
ICE	Federal Protective Service	478	487
TSA	Aviation security fees	1,823[a]	3,670[a]
FEMA/EPR	National flood insurance fund	113	124
CBP	Small airports	5	5
	Subtotal account level discretionary offsets	**-2,486**	**-4,598**
Agency level discretionary offset			
CBP	Immigration inspection	429	465
	Immigration enforcement	6	6
	Land border	28	30
	COBRA	318	334
	APHIS	200	204
	Puerto Rico	89	98
ICE	Immigration inspection	90	92

Account/Agency	Account Name	FY2005	FY2006
	SEVIS	40	67
	Breached bond detention fund	70	71
TSA	Aviation security capital fund	250	250
USCIS	Immigration examination fee	1,571	1,730
	H1b, and H1b & L fees	44	44
Office of Screening Operations	Alien flight school background checks	5	10
Subtotal agency level discretionary offsets		**-3,140**	**-3,400**
Mandatory budget authority			
Secret service	Secret service retired pay [b]	200	200
Coast guard	Coast guard retired pay [c]	(1,085)	(1,014)
Subtotal mandatory budget authority		**-200**	**-200**
Trust funds and public enterprise funds			
CBP	Customs unclaimed goods	8	8
FEMA/EPR	Claims expense	1,302	1,459
	Underwriting limit	563	563
	Operational expense limit	55	55
	Interest expense limit	30	30
Coast Guard	Boat safety	64	64
	Oil spill recovery	71	121
	Miscellaneous revolving fund	(10,533)	(10,533)
	Gift fund	1	1
Subtotal trust and public enterprise funds		**-2,094**	**-2,301**
DHS gross budget authority		**41,103**	**41,067**
Total offsetting collections		**(8,004)**	**(10,499)**
DHS net appropriated BA (Mandatory + Discretionary)		**33,099** [d]	**30,569**

Source: CRS analysis of the FY2006 President's Budget, and DHS, *Budget in Brief*, House Appropriation Committee tables of May 20, 2005.

Note: Totals may not add due to rounding. Amounts in parentheses are non-adds.

a. There is a discrepancy reported in the amount of aviation security fees collected by TSA, for both FY2005 and 2006. The enacted level aviation security fees for FY2005 was $1,823 million, and this is the amount reported in the current committee tables. The Administration FY2006 budget documents and the DHS Congressional Budget Justifications report the FY2005 amount as $2,330 million. The Administration has requested an increase in aviation security fees for FY2006, and the budget documents estimate the offsetting collections at $3,889 million. The latest committee tables show $3,670 million for FY2006 (a difference of $218 million from the President's budget) based on estimates by the Congressional Budget Office. In order to complete the crosswalk in **Table 3**, we have used the enacted amount for FY2005 ($1,823) and the committee table amount ($3,670) for FY2006.

b. Secret Service Retired Pay is permanently and indefinitely authorized, and as such is not annually appropriated. Therefore it is offset in **Table 3**.

c. In contrast to Secret Service Retired Pay, Coast Guard Retired pay must be annually appropriated, and therefore is *not* offset in **Table 3**.

d. This amount ($33,098 million) does not include $6,500 million in emergency disaster relief funding. For more information on those supplemental appropriations, see CRS Report RL32581, *Assistance After Hurricanes and Other Disasters: FY2004 and FY2005 Supplemental Appropriations*.

Appropriations for the 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 (DHS) created by the act. DHS is organized into four major directorates: Border and Transportation Security (BTS); Emergency Preparedness and Response (EPR); Science and Technology (S&T); and Information Analysis and Infrastructure Protection (IAIP).

BTS, the largest of the four directorates, contains three main agencies: Customs and Border Protection (CBP); Immigration and Customs Enforcement (ICE); and Transportation Security Administration (TSA). EPR is comprised primarily of the former Federal Emergency Management Agency (FEMA), and IAIP houses the Homeland Security Operations Center (HSOC), Information Analysis (IA) and the Infrastructure Protection (IP) offices. S&T is home to the Office of National Laboratories, Homeland Security Laboratories, and the Homeland Security Advanced Research Projects Agency (HSARPA). U.S. Citizenship and Immigration (USCIS), the U.S. Coast Guard, and the U.S. Secret Service are all stand-alone agencies within DHS directly under the Secretary of Homeland Security.

Appropriations measures for DHS have been organized into four titles: Title I Departmental Management and Operations; Title II Security, Enforcement, and Investigations; Title III Preparedness and Recovery; and Title IV Research and Development, Training, Assessments, and Services. Title I contains appropriations for the Office of Management, the Office of the Secretary, the Office of the Chief Financial Officer (CFO), the Office of the Chief Information Officer (CIO), and the Office of the Inspector General (OIG). Title II contains appropriations for the Office of the Undersecretary for BTS, CBP, ICE, TSA, the Coast Guard, the Secret Service, and the newly proposed Office of Screening Operations (SCO). Title III contains appropriations for EPR and the Office of State and Local Government Coordination and Preparedness (SLGCP). Title IV contains appropriations for USCIS, IAIP, S&T, and the Federal Law Enforcement Training Center (FLETC).

Table 4 is a summary table comparing the enacted appropriations for FY2005 and the requested amounts for FY2006. As shown in **Table 3**, the Administration requested $41.1 billion in gross budget authority (including mandatories and other non-appropriated funding) for FY2006. The Administration is requesting an appropriation of $30.6 billion in net budget authority for FY2006, of which $29.5 billion is discretionary budget authority, and $1 billion is mandatory budget authority. The FY2005 enacted net appropriated budget authority for DHS was $40.2 billion, including an advance appropriation of $2.058 billion for Bioshield and $7.145 billion in emergency appropriations; without Bioshield or the emergency appropriations, the

FY2005 net appropriated budget authority for DHS was $30.6 billion. Without including Bioshield, the FY2006 request for an appropriation of $30.6 in net budget authority represents no increase over the FY2005 baseline enacted amount. H.R. 2360 recommends a net appropriation of $31.9 billion for DHS for FY2006. This amount represents a $1.3 billion increase over the FY2005 base appropriation, and a $1.2 billion, or nearly 4%, increase compared to the FY2006 request.

Table 4. DHS: Summary of Appropriations

(budget authority in millions of dollars)

Operational Component	FY2005 Enacted	FY2006 Request	FY2006 House	FY2006 Senate	FY2006 Enacted
Title I: Departmental Management and Operations					
Subtotal: Title I	**583**[a]	**748**	**561**[b]		
Title II: Security, Enforcement, and Investigations					
— Office of the Undersecretary for Border and Transportation Security	10	11	9		
— Screening and operations office/ Automation Modernization[c]	340	525	411		
— Customs and Border Protection	5,371	5,575	5,785		
— Immigration and Customs Enforcement	3,537	3,648	3,830		
— Transportation Security Administration[d]	3,260	1,641	3,263		
— U.S. Coast Guard	7,568	7,962	7,458		
— U.S. Secret Service	1,175	1,204	1,233		
Net subtotal: Title II	**21,260**	**20,566**	**21,988**		
— Total fee collections	-3,897	-6,099	-4,278		
Gross subtotal: Title II	**25,157**	**26,665**	**26,267**		
Title III: Preparedness and Recovery					
— Office for Domestic Preparedness/ Office of State and Local Government Coordination and Preparedness	3,985	3,565	3,665		
— Counter-Terrorism Fund	8	10	10		
— Emergency Preparedness and Response[e]	11,978	3,135	3,013		
Net subtotal: Title III	**15,971**	**6,710**	**6,688**		
Title IV: Research and development, training, assessments, and services					
— Citizenship and Immigration Services	160	80	120		
— Information Analysis and Infrastructure Protection	894	873	853		
— Federal Law Enforcement Training Center	227	224	259		
— Science and Technology	1,115	1,368	1,290		
Net subtotal: Title IV	**2,396**	**2,546**	**2,522**		
— Total fee collections	-1,615	-1,774	-1,774		
Gross subtotal: Title IV	**4,011**	**4,320**	**4,296**		
Title V: General Provisions					
— REAL ID Grants	—	—	100		
DHS gross budget authority	**45,722**	**38,399**	**37,912**		
— Total fee collections	**-5,512**	**-7,873**	**-6,052**		
DHS net budget authority[f]	**40,210**	**30,569**	**31,860**		
— Advance appropriation[g]	2,508	—	—		
— Emergency appropriation[h]	7,145	—	—		
DHS Appropriation[i]	**30,557**	**30,569**	**31,860**		

Source: CRS analysis of the FY2006 President's Budget, and DHS *Budget in Brief*, House Appropriation Committee tables of May 20, 2005, introduced H.R. 2360 and H.Rept. 109-79.

Note: Totals may not add due to rounding.

a. Includes a $24 million rescission pursuant to P.L. 109-13.
b. Includes a $7 million rescission.
c. The President's FY2006 request for DHS proposes to create the Screening and Operations Office by transferring in the following programs: FAST and NEXUS/SENTRI from CBP; Secure Flight, Crew Vetting, Credentialing Startup, TWIC, Registered Traveler, HAZMAT, and Alien Flight School from TSA. These programs are discussed in the text. The House report (H.Rept. 109-79) denies the creation of the SCO, but transfers FAST and NEXUS/SENTRI to a new office called Automation Modernization with the US-VISIT program. All other activities proposed for transfer to the SCO would remain in TSA, under the House-passed version of H.R. 2360.
d. TSA appropriations estimate includes a proposed $3 increase in passenger security fees for one-way and multi-leg flights, for a total offsetting collection of nearly $3.9 billion; Congressional Budget Office (CBO) calculations place the offsetting collections from the fee increase at $3.7 billion. Throughout this report, the CBO figure will be used to calculate total appropriations. The House report (H.Rept. 109-79) denies the transfer of several TSA programs to the proposed SCO, as mentioned above in Note a, these programs would remain in TSA under House-passed H.R. 2360.
e. EPR appropriations include $6.5 billion in supplemental appropriations for disaster relief. For more information on those supplemental appropriations see CRS Report RL32581, *Assistance After Hurricanes and Other Disasters: FY2004 and FY2005 Supplemental Appropriations*. The total also includes a 0.80% across the board rescission pursuant to P.L. 108-447, resulting in a $20 million rescission from Bioshield funding.
f. Net discretionary budget authority differs from the amounts listed in the President's Budget due to the following: FY2005 includes $2.508 billion in advance appropriations for Bioshield and $1.085 in Coast Guard mandatory retirement pay. FY2006 includes $1.014 billion in Coast Guard mandatory retirement pay.
g. Represents the $2.508 billion advance appropriation for Bioshield.
h. Includes 6.5 billion in hurricane relief funding pursuant to P.L. 108-324, and $644 million in emergency appropriations pursuant to P.L. 109-13.
i. For scorekeeping purposes, this number does not include emergency or advance appropriations (but it does include $270 million in rescissions. This allows for a better comparison of baseline appropriation numbers for DHS.

Title I: Departmental Management and Operations[7]

President's Request. Title I covers the general administrative expenses of DHS. It includes the Office of the Secretary and Executive Management (OS&EM), which counts the immediate Office of the Secretary and 14 entities that report directly to the Secretary; the Under Secretary for Management (USM) and its components, such as offices of the Chief Procurement Officer, Chief Human Capital Officer, and Chief Administrative Officer; the Office of CIO; the Office of the Chief Financial Officer (OCFO); and OIG. FY2006 requests relative to comparable FY2005 enacted appropriations: OS&EM, $195.8 million, an increase of $110.8 million (+130%); USM, $146.6 million, a decrease of $4.5 million (-3%); OCIO, $303.7 million, an increase of $28.4 million (+10%); OCFO, $18.5 million, an increase of $5.5 million (+42%); and OIG, $83 million, an increase of $700,000 (+1%). **Table 4** shows appropriations for FY2005 and congressional action on the

[7] Prepared by Harold C. Relyea, Specialist in American National Government, Government and Finance Division.

requests for FY2006. The total FY2006 request for Title I is $748 million. This represents a 28% increase over the FY2005 enacted level.

H.R. 2360. Unhappy and otherwise frustrated with "the Department's inability to respond quickly, or at all, to items of Congressional interest or direction," "extremely concerned by the Department's inability to submit reports on a timely basis," and "very concerned about the results of the 2004 financial audit," among other complaints, House appropriators slashed $62.6 million from the OS&EM request, recommending $133.2 million, which is $48.2 million above the amount provided in FY2005.[8] Among the entities bearing the brunt of this cut were the Office of Security (-$10 million), which was criticized for not assuring that unclassified information was clearly marked and distinguished from classified and other security sensitive information within DHS documents; the Operation Integration Staff (-$1.9 million), which was left to continue to rely upon a half staff of detailees from other components within DHS; and Regions (-$49.8 million), which, with regional structure still under internal DHS review, was considered to be "premature" for any funding at the present time.

Issues for Congress. Within the OS&EM account, House appropriators recommended $8.7 million for a new Office of Policy, Planning, and International Affairs (OPPIA), which had been proposed in the DHS budget justification. Immediately assisting the Secretary, OPPIA would be headed by an Assistant Secretary for Policy and Planning and would include other related staff now located within the Office of the Under Secretary for BTS, as well as such existing entities as the Office of International Affairs, the Deputy Chief of Staff for Policy, the Homeland Security Advisory Council, and USM.

A similar DHS restructuring was discussed at a January 26, 2005, oversight hearing conducted by the Senate Committee on Homeland Security and Governmental Affairs concerning the "road ahead" for the department. Several major organization and managements issues were discussed, and two reforms, in particular, appeared to enjoy some support, particularly from Senator Susan Collins, the committee's chair, and Senator Joseph Lieberman, the panel's ranking minority member. These reforms, which had been discussed in a December 2004 Heritage Foundation report, *DHS 2.0: Rethinking the Department of Homeland Securit*y, included (1) eliminating the DHS management directorate and USM, but relocating the chief management officers to the office of the Deputy Secretary; and (2) establishing an Under Secretary for Policy, who would be assisted by a unified policy planning staff.[9] It was thought that the first reform would eliminate an unnecessary layer of bureaucracy and otherwise strengthen the roles of the chief management officers, and that the second reform would bring unity to DHS through the development of proactive, strategic homeland security policy and plans. Indications were that these reforms, among others, would be considered for inclusion in

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[8] U.S. Congress, House Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2006*, a report to accompany H.R. 2360, 109th Cong., 1st sess., H.Rept. 109-79 (Washington: GPO, 2005), pp. 5, 7-9, 14. Hereafter cited as H.Rept. 109-79.

[9] James Jay Carafano, and David Heyman, *DHS 2.0: Rethinking the Department of Homeland Security, Heritage Special Report* (Washington: Dec. 13, 2004).

subsequent legislation reauthorizing DHS programs within the jurisdiction of the Senate committee. A DHS authorization bill (H.R. 1817) recently reported from the House Committee on Homeland Security (H.Rept. 109-71) made no mention of these particular suggested reforms.

House appropriators also "included a new general provision (Section 528) to ensure that the Privacy Officer has the independence necessary to report privacy abuses directly to Congress and has all documents and information necessary to carry out statutory responsibilities." It was the committee's view that the Privacy Officer "should provide Congress, and thus the public, an unfettered view into the operations of the Department and its impact on personal privacy."[10]

Personnel Issues.[11] In addition to the policy and planning issues, and the reorganization issues, several personnel issues may be of interest to Congress during the current appropriations cycle.

The Office of the Chief Human Capital Officer (CHCO). This Office (also referred to in the budget justification as the Office of Human Resources) establishes policy and procedures and provides oversight, guidance, and leadership for human resources management (HRM) functions within the DHS. It is organized into three major components as follows. Human Capital Innovation is responsible for designing and implementing the department's new HRM system, referred to as Max-HR,[12] including human capital strategic planning efforts and HR information

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[10] H.Rept. 109-79, p. 7.

[11] Personnel Issues section prepared by Barbara Schwemle, Analyst in American National Government, Government and Finance Division.

[12] On February 1, 2005, DHS and the Office of Personnel Management jointly published final regulations in the *Federal Register* to implement Max-HR. (U.S. Department of Homeland Security and U.S. Office of Personnel Management, "Department of Homeland Security Human Resources Management System," *Federal Register*, vol. 70, no. 20, Feb. 1, 2005, pp. 5271-5347.) The regulations provide new policies on position classification, pay, performance management, adverse actions and appeals, and labor-management relations for DHS employees. Max-HR will cover about 110,000 of the department's 180,000 employees and will be implemented in phases. The performance management process is scheduled to begin in Fall 2005, and the first conversion of employees to the pay system is scheduled to commence in early 2006. (See, CRS Report RL32261, *Homeland Security: Final Regulations on Classification, Pay, and Performance Management Compared With Current Law*, by Barbara L. Schwemle; and CRS Report RL32255, *Homeland Security: Final Regulations for the Department of Homeland Security Human Resources Management System (Subpart E) Compared With Current Law*, by Jon O. Shimabukuro.) In early May 2005, the National Treasury Employees Union released the results of a series of focus group meetings on the design and implementation of the new pay-for-performance system. According to the union, issues that concern non-managerial employees include fair administration, sufficient funding, and accountability of the pay system. (The National Treasury Employees Union, "Front-Line Homeland Security Employees and Managers Alike Raise Concerns About Pay-For-Performance," News Release, May 9, 2005. Available on the Internet at [http://www.nteu.org], visited June 7, 2005. DHS conducted the surveys at 10 locations with some 289 employees from February

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technology components, including payroll modernization. The activities associated with the new system's regulatory process and the design and contract management processes also are part of the Innovation component. Human Capital Policy and Programs is responsible for establishing corporate human resources policy, including training and development programs, in support of headquarters and department-wide initiatives. This component manages program and policy development and execution for HRM at DHS, including workforce planning, corporate talent, executive resources, recruitment and branding, benefits, and work life programs. Human Capital Operational Services, newly established in FY2005, provides comprehensive human resources services for all headquarters organizations and manages the process of optimizing shared human capital services within DHS. The principal human capital officers from each component of the department comprise a Human Resources Council which coordinates activities across DHS. The Office of the CHCO reports to the Undersecretary for Management and its appropriation is included in that of the Undersecretary. For FY2005, the Office of the CHCO received an appropriation of $43.2 million and a staffing level of 49 full-time equivalent employees (FTE's). Of this total, $7.2 million funded HR operations[13] and $36 million (non-recurring) funded the development and implementation of Max-HR. Twelve of the FTE's were attached to Max-HR.

President's Budget Proposal. The President's FY2006 budget proposes an appropriation of $61.996 million and 50 FTE's for the Office of the CHCO. The request represents an increase of $18.796 million and one FTE over the FY2005 appropriation.[14] Especially noteworthy in the budget proposal are the funding requests of $593,000 for the Office of the CHCO and $53 million for Max-HR as discussed below.

Workforce Strategies and DHS Employee Surveys. The proposed increase of $593,000 is allocated as follows. For workforce strategies, $180,000 for one new FTE is requested. The additional FTE will "analyze the impact of current and/or potential occupational or skill gaps, and develop various human capital strategies and plans related to recruiting, retention, learning and development

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[12] (...continued)
24 through March 18, 2005.)

[13] The $7.2 million appropriation was allocated as follows: salaries and benefits ($4,118,516), travel ($46,370), printing ($9,515), advisory and assistance services — portion not Max-HR ($1,053,683), other services ($854,731), purchase from government accounts ($487,399), operation and maintenance of equipment ($15,623), supplies and materials ($48,104), and equipment ($566,058).

[14] The following amounts are requested for FY2006 (unless otherwise noted, the increases result from pay raises or inflation): $5,446,048 for salaries and benefits (includes $180,000 for one new FTE), $47,205 for travel, $9,687 for printing, $54,372,649 for advisory and assistance services (includes increases of $17 million for Max-HR and $300,000 for other HRM initiatives), $983,116 for other services (includes an increase of $113,000 for programs), $496,172 for purchase from government accounts, $15,905 for operation and maintenance of equipment, $48,970 for supplies and materials, and $576,248 for equipment.

interventions needed to close these gaps."[15] The National Defense Authorization Act for FY2004 mandates an annual assessment of employees and the organization. To fund the employee survey and analysis of the results, $413,000 is requested.[16]

Max-HR. An appropriation of $53 million is requested for the department's new HRM system, an increase of $17 million over the FY2005 funding.[17] The Office of the CHCO serves as the "command center" for Max-HR. Twelve FTE's continue to staff Max-HR.

H.R. 2360. The Appropriations Committee tables that accompany the House-passed bill show an appropriation of $61.951 million for the Office of the CHCO. This amount would be allocated as $8.951 million for salaries and expenses ($45,000 below the President's request of $8.996 million) and $53 million for Max-HR (the same amount as the President's request).[18] According to the committee, however, amendments agreed to by the House would reduce the funding for the Office of the Under Secretary for Management by $96.1 million, thereby resulting in reductions, not yet specified, in the Under Secretary accounts. Full year funding would be denied for the one new FTE in the Office of the CHCO requested by the President. The committee assumes that the "new staff will be on board beginning in the second quarter of FY2006."[19] Opposition to any change in the funding for Max-HR was stated by the Office of Management and Budget, DHS itself, and Senator George Voinovich, with particular emphasis on the adverse impact on managerial and supervisory training.[20] The National Treasury Employees Union supports the

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[15] U.S. Department of Homeland Security, *Fiscal Year 2006 Congressional Justification*, p. USM-17.

[16] Of the $413,000, $300,000 is included under advisory and assistance services and $113,000 is included under other services.

[17] The requested amount is allocated as follows: $10 million for training for the department's executives, managers, supervisors, and human resources professionals; $18 million for detailed systems design and implementation (for access to experts who are assisting in designing the performance management, job evaluation, and compensation systems and pay and performance linkages, and developing and documenting competencies for DHS positions); $10 million for the conversion of Phase One employees (in DHS headquarters, IAIP, S&T, EPR, and FLETC) from the General Schedule to newly created market-based pay ranges; $9 million for program management to manage appropriate cost, schedule, and control activities at the departmental level to ensure good management of the personnel system; and $6 million for the Homeland Security Labor Relations Board (HSLRB) and Mandatory Removal Offense (MRO) Panel. The HSLRB, established in FY2005 as an independent entity that reports to the DHS Secretary, resolves labor-management disputes. The MRO is a separate entity and adjudicates appeals of employees who have been removed from their positions for engaging in mandatory removal offenses.

[18] H. Rept 109-79, pp. 13-14.

[19] H. Rept 109-79, p. 14.

[20] U.S. Executive Office of the President, Office of Management and Budget, *Statement of Administration Policy, H.R. 2360—Department of Homeland Security Appropriations Bill, FY2006*, May 17, 2005, p. 2. David McGlinchey, "Homeland Security Appeals for Personnel Funding," *Government Executive*, May 24, 2005. Available on the Internet at

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reduction, saying that $18 million would have funded contractors working on the design of the performance management component and $6 million would have funded the establishment of internal labor relations boards at DHS.[21] Section 516 of the House-passed bill would continue to authorize transfer from the Office of Personnel Management (OPM) to DHS the authority to conduct personnel security and suitability background investigations, update investigations, and periodically re-investigate applicants for, or appointees in certain DHS positions.[22]

Title II: Security, Enforcement, and Investigations

Title II funds Security, Enforcement, and Investigations. The largest component of Title II is the Directorate of Border and Transportation Security (BTS). BTS is comprised of the Office of the Under Secretary for BTS, CBP, ICE, and TSA. For FY2006, the Administration has proposed the creation of SCO within BTS, that would coordinate the passenger (and to some extent the cargo) screening operations of BTS. Also included in Title II (though they are not operationally a part of the BTS Directorate) are the U.S. Coast Guard, and the U.S. Secret Service.

Table 5 shows the FY2005 enacted and FY2006 requested appropriations for Title II. The Administration has requested an appropriation of $20.6 billion in net discretionary budget authority for Title II for FY2006. This amount represents a decrease of $13 million or less than 1% decrease compared to the FY2005 enacted total of $20.7 billion.[23] While almost every account in Title II is up, the gross

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[20] (...continued)
[http://www.govexec.com], visited June 7, 2005. Letter from Senator Voinovich, Chairman, Oversight of Government Management Subcommittee to Senator Judd Gregg, Chairman, Homeland Security Subcommittee provided to CRS by subcommittee staff on May 31, 2005.

[21] The National Treasury Employees Union, "Kelley Welcomes Shift of Substantial DHS Funding Away From Implementing New and Unnecessary Personnel System," News Release, May 20, 2005. Available on the Internet at [http://www.nteu.org], visited June 7, 2005.

[22] The positions would be in the Office of the Secretary and Executive Management, the Office of the Under Secretary for Management, the Bureau of Immigration and Customs Enforcement, the Directorate of Science and Technology, and the Directorate of Information Analysis and Infrastructure Protection. Upon DHS' request, OPM would cooperate with and assist DHS in any investigation or reinvestigation. The authorization would cease to be effective once the President has selected a single agency to conduct security clearance investigations and that agency has reported to Congress that the agency selected is capable of conducting all necessary investigations in a timely manner or has authorized the entities within DHS covered by Section 516 to conduct their own investigations. This latter provision was added by Amendment No. 139 offered by Representative Tom Davis and agreed to by the House by voice vote on May 17, 2005. According to Representative Davis, the amendment provides that "the Congressionally mandated oversight authority will be responsible for ensuring that investigations for DHS security clearances are done in the most timely and efficient manner once the 9/11 Act reforms take effect." (*Congressional Record*, daily edition, vol. 151, no. 65, May 17, 2005, pp. H3394-H3395.)

[23] This number does not include the FY2005 supplemental appropriation for Title II in (continued...)

increase of $2,138 million from FY2005 to FY2006 is more than offset by the total increase in offsetting collections of $2,202 million in Title II; $1,780 million of which would be the result of the proposed fee increase within TSA. For the FY2006 request, the BTS Directorate accounts for 67% of total appropriated DHS budget authority, while Title II accounts for 69% of total appropriated DHS budget authority. House-passed H.R. 2360 provides a net appropriation of nearly $22 billion for activities and agencies of Title II. This amount represents a $1.4 billion or nearly 7% increase over the President's requested level for FY2006, and a $728 million or 3% increase over the FY2005 enacted level (including supplemental appropriations). H.Rept. 109-79 does not approve the TSA security fee increase requested by the Administration. House-passed H.R. 2360 therefore shows an increased appropriation, as compared to the Administration's request (see footnote 21). House-passed H.R. 2360 provides $22 billion for Title II, which accounts for 69% of total DHS budget authority.

Table 5. Title II: Security, Enforcement, and Investigations

(budget authority in millions of dollars)

Operational Component	FY2005 Enacted	FY2006 Request	FY2006 House	FY2006 Senate	FY2006 Enacted
Office of the under secretary for border and transportation security	**10**	**11**	**9**		
Screening and operations office[a]					
— US-VISIT[b]	340	390	390		
— Other programs	—	135	21		
— Fee accounts[c]	—	321	—		
Gross total	**340**	**846**	**411**		
— Offsetting collections	—	-321	—		
Net total	**340**	**525**	**411**		
Customs & border protection[a]					
— Salaries and expenses[d]	4,658	4,730	4,886		
— rescissions[e]	-139	—	—		
— Automation modernization	450	458	458		
— Air and Marine Operations	258	293	348		
— Construction[f]	144	93	93		
— Fee accounts[g]	1,079	1,142	1,142		
Gross total	**6,450**	**6,717**	**6,927**		
— Offsetting collections	-1,079	-1,142	-1,142		
Net total	**5,371**	**5,575**	**5,785**		
Immigration & Customs Enforcement					
— Salaries and expenses construction[h]	2,893	2,892	3,064		
— Federal Air Marshals	663	689	699		
— Federal Protective Services (FPS)	478	487	487		

[23] (...continued)
P.L.109-13.

Operational Component	FY2005 Enacted	FY2006 Request	FY2006 House	FY2006 Senate	FY2006 Enacted
— Automation & infrastructure modernization	40	40	40		
— Construction	26	27	27		
— Fee accounts[i]	200	229	229		
— Rescission[j]	-85				
Gross total	**4,215**	**4,364**	**4,546**		
— Offsetting FPS fees	-478	-487	-487		
— Offsetting collections	-200	-229	-229		
Net total	**3,537**	**3,648**	**3,830**		
Transportation Security Administration[a]					
— Aviation security (total funding)	4,324	4,735	4,592		
— Maritime and land security	48	32	36		
— Credentialing activities (appropriation)[k]	—	—	84		
— Credentialing/Fee accounts[k]	67	—	180		
— Intelligence	14	21	21		
— Research and development[l]	178	—	—		
— Administration	520	524	520		
— Aviation security mandatory spending[m]	250	250	250		
Gross total	**5,401**	**5,562**	**5,683**		
— Offsetting collections[n]	-1,823	-3,670	-1,990		
— Credentialing/Fee accounts	-67	—	-180		
— Aviation security mandatory spending	-250	-250	-250		
Net total	**3,260**	**1,641**	**3,263**		
U.S. Coast Guard					
— Operating expenses[o]	5,303	5,547	5,500		
— Environmental compliance & restoration	17	12	12		
— Reserve training	113	119	119		
— Acquisition, construction, & improvements[p]	1,031	1,269	798		
— Recission[q]	-16	—	—		
— Alteration of bridges	16	—	15		
— Research, development, tests, & evaluation[r]	19	—	—		
— Retired pay (mandatory, entitlement)	1,085	1,014	1,014		
Gross total	**7,568**	**7,962**	**7,458**		
U.S. Secret Service					
— Salaries and expenses; construction	1,175	1,204	1,233		
Net total	**1,175**	**1,204**	**1,233**		
Gross Budget Authority: Title II	**25,157**	**26,665**	**26,267**		
— Total offsetting collections: Title II	**-3,897**	**-6,099**	**-4,278**		
Net Budget Authority: Title II	**21,260**	**20,566**	**21,988**		

Source: CRS analysis of the FY2006 President's Budget, and DHS, *Budget in Brief*, House Appropriation Committee tables of May 20, 2005, introduced H.R. 2360 and H.Rept. 109-79.

Note: Totals may not add due to rounding. Amounts in parentheses are non-adds.

a. DHS is proposing to create this new office, which would combine the following programs and fees: US-VISIT; FAST and NEXUS/SENTRI from CBP; and Secure Flight, Crew Vetting, Credentialing Startup, TWIC, Registered Traveler, HAZMAT, and Alien Flight School from TSA. The House Appropriation Committee denies the creation of the SCO. However, H.R. 2360 does move FAST and NEXUS/SENTRI from CBP to the BTS management level, and combines these two programs with USVISIT in a new Automation Modernization office. Programs from TSA proposed for transfer to SCO would remain in TSA under H.R. 2360.
b. United States Visitor & Immigrant Status Indicator Project.
c. Fees included TWIC, HAZMAT, Registered Traveler, and Alien Flight School Checks. H.Rept. 109-79 would leave these programs and their fees in TSA.
d. Includes $124 million in funding provided by P.L.109-13, the Emergency Supplemental Appropriations Act.
e. Includes a $63 million rescission in P.L.108-11 and a $76 million rescission in P.L.109-13 from the CBP salaries and expenses account.
f. Includes $52 million in supplemental funding provided by P.L.109-13.
g. Fees included COBRA, Land Border, Immigration Inspection, Immigration Enforcement, and Puerto Rico.
h. Includes $454 million in supplemental funding provided by P.L.109-13.
i. Fees included Exam, Student Exchange and Visitor Fee, Breached Bond, Immigration User, Land Border.
j. Reflects the $85 million rescission from ICE in P.L.109-13.
k. Fees included TWIC, HAZMAT, Registered Traveler, and Alien Flight School Checks, which were included in the proposed SCO in the President's request, but would be retained in TSA as recommended by H.Rept. 109-79.
l. DHS is proposing to transfer the Research and Development account from TSA to the Directorate of S&T.
m. Aviation Security Capital Fund, used for installation of Explosive Detection Systems at airports.
n. In FY2006, DHS proposes a $3 increase in the passenger security fee for one-way and multi-leg flights, generating $1.56 billion in new revenue. There is a discrepancy between the Administration's budget documents and the Committee tables concerning the aviation security fee offset amount. The Administration's budget documents report the FY2005 enacted amount as $2,330 million, while the Committee tables report the FY2005 enacted amount as $1,890 million. For FY2006, with the requested fee increase the Administration shows $3,889 million in offsetting aviation security fees, while the Committee tables show $3,670 million, as scored by CBO. The House Appropriations Committee did not approve the proposed fee increase, and recommends an offset of $1,990 million, and a net appropriation of $3,263 million for TSA. **Table 5** reflects the amounts contained on the Committee tables.
o. Includes $112 million in supplemental funding provided by P.L.109-13.
p. Does not Include an additional $34 million transfer of funds from the Department of Defense to the Coast Guard pursuant to P.L. 108-287. Includes $49 million in supplemental funding provided by P.L.109-13.
q. $16 million rescission pursuant to P.L. 108-334.
r. DHS is proposing to transfer the Research, Development, Tests and Evaluation account from the Coast Guard to the S&T Office.

Office of Screening Operations (SCO)[24]

As a part of the FY2006 request, the Administration is proposing to create a new SCO which will coordinate DHS' efforts to screen people (and to some extent cargo) as they enter and move throughout the country. Programs proposed to be moved to

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[24] Section prepared by Jennifer E. Lake, Analyst in Domestic Security, Domestic Social Policy Division.

this office include the US Visitor and Immigrant Status Indicator Project (US-VISIT); Free and Secure Trade (FAST) and NEXUS/SENTRI, from CBP; Secure Flight, Transportation Worker Identification Credential (TWIC), Registered Traveler, Hazardous Materials (HAZMAT) background checks, and the Alien Flight School background checks program from TSA.

President's Request. The Administration has requested $846 million in gross budget authority for SCO for FY2006. The request includes $390 million for the US-VISIT program[25] (an increase of $50 million over the enacted FY2005 amount), $94 million for Secure Flight[26] (an increase of $49 million over the enacted FY2005 amount), $7 million for the driver registration component of FAST, $14 million for NEXUS/SENTRI, and $20 million for the stand up of the Credentialing coordination office. In addition to appropriated activities, SCO will oversee several fee funded activities including $245 million for TWIC and other TSA credentialing activities; $23 million for the Registered Traveler program; $44 million for HAZMAT checks; and $10 million for Alien Flight School background checks. The net requested appropriation for SCO is $525 million.

H.R. 2360. The Committee notes that while the SCO office "may have merit," a broader justification is required for it than what was given by the Department. The Committee therefore denies this consolidation and appropriates no funds for SCO. Instead, the Committee establishes a new Office of Transportation Vetting and Credentialing within TSA to oversee the Secure Flight, Crew Vetting, Registered Traveler, TWIC, HAZMAT, and Alien Flight School programs. US-VISIT, FAST, and NEXUS/SENTRI are funded within a new BTS Automation Modernization office.[27]

Issues for Congress. The proposal for the creation of the SCO can be traced to Homeland Security Presidential Directive (HSPD) 11, which was one of the Administration's responses to the 9/11 recommendations. HSPD-11 directed the improved coordination of "comprehensive terrorist-related screening procedures."[28] The goal of the SCO according to the *FY2006 DHS Congressional Budget Justifications* is to leverage the unique aspects of each of the screening programs chosen to be incorporated into the SCO to enhance overall screening policy which would be directed by the new credentialing office within the SCO. House Appropriators denied this consolidation in their Appropriation Report.

There is not a significant amount of detail in the request about the operations of the SCO. One potential issue concerns the operational aspects of each of the

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[25] For more information on US-VISIT, see CRS Report RL32234, *U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) Program*, by Lisa Seghetti and Stephen R. Viña.

[26] See CRS Report RL32082, *Homeland Security: Air Passenger Prescreening and Counterterrorism*, by Bart Elias and William Krouse.

[27] H.Rept. 109-79, p. 23 and 52.

[28] U.S. President George W. Bush, *Homeland Security Presidential Directive/HSPD-11*, Aug. 27, 2004, at [http://www.whitehouse.gov/news/releases/2004/08/20040827-7.html].

programs proposed for transfer to the SCO. How much of the program would actually be transferred to SCO? Is it simply the funding, the policy planning, or would the whole function (and the people who carry out that function) be transferred as well? Recent testimony by CBP Commissioner Bonner, and USCIS Director Aguirre indicated that there remains some uncertainty concerning which operational functions should remain at the agency level and which functions could be performed by the SCO.[29]

Coordination would be a key challenge for the SCO, particularly coordination between the SCO and the other agencies of the BTS Directorate. Other challenges recently identified by the Government Accountability Office (GAO) include defining interrelationships and commonalities among the programs proposed for transfer to the SCO; clearly delineating roles and responsibilities; and identifying data needs. In addition, existing issues and concerns confronting some of the programs proposed for transfer to SCO (such as Secure Flight, and TWIC) would still have to be addressed.[30]

Customs and Border Protection (CBP)[31]

CBP is responsible for security at and between ports-of-entry along the border. Since 9/11, CBP's primary mission is to prevent the entry of terrorists and the instruments of terrorism. CBP's on-going responsibilities include inspecting people and goods to determine if they are authorized to enter the United States; interdicting terrorists and instruments of terrorism; intercepting illegal narcotics, firearms, and other types of contraband; interdicting unauthorized travelers and immigrants; and enforcing more than 400 laws and regulations at the border on behalf of more than 60 government agencies. CBP is comprised of the inspection functions of the legacy Customs Service, Immigration and Naturalization Service (INS), and the Animal and Plant Health Inspection Service (APHIS); the Office of Air and Marine Interdiction; and the Border Patrol.

President's Request. The Administration has requested an appropriation of $6,717 million in gross budget authority for CBP in FY2006. This represents a 4% increase over the enacted FY2005 level (including supplemental appropriations) of $6,450 million. The Administration is requesting an appropriation of $5,575 million in net budget authority for CBP, representing a 4% increase over the FY2005 enacted level of $5,371 million. The request includes the following program increases (which are discussed later in this report):

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[29] U.S. Congress, Senate Appropriations Committee, Homeland Security Subcommittee, *Fiscal Year 2006 Appropriations for Citizenship and Immigration Services, and Immigration and Customs Enforcement*, Mar. 2, 2005.

[30] GAO, *Transportation Security: Systematic Planning Needed to Optimize Resources*, GAO-05-357T, Feb. 15, 2005, p. 23.

[31] Section prepared by Jennifer E. Lake and Blas Nuñez-Neto, Analysts in Domestic Security, Domestic Social Policy Division.

- $125 million for weapons of mass destruction (WMD) detection technology;
- $37 million for Border Patrol staff;
- $31.7 million for long range radar for Air and Marine Operations;
- $20 million for Border Patrol aircraft replacement;
- $19.8 million for the America Shield Initiative;
- $8.2 million for the Customs-Trade Partnership Against Terrorism (C-TPAT);
- $5.4 million for the Container Security Initiative (CSI);
- $5.4 million for enhancements to the Automated Targeting System (ATS);
- $3.2 million for the Homeland Security Data Network;
- $3 million for IDENT/IAFIS;
- $2 million for the Immigration Advisory Program (IAP); and
- $1 million for the Arizona Border Control Initiative (ABCI).

H.R. 2360. The House Appropriators added $210 million to both the gross and net budget authorities for CBP in order to cover a range of programs. The House-passed H.R. 2360 provides a net appropriation for CBP is $5.785 billion, an 8% increase over the FY2005 enacted level and a 4% increase over the President's FY2006 request.[32]

Issues for Congress. Potential CBP issues for Congress include cargo and container security; targeting and risk assessments; cargo inspection technology; air and marine operations; the number of border patrol agents; IDENT/IAFIS integration; ABCI; and the America Shield Initiative.

Cargo and Container Security. CBP's cargo security strategy includes two significant programs: the CSI, and C-TPAT. CSI is a CBP program that stations CBP officers in foreign sea ports to target marine containers for inspection before they are loaded onto U.S.-bound vessels. The FY2006 request includes an additional $5.4 million for CSI to support the expansion of CSI activities in seven new ports in seven countries: Egypt, Chile, India, the Philippines, Venezuela, the Bahamas, and Honduras. The requested increase would primarily be allocated for salaries and travel expenses for personnel staffing the ports with a complement of three persons per location. H.Rept. 109-79 would fully fund the requested increase, recommending a total of nearly $139 million for CSI in FY2006. However, the House Committee notes that it has not yet received a report detailing the spending and planning projections for CSI for FY2005-2009, and directs CBP to submit the report as soon as possible. The Committee also includes a provision in H.R. 2360 withholding $70 million until this report is submitted as directed by H.Rept. 108-541. House-passed H.R. 2360 fully funds the request for CSI.

C-TPAT is a public-private partnership aimed at securing the supply chain from point of origin through entry into the United States. The FY2006 request includes an increase of $8.2 million for C-TPAT to be used for travel and the purchase of

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[32] U.S. Congress, House Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2006*, 109th Cong., 1st Sess., H.Rept. 109-79, p. 142.

equipment and supplies for Supply Chain Specialists to conduct an increased number of C-TPAT security profile validations. House-passed H.R. 2360 fully funds the request for C-TPAT.

Targeting and Risk Assessments. CBP uses a risk assessment tool called the Automated Targeting System (ATS) to focus its inspections on high-risk cargo and people entering the country. The FY2006 request for CBP includes a $5.4 million increase in funding for ATS. The increase includes $1.5 million for ATS-Land (ATS-L) to acquire Department of Motor Vehicle Data and to provide maintenance costs for ATS-L at all land border ports-of-entry; $1.5 million for enhancements to ATS-Inbound (ATS-N) to enable it to better handle data from the new cargo manifest requirements, CSI, and the ATS exam findings module; and $2.4 million to incorporate additional government and non-governmental databases for the rules-based analysis of ATS-Passenger, expand analysis to all incoming Amtrak passengers, and develop jointly with the Canadian government a risk assessment process for passengers arriving in both Canada and the United States. House-passed H.R. 2360 fully funds the $28 million request for targeting systems, and the nearly $17 million request for CBP's National Targeting Center. GAO has in the past raised concerns that while CBP's targeting strategy incorporated some elements of risk management, it lacked a comprehensive set of criticality, vulnerability and risk assessments, and does not follow certain recognized modeling practices.[33]

Cargo Inspection Technology. The FY2006 Administration request for CBP includes an increase of $125 million for technology to detect WMD. This request includes $77 million for the purchase of additional radiation portal monitors (RPMs), and the purchase of next generation RPMs. House-passed H.R. 2360 fully funds the $188 million request for cargo inspection technology. One of the goals of CBP's *Comprehensive Strategy to Address the Threat of Nuclear and Radiological Terrorism* "is to screen all trucks, trains, cars, air freight, mail bags and express consignment packages with advanced radiation detection technology prior to release."[34] RPMs detect gamma and neutron radiation, and provide CBP a passive and non-intrusive way to screen conveyances for radioactive material at ports-of-entry. As of January 2005, 403 RPMs had been installed at entry points along the northern and southern borders.[35] CBP will also be working with the S&T Directorate to develop the next generation of RPMs. H.Rept. 109-79 directs CBP to submit two reports no later than January 16, 2006: (1) detailing the current status and investment plan for RPMs through FY2010; and (2) detailing the projected spending, maintenance and replacement of large-scale non-intrusive inspection (NII) equipment (for example, truck x-ray machines, and vehicle and cargo inspection systems) for FY2006-2010.

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[33] GAO, *Homeland Security: Preliminary Observations on Efforts to Target Security Inspections of Cargo Containers*, GAO-04-325T, Dec. 17, 2003.

[34] DHS, *FY2006 Congressional Budget Justifications*, p. CBP-30.

[35] CBP, *U.S. Customs and Border Protection FY2006 Budget*, Feb. 7, 2005, accessed at [http://www.cbp.gov/xp/cgov/newsroom/press_releases/02082005.xml].

Air and Marine Operations (AMO). With the FY2005 Appropriation, AMO was transferred to CBP, where it is now located. One of the unique facets of AMO's capabilities is the integrated radar surveillance coverage it provides through its Air and Marine Operations Center (AMOC). This system of radar coverage is used to "monitor air traffic environments, particularly to detect and intercept non-cooperative air traffic attempting to avoid detection entering into the United States."[36] The FY2006 request includes an increase of $31.7 million for long range radar (LRR) coverage for AMO. This increase is requested to finance a 50% share of the cost (the other 50% share to be covered by the Department of Defense) of a primary Federal Aviation Administration (FAA) LRR feed that FAA intends to discontinue using. According to AMO, this primary LRR feed is a critical component of its radar coverage without which AMO could not achieve the necessary coverage of the air traffic environment along the border. House-passed H.R. 2360 fully funds the request for AMO, and provides and additional $60 million above the request for AMO.

Increase in Border Patrol Agents. CBP is proposing to add 210 agents to the USBP workforce in FY2006 to backfill positions vacated along the Southwest border. These vacancies were the result of agents being transferred from the Southwest border in order to fulfill the requirement enacted in the USA PATRIOT Act (P.L. 107-56, §402) to triple the number of agents assigned to the Northern border. This increase is well below the 2,000 additional agents authorized by the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458, §5202). Given the disparity between the authorization and the President's request, a possible issue for Congress may be what the appropriate level of staffing for the Border Patrol is in order to achieve its mission of detecting and interdicting the entry of terrorists, WMD, and unauthorized aliens between ports of entry. House Appropriators have addressed this issue by adding $150 million to the President's request, which, combined with the $124 million available in the FY2005 supplemental appropriation (P.L. 109-13), will allow the Border Patrol to add 1,500 agents to its workforce by the end of FY2006.[37]

IDENT/IAFIS. According to CBP, the integration of the Border Patrol's Automated Biometric Identification System (IDENT) and the Federal Bureau of Investigation's Integrated Automated Fingerprint Identification System (IAFIS) is progressing and interoperable IDENT/IAFIS workstations have been deployed to all USBP stations. This would seem to address some of the concerns about the slow pace of the integration project raised by House Appropriators in FY2005.[38] The president's request includes an increase of $3 million for the system and notes that BTS has assumed ownership for the integration project. While the integration of the two biometric databases has given USBP agents access to the FBI's criminal records, leading to an 8.5% increase in the identification of criminal aliens, a possible issue

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[36] DHS, *FY2006 Congressional Budget Justifications*, CBP-6. (Air and Marine Interdiction tab).

[37] H.Rept. 109-79, p. 24.

[38] U.S. Congress, House Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2005*, report to accompany H.R. 4567, 108th Cong., 2nd sess., H.Rept. 108-541 (Washington, GPO, 2004), pp. 18-19.

for Congress may be the USBP's apparent lack of access to the Terrorist Watchlist at their stations. Watchlist records are name-based and are thus not accessible through the biometric-based IDENT/IAFIS system. This may be of concern due to recent Congressional testimony by DHS acting Secretary Admiral James Loy that Al-Qaeda is considering infiltrating the Southwest border due to a belief that "illegal entry is more advantageous than legal entry for operational security reasons."[39] House Appropriators expressed frustration with CBP that the report they requested in the FY2005 appropriation bill on the IDENT/IAFIS integration project has not been delivered yet. They direct DHS to submit the report by July 1, 2005.

Arizona Border Control Initiative (ABCI). In response to the continuing high levels of apprehensions in the Tucson sector, the Arizona Border Control (ABC) initiative was launched on March 16, 2004. ABC is a multi-disciplinary initiative that seeks to coordinate federal, state, and local authorities to control the Arizona border. ABC is specifically aimed at stopping cross-border smuggling operations by detecting, arresting, and deterring all groups seeking to bring people, drugs, weapons, and other merchandise into the country illegally. 200 additional permanent border patrol agents and 60 special operations agents trained for search and rescue operations were assigned to the Tucson sector over the summer of 2004, bringing the total number of agents there to approximately 2,000. According to DHS, in the first six months of the ABC, apprehension of unauthorized aliens increased 56% from apprehension during the same period of the previous year. From March 16, 2004 to September 7, 2004, 351,700 unauthorized aliens were apprehended compared to 225,108 unauthorized aliens during the same period in 2003. CBP proposes an increase of $1 million to continue this multi-disciplinary program in FY2006, though most funding for the program will come from ICE. House Appropriators support this multi-agency approach to protecting the border and fund the President's request. The House Committee also directs CBP to work closely with the Tohono O'odham Nation along the Arizona border to ensure that the Nation is fully aware of CBP's actions on their territory.[40]

America Shield Initiative. CBP proposes an increase of $19.8 million for the America Shield Initiative (ASI), formerly known as the Integrated Surveillance Intelligence System (ISIS). ASI integrates Remote Video Surveillance camera systems, sensors, and the Integrated Computer Assisted Detection (ICAD) database into a multi-faceted network capable of detecting illegal entries in a wide range of climate conditions. The requested FY2006 funding will be used to deploy surveillance assets to high-priority areas such as Tucson, Yuma, and El Paso on the southwest border, and Blaine, Spokane, Buffalo, and Swanton (Vermont) on the northern border. House Appropriators fully fund the President's request and, citing concerns with the contracting problems identified in the ISIS program by the General Services Administration Inspector General, request a report by January 16, 2006 on these problems and the specific measures taken by CBP to address them. A report

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[39] U.S. Congress, Senate Select Committee on Intelligence, *National Security Threats to the United States*, 109th Cong., 1st sess., Feb. 16, 2005.

[40] H.Rept. 109-79, p.28.

on the specific performance metrics that will be applied to the ASI program is also requested by January 16, 2006.[41]

Immigration and Customs Enforcement (ICE)[42]

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 by committing a crime. 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. Furthermore, this bureau oversees the building security activities of the Federal Protective Service, formerly of the General Services Administration; and the Federal Air Marshals Service (FAMS).[43] The Office of Air and Marine Interdiction was transferred from ICE to CBP, and therefore the totals for ICE do not include Air and Marine Interdiction funding which is included under CBP.

President's Request. The Administration has requested an appropriation of $4,364 million in gross budget authority for ICE in FY2006. This represents a 4% increase over the enacted FY2005 level (including supplemental appropriations) of $4,215 million. The Administration is requesting an appropriation of $3,648 million in net budget authority for ICE in FY2006, representing a 3% increase over the FY2005 enacted level of $3,537 million. The request includes the following program increases:

- $105 million for the Office of Investigations;
- $90 million for custody management and detention bedspace;
- $43.7 million for ICE's Organized Crime and Drug Enforcement Task Force (OCDETF) activities;
- $25 million for ABCI and Interior Repatriation;
- $24 million for detention and removal;
- $18 million for temporary worker worksite enforcement;
- $11.3 million for the Homeland Security Data Network;
- $9.9 million for the Federal Air Marshals (FAMS);
- $8.8 million for Fugitive Operations;
- $5.6 million for Institutional Removal Program (IRP);
- $5.4 million for Alternatives to Detention;
- $5 million for Visa Security; and
- $3.5 million for legal resources.

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[41] H.Rept. 109-79, pp. 27-28.

[42] Section prepared by Blas Nuñez-Neto, Analyst in Domestic Security, and Alison Siskin, Analyst in Social Legislation, Domestic Social Policy Division.

[43] FAMS transferred to ICE from TSA in August of 2003.

H.R. 2360. House-passed H.R. 2360 provides $3,830 million for ICE, an increase of $182 million, or 5% from the President's FY2006 request and $243 million, or 8% above FY2005 enacted. Of the appropriated amount, $5 million is to be used to implement §287(g) of the Immigration and Nationality Act (INA),[44] which allows the Attorney General[45] to enter into agreements with states and local governments to allow their employees perform functions of immigration officers; and $11.2 million is designated to fund or reimburse other federal agencies for the cost of care, and repatriation of smuggled aliens. In addition, H.R. 2360 would withhold $20 million of the money appropriated to DHS' Office of the Secretary and Executive management until the Secretary of DHS submits a report to the Appropriations Committee outlining an immigration enforcement strategy to reduce the number of unauthorized aliens in the United States by 10% each year.

Additionally, H. Rept 109-79 recommends fully funding the President's requests and recommends an *additional*:

- $90 million for 1,920 detention beds;
- $16 million for 60 fugitive operations teams;[46]
- $18 million for 100 Institutional Removal Program agents;
- $10 million for 49 Alternatives to Detention positions;
- $19 million for 150 criminal investigators;
- $18 million for 200 Immigration Enforcement Agents; and
- $800,000 for the Cyber Crimes Center.

Financial Management at ICE. ICE inherited its financial organization and systems from the former INS. An independent audit of ICE's financial statements concluded that the agency's accounting records were inadequately maintained during FY2004. The situation was characterized as especially grave regarding intra-departmental and intra-governmental agreements and transactions, costs, and budgetary transactions. This required extensive reconciliation and adjustment at the end of the fiscal year, which ICE was unable to complete. The report noted that ICE had served as the accounting services provider for several other DHS agencies[47] while simultaneously experiencing significant turnover among its financial management staff. This led the agency to fall "seriously behind in basic accounting functions, such as account reconciliations, analysis of material abnormal balances, and proper budgetary accounting." Additionally, serving as the accounting provider for other agencies led ICE to experience budget shortfalls due to tardy reimbursements for expenses it provided to cover other agencies' costs. This budget

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[44] 8 U.S.C. §§1101 *et seq*. 8 U.S.C. §1357(g)

[45] This provision is now being administered by the Secretary of Homeland Security.

[46] The Office of Detention and Removal's National Fugitive Operations Program (NFOP) seeks to apprehend, process, and remove aliens who have failed to comply with removal orders, giving priority to apprehending aliens convicted of crimes.

[47] Among others, ICE serves as the accounting service provider for CIS, S&T, IAIP, DHS Management, and BTS Headquarters. These agencies include parts of 10 of the 22 legacy agencies that were transferred to DHS and account for roughly 20% of total DHS FY2004 budget authority.

shortfall forced the agency into a freeze on hiring and non-mission critical expenditures, including training. The auditors concluded that DHS should immediately address the "void in ICE's financial management infrastructure" in order to fix the lack of oversight and controls that led ICE to become anti-deficient or that prevented DHS management from knowing whether ICE was anti-deficient.[48] ICE recently requested a $500 million reprogramming for FY2005 to cover funding shortfalls within the agency.[49] House Appropriators expressed concern and disappointment over the continuing financial troubles at ICE. The Committee notes that the agency has been forced to employ drastic cost-cutting measures that the Committee believes adversely limited ICE's operations. The Committee directs DHS to provide monthly reports on ICE's financial condition.[50]

Office of Investigations/Immigration Functions. The Office of Investigations (OI) in ICE focuses on a broad array of criminal and civil violation affecting national security such as illegal arms exports, financial crimes, commercial fraud, human trafficking, narcotics smuggling, child pornography/exploitation, worksite enforcement, and immigration fraud. ICE special agents also conduct investigations aimed at protecting critical infrastructure industries that are vulnerable to sabotage, attack or exploitation.[51] The Homeland Security Act of 2002 (P.L. 107-296) abolished the INS and the United States Customs Service, and transferred most of their investigative functions to ICE effective March 1, 2003. There are investigative advantages to combining the INS and Customs Services as those who violate immigration laws often are engaged in other criminal enterprises (e.g., alien smuggling rings often launder money). Nonetheless, concerns have been raised that not enough resources have been focused on investigating civil violations of immigration law, and that ICE resources have been focused on terrorism and the types of investigations performed by the former Customs Service.[52]

The Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458, §5203) authorized for FY2006, subject to appropriations, the addition of at least 800 new investigators to investigate violations of immigration law. The $1,496 million requested in the President's budget for the OI includes increases in the base funding for two groups responsible for immigration enforcement, the Visa Security Unit (VSU)[53] and Temporary Worker Worksite Enforcement, and includes a total of 148 new positions for these units. The President's budget requests an additional $18 million for temporary worker worksite enforcement to add 143 positions responsible

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[48] Department of Homeland Security, Office of the Inspector General, *Independent Auditors' Report on DHS FY2004 Financial Statements*, OIG-05-05, Dec. 2004, pp. 320-333.

[49] U.S. Congress, House Appropriations Committee, Subcommittee on Homeland Security, *Fiscal Year 2006 Department of Homeland Security Appropriations*, Mar. 15, 2005.

[50] H.Rept. 109-79, pp. 33-34.

[51] For more information see [http://www.ice.gov/graphics/investigations/index.htm].

[52] Based on CRS discussions with ICE personnel in New York City, Aug. 27, 2003.

[53] Officers of the VSU are assigned to consular posts to conduct law-enforcement reviews of visa applications, and provide advice and training to consular officers. For more information on visa issuance see CRS Report RL31512, *Visa Issuance: Policy, Issues, and Legislation,* by Ruth Ellen Wasem.

for investigating and prosecuting violations under existing immigration law for hiring unauthorized aliens, and supporting and implementing the provisions of possible temporary worker legislation. The President's request also includes an increase of $5 million to add five new officers to the VSU, open a new overseas location, and expand training programs. H.Rept 109-79 recommends $19 million to expand the Visa Security Program. Furthermore, H.Rept 109-79 recommends an addition $18 million over the President's request for 200 new Immigration Enforcement Agents (IEAs).[54] H.Rept 109-79 also recommends $19 million for an additional 150 criminal investigators.[55]

Detention and Removal Operations. Detention and Removal Operations (DRO) in ICE provide custody management of aliens who are in removal proceedings or who have been ordered removed from the United States.[56] DRO is also responsible for ensuring that aliens ordered removed actually depart from the United States. Many contend that DRO does not have enough detention space to house all those who should be detained. A study done by DOJ's Inspector General found that almost 94% of those detained with final orders of removal were deported while only 11% of those not detained who were issued final orders of removal left the country.[57] Concerns have been raised that decisions on which aliens to release and when to release the aliens may be based on the amount of detention space, not on the merits of individual cases, and that the amount of space may vary by area of the country leading to inequities and disparate policies in different geographic areas. The Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458, §5204) authorized, subject to appropriations, an increase in DRO bed space of 8,000 beds for each year, FY2006-FY2010. The President's budget requests an increase for FY2006 of $90 million for 1,920 new beds. H.Rept 109-79 recommends $90 million for 1,920 new beds,[58] and H.R. 2360 would withhold $50 million of the appropriated funds for ICE salaries and expenses until the Assistant Secretary of ICE submits to the Appropriations Committee a national detention management plan.

Alternatives to Detention. Due to the cost of detaining aliens, and the fact that many non-detained aliens with final orders of removal do not leave the country, there has been interest in developing alternatives to detention for certain types of

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[54] The Conference Report (H.Rept 109-72) for the Supplemental Appropriations Act (P.L. 109-13)provides funding for an additional 168 IEAs and detention officers.

[55] The Conference Report (H.Rept 109-72) for the Supplemental Appropriations Act (P.L. 109-13) contains funding for 50 new criminal investigators. Nonetheless, it is unknown to which types of cases the new criminal investigators will be assigned.

[56] 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.

[57] Department of Justice, Office of the Inspector General, *The Immigration and Naturalization Service's Removal of Aliens Issued Final Orders*, Report I-2003-004, Feb. 2003.

[58] The Conference Report (H.Rept 109-72) for the Supplemental Appropriations Act (P.L. 109-13) contains funding for an additional 1950 beds.

aliens who do not require a secure detention setting. In 2004, ICE began a pilot program, the Intensive Supervision Appearance Program, for low-risk, non-violent offenders.[59] H.Rept 109-79 recommends $10 million for 49 new positions for this program.

Interior Repatriation. ICE proposes a $25 million increase for the Interior Repatriation program. On June 9, 2004 the White House announced it had reached agreement with the Mexican government to begin piloting the Interior Repatriation Program, which aims to reduce the number of aliens who immediately try to cross back into the United States by flying them into the interior of Mexico. Due to constitutional constraints in Mexico, the apprehended aliens' return to the interior must be strictly voluntary and the willingness of their participation is certified by Mexican consular officers.[60] In order to continue the program in FY2006, the Administration is requesting $39.3 million; $25 million for Custody Management and $14.3 for Transportation and Removal. This represents a $25 million increase from the $14 million spent on the pilot program in FY2005. H.Rept 109-79 directs the Commissioner of CBP to report no later than January 16, 2006 on the performance of the Interior Repatriation Program.

State and Local Law Enforcement.[61] Currently the INA provides limited avenues for state enforcement of both its *civil* and *criminal* provisions. One of the broadest grants of authority for state and local immigration enforcement activity stems from INA §287(g), which authorizes the Attorney General to enter into a written agreement with a State, or any political subdivision to allow an officer or employee of the State or subdivision, to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States. The enforcement of immigration by state and local officials has sparked debate among many who question what the proper role of state and local law enforcement officials should be in enforcing federal immigration laws. Many have expressed concern over proper training, finite resources at the local level, possible civil rights violations, and the overall impact on communities. Some localities, for example, even provide "sanctuary" for illegal aliens and will generally promote policies that ensure such aliens will not be turned over to federal authorities. 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 utilized. H.R. 2360 would appropriate $5 million to implement INA §287(g).

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[59] Department of Homeland Security, U.S. Immigration and Customs Enforcement, "Public Security: ICE Unveils New Alternative to Detention," *Inside ICE*, vol. 1, no. 5, June 21, 2004. Available at [http://www.ice.gov/graphics/news/newsreleases/insideice/insideice_062104_web3.htm].

[60] U.S. Department of Homeland Security, Bureau of Customs and Border Protection, Office of the Press Secretary, "Department of Homeland Security to Begin Pilot Program for Voluntary Interior Repatriation of Mexican Nationals," press release, June 29, 2004.

[61] This section adapted from CRS Report RL32270, *Enforcing Immigration Law: The Role of State and Local Law Enforcement*, by Lisa M. Seghetti, Stephen R. Vina, and Karma Ester.

Transportation Security Administration (TSA)[62]

The TSA was created by the Aviation and Transportation Security Act (ATSA, P.L. 107-71), and was charged with protecting U.S. air, land, and rail transportation systems to ensure freedom of movement for people and commerce. In 2002, the TSA was transferred 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. TSA is further charged with serving as the primary liaison for transportation security to the law enforcement and intelligence communities, and with conducting research and development to improve security technologies.

President's Request. The President has requested an appropriation of $5,562 million in gross budget authority for TSA in FY2006, a net increase of $162 million, or 3%, over the enacted FY2005 level of $5,400 million.[63] However, in comparing the FY2006 budget request to prior year levels, it is important to note that the President is requesting to transfer a large portion of TSA's research and development functions — totaling $109 million in FY2005 appropriated amounts — to the S&T Directorate, and a transfer of a variety of functions — totaling $142 million in FY2005 — to the proposed Office of Screening Coordination and Operations (SCO). Functions that would be transferred to the SCO under the proposal include Secure Flight ($35 million); Crew Vetting ($10 million); Credentialing Startup Costs ($10 million); Transportation Worker Identification Card (TWIC, $50 million); Registered Traveler ($15 million); HAZMAT Driver Security Threat Assessments ($17 million); and Alien Flight School Applicant Security Threat Assessments ($5 million). Adjusting for these transfers and other miscellaneous factors, the requested increase to the TSA budget totals $415 million, roughly a 7.7% increase over FY2005 enacted levels (see P.L. 108-334).

Almost 90% of the TSA's proposed budget is designated for aviation security functions. Key aviation security initiatives proposed include:

- developing and testing emerging checkpoint explosives technologies;
- realigning the screener workforce and providing funds needed to maintain an authorized level of 45,000 full-time equivalents (FTEs);
- deploying high-speed Internet connections at airport screening checkpoints and baggage screening areas;

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[62] Section prepared by Bartholomew Elias, Specialist in Aviation Safety, Security, and Technology; and John Frittelli, Specialist in Transportation, Resources, Science and Industry Division.

[63] The amount for FY2005 listed here includes $250 million for the Aviation Security Capital Fund, and $5 million for Alien Flight School Background Checks; and the amount for FY2006 includes $250 million for the Aviation Security Capital Fund. These amounts are listed as non-adds in **Table 5**, and are not included in the committee tables.

- providing mandated training for flight and cabin crews and conducting semiannual requalification for armed pilots; and
- conducting mandated security inspections of foreign airline repair stations and inspections at domestic repair stations.

In an effort to approach full cost recovery from user fees for aviation security screening, the President has proposed an increase in passenger security fees. The proposal would raise the fee from its current level of $2.50 per flight segment, with a maximum fee of $5.00 per one-way trip, to $5.50 per segment, with a maximum of $8.00 per one-way trip. The Administration anticipates that this proposed fee increase coupled with a return to pre-9/11 passenger volume will result in an increase in fee collections from an estimated $2.652 billion in FY2005 to $4.1 billion in FY2006. This increase is projected to offset roughly 82% of the proposed $4.985 billion budget for aviation security. In contrast, aviation security fees collected in FY2004 offset only 41% of expenditures for aviation security.[64]

For surface transportation security, the President requests $32 million, which includes $8 million for hiring and deploying 100 rail and transit inspectors. These inspectors will be deployed at significant rail and mass transit points across the United States to perform compliance reviews, audits, and enforcement actions pertaining to security measures.

H.R. 2360. House-passed H.R. 2360 provides a gross total of $5,683 million (net total of $3,263 million) for the TSA. This total includes $264.3 million for Transportation Vetting and Credentialing which the President's request proposed to transfer to the SCO.

For aviation security activities H.R. 2360 provides $143.2 million less than the President's request but is $268.1 million more than FY2005 enacted levels.[65] There are several key differences between H.R. 2360 and the President's request regarding aviation security. Funding for private screening contracts at airports is $6.5 million less than the requested level. The House Committee on Appropriations found that the full request was not justified because of a lack of interest in the federal screening opt-out program due to lingering concerns over airport liability and other aspects of the program. The Committee also found a lack of justification for the proposed increases in aviation regulation and law enforcement recommending that the TSA trim staffing levels in this program element, and the House agreed to a funding level $9.8 million below the President's request. Similarly, the Committee expressed concerns over staffing levels in airport management, information technology and support, and the House agreed to fund this component of the TSA budget at a level $108.2 million below the President's request. The Committee also did not agree with the President's request for increased funding for the Federal Flight Deck Officer Program, citing high unobligated balances as evidence that this program

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[64] U.S. Department of Homeland Security, Transportation Security Administration, *Statement of David M. Stone, Assistant Secretary Before the Committee on Commerce, Science & Transportation, United States Senate,* Feb. 15, 2005. (Hereafter cited as *Statement of David M. Stone*).

[65] H.Rept. 109-79, p. 42.

does not need additional funds. The House agreed to $25 million for this program, the same as what was appropriated in FY2004 and FY2005.

In keeping with previous year trends, the House agreed to larger funding amounts for air cargo security, providing $60 million, $20 million more than the President's request. This includes an additional $10 million to hire 100 new air cargo inspectors, plus increased funding for travel for inspectors, enhancements to the known-shipper database, and security threat assessments. Additionally, the House passed two general provisions calling for more thorough screening of shipments on all-cargo and passenger aircraft by March 1, 2006 (Sec. 522), and requiring the TSA, to the greatest extent practicable, to use checked baggage equipment and screeners to screen cargo carried on passenger aircraft (Sec. 523).

Consistent with the President's request and prior year appropriations language, the House agreed to keep screener staffing at or below the 45,000 full-time-equivalent (FTE) cap. The Committee believes that efficiencies gained through new technologies and increased use of in-line explosives detection systems (EDS) can greatly reduce the need for baggage screeners. The House agreed to additional funding of in-line EDS, proposing a total of $75 million for this purpose — $61 million above President's request — in addition to the $250 million mandatory deposit into the Aviation Security Capital Fund. While the Committee agreed with the President's request to limit the federal share at the 8 existing airports with letters on intent (LOIs) to 75% , rather than the 90% authorized for large airports in Vision 100 (P.L. 108-176), this measure was stricken by a point of order because it sought to modify existing law. H.R. 2360 provides additional funding for the purchase of EDS and explosive trace detection (ETD) equipment, providing $40 million above the $130 million included in the President's request for this purpose. In an effort to further increase the availability of funds for EDS, the House agreed to language directing the TSA to spend any recovered or deobligated funds appropriated for aviation security or TSA administration exclusively on EDS procurement and installation (Sec. 530).

For surface transportation security, the House agreed to $36 million, which is $4 million more than the President's request. The House agreed with the President's request that $8 million of this total be designated for federal rail security inspectors. The House also provided $4 million for a hazardous materials truck tracking program.

Issues for Congress. The President's proposal to increase airline passenger security fees has been a contentious issue. Financially strapped airlines — still recovering from the economic impact of the 9/11 attacks and now facing rising fuel costs — argue that they will likely have to absorb some of the cost of these fee increases by reducing ticket prices.[66] Some Members of Congress have also voiced concern that the proposed fee increase could cut into the revenues of the airlines, and could have a greater impact on rural airline customers who would pay proportionately

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[66] Air Transport Association of America, Inc., *Statement for the Record to the Committee on Commerce, Science & Transportation, United States Senate Hearing on Fiscal Year 2006 Budget Transportation Security Administration*, Feb. 15, 2005.

more in per-segment fees because fewer direct flights are available to these customers.[67] The Administration, on the other hand, argues that increased fees could help reduce a funding deficit by generating additional revenue to offset expenditures for aviation security, or could free up general tax revenues for spending on broader homeland security needs. The Administration also contends that increasing fees to offset costs is in line with long-standing transportation infrastructure policy to fund these services largely through user fees, as well as its assessment of the original intent of these passenger security fees established under ATSA (P.L 107-71).[68] However, some opponents of aviation security fees contend that aviation security, particularly since September 11, 2001, is vital to national security, and therefore, like defense spending, is the responsibility of all taxpayers. The House Committee on Appropriations noted that amending the statutory fee structure falls under the jurisdiction of the Homeland Security Committee and did not include the proposed fee increases in its bill. An amendment to the FY2006 DHS Authorization Act (H.R. 1817) prohibiting an increase in airline ticket taxes for aviation security was agreed to by a large majority in the House, despite opposition by Aviation Subcommittee Chairman John Mica.

Another key issue for the TSA is the proposed creation of SCO. With the proposed transfer of programs related to credentialing and vetting of passengers and transportation workers, several potential issues regarding coordination of effort between the TSA and the proposed SCO arise. The Administration has offered few details regarding how the proposed SCO would interface with the TSA on several high-profile programs such as Secure Flight and the TWIC program. Citing concerns over disrupting work on these key programs, the House language has taken a different tack that would integrate these various programs, but keep them within the TSA under a new Office of Transportation Vetting and Credentialing.

Another potential issue that may arise during the appropriations process is coordination between TSA and S&T in light of the proposal to transfer the TSA's research and development activities. One particular issue would be how aviation security research needs will be prioritized given that S&T is more broadly focused on all homeland security research and development activities. There may be some concern that aviation security projects could take a back seat to other high-profile initiatives — such as nuclear, biological, and chemical weapon countermeasures — that have been the primary focus of S&T to date. Also, while consolidating research and development on explosives and chemical weapons detection — the primary focus of aviation security-related research and development — may help leverage resources for other DHS components, these projects could potentially lose some of the aviation security-specific focus that they currently have under the auspices of the TSA. Consequently, Congress may focus on what coordination and interaction between TSA and S&T will be established under the proposed transfer to ensure that aviation

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[67] Sara Kehaulani Goo, "Senate Turbulence Greets Plan to Raise Airline Ticket Security Fees," *The Washington Post,* Feb. 16, 2005, p. A2.

[68] See *Statement of David M. Stone*.

security research and development needs are adequately addressed.[69] The House Committee on Appropriations has proposed to task the S&T Directorate with carrying out air cargo research and development pilot programs initiated by the TSA, but expressed frustration over the lack of progress in this area commenting that "...high unobligated balances give the impression that the TSA does not view air cargo as a serious aviation security vulnerability."[70] Consequently, the committee directed the TSA to develop protocols and standards for emerging new technologies to screen cargo, noting past deployment delays because such coordination was lacking.

United States Coast Guard[71]

The Coast Guard is the lead federal agency for the maritime component of homeland security. As such, it is the lead agency responsible for BTS as it applies to 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. The law that created the DHS (P.L. 107-296) directed that the Coast Guard be maintained as a distinct entity within DHS and that the Commandant of the Coast Guard report directly to the Secretary of DHS. Accordingly, the Coast Guard exists as a distinct agency within DHS and is not part of DHS's BTS, although it does work closely with that directorate.

President's Request. For FY2006 the President requested an appropriation of $7,961 million in net budget authority for the Coast Guard, which is a 5.21% increase over the enacted FY2005 level of $7,567 million. The Coast Guard's budget is divided into seven categories. The President requested increases in three of these categories and decreases or zero funding in the four remaining categories. Among the categories with increased funding, the largest increase in percentage terms is in acquisition, construction, and improvements (the agency's physical equipment), which would increase by 23.08% to $1,269.2 million. Operating expenses would increase by 4.62% to $5,547.4 million and reserve training would increase by 5.31% to $119.0 million. The President requested zero funds for the Coast Guard's bridge alteration program which funds alterations to the understructure of bridges that are obstructing navigational waterways. Congress provided $15.9 for this program in FY2005. The President also requested zero funds for Coast Guard research and development; transferring and consolidating this

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[69] Further information and analysis of transportation security issues before Congress are provided in CRS reports at [http://www.congress.gov/erp/legissues/html/istrn5.html].

[70] H.Rept. 109-79, p. 48.

[71] Section prepared by John Frittelli, Specialist in Transportation, Resources, Science and Industry Division. Further information and analysis of the Coast Guard's role in maritime security is provided in CRS Report RS21125, *Homeland Security: Coast Guard Operations — Background and Issues for Congress*, by Ronald O'Rourke; and CRS Report RL31733, *Port and Maritime Security: Background and Issues for Congress*, by John Frittelli.

account under the DHS S&T Directorate. Congress provided $18.5 million for Coast Guard R&D in FY2005. The two other budget categories that the President would reduce funding for are Coast Guard environmental compliance and restoration, which would decrease by 29.41% to $12 million and retired pay, which would decrease by 6.54% to $1,014.1 million.

H.R. 2360. House-passed H.R. 2360 provides $7,458 million, $503 million or 6% less than the President's request and $109 million or 1% less than FY2005 enacted. H.R. 2360 provides $798 million for acquisitions, construction, and improvements, which is about $471 million less than the President requested. Most of this difference has to do with the Coast Guard's Deepwater program, which is explained further below. For operating expenses, the House bill provides $5,500 million which is $47 million less than the President's request. For alteration of bridges, the House bill provides $15 million versus the President's request of no funds. For environmental compliance and restoration, reserve training, and retired pay, the House bill would provide the same amounts that the President requested. The House bill also agrees with the President's request to transfer the Coast Guard's research and development funds to the DHS Science and Technology Directorate. The House Committee on Appropriations' report states that the Committee "is extremely frustrated in the Coast Guard's apparent disregard for Congressional direction" and cites the Deepwater plan and other reprogramming submissions as examples.[72]

Issues for Congress. Increased duties in the maritime realm related to homeland security have added to the Coast Guard's obligations and increased the complexity of the issues it faces. Congress is concerned with how the agency is operationally responding to these demands, including its plans to replace many of its aging vessels and aircraft.

Deepwater Program.[73] The Deepwater program is a planned 22-year, multi-billion dollar project to replace or modernize 93 aging Coast Guard ships and 207 aging Coast Guard aircraft. It is the largest and most complex acquisition ever undertaken by the Coast Guard. The Deepwater program is a subset of the agency's acquisition, construction, and improvements budget category. For FY2006, the President requested $966 million for the Deepwater program which is $242 million more than Congress provided in FY2005. The House bill provides $500 million for the Deepwater program, which is $466 million less than the President's request. The House bill also would withhold $50 million of this amount until the Appropriations Committee receives a new Deepwater program baseline that reflects revised, post September 11th mission requirements.

Maritime Security Mission. The Deepwater program will help the Coast Guard achieve its many missions, including maritime security, which is another Coast Guard issue of keen interest to Congress. The President's FY2006 request

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[72] H.Rept. 109-79, p. 57.

[73] Further information and analysis of the Deepwater program is provided in CRS Report RS21019, *Coast Guard Deepwater Program: Background and Issues for Congress*, by Ronald O'Rourke.

includes $2,219.4 million for port waterways and coastal security, an increase of $127.9 million from FY2005. Maritime Domain Awareness (MDA) is a central element of the Coast Guard's security mission. MDA can be described as the Coast Guard's ability to know all that is happening in the maritime environment — to understand normal activity, in order to spot suspicious activity. One objective of MDA is to increase the transparency of ship movements in U.S. coastal areas. Using Automatic Identification Systems (AIS) technology, the Coast Guard expects to be able to track ships in coastal waters. For FY2006, the President requested $29.1 million for AIS which is $5.1 million more than Congress provided in FY2005. In FY2005, Congress expressed disappointment that only nine seaports would be able to receive AIS signals and therefore increased funding from the requested $5 million to $24 million to achieve nationwide coverage. The President's FY2006 request indicates that nationwide implementation of AIS is the Administration's objective.

Another area of maritime security that Congress has expressed particular interest in is the security of LNG (liquefied natural gas) tankers. The President's FY2006 request includes $11 million for additional boat crews and screening personnel at U.S. LNG shoreside facilities. Rising natural gas prices are expected to increase the demand for imported natural gas, most of which will be transported by LNG tankers.

For the security mission, the House Appropriations Committee report recommends $20 million for area security maritime exercises, and $5 million for enhanced radiological and nuclear detection. The Committee also requests that the Coast Guard take action regarding credentialing of merchant mariners, and submit a plan regarding Maritime Safety and Security Teams.

Non-Homeland Security Missions. A key issue is whether the Coast Guard's resources are adequate to perform both its maritime security and non-security missions. The terrorist attacks of September 11, 2001, increased Coast Guard requirements for homeland security missions without obviously reducing the requirements for other missions. After September 11, 2001, the Coast Guard significantly increased homeland security operations while reducing operations in other missions. GAO, in reports and testimony on this topic, have noted reduced number of Coast Guard operating hours devoted to non-security missions. For FY2006, the President requested the following amounts for the Coast Guard's non-security missions:

- $1,589.8 million for maritime safety, an increase of $63.5 million over FY2005;
- $1,257.6 million for maritime mobility, an increase of $53.4 million over FY2005; and
- $1,385.3 million for marine environmental protection, an increase of $146.3 million over FY2005.[74]

[74] For further information on the Coast Guard's environmental protection activities, see CRS Report RS22145, *Environmental Activities of the U.S. Coast Guard,* by Mark Reisch.

Efficient and Effective Resource Allocation. While Congress is concerned with whether the Coast Guard has sufficient resources to fulfill its multiple missions, since September 11, 2001 the Coast Guard's budget has increased substantially, which raises the issue of whether the agency has the systems in place to make the best use of these additional resources. The GAO has concluded that the agency needs to be able to better track how its personnel spend their time as well as establish a clearer link between where resources are spent and what results are achieved. The House Appropriations report directs the Coast Guard to take more expedited action with respect to implementing a new financial management plan.[75]

United States Secret Service[76]

The United States Secret Service performs two broad missions in homeland security: criminal investigations and protection.[77] Criminal investigations cover financial crimes, identify theft, counterfeiting, computer fraud, and computer-based attacks on the nation's financial, banking, and telecommunications infrastructure, among other areas. The protection mission is most prominent for the President, Vice President, their families, and candidates for those offices, along with the White House and the Vice President's residence. Protection duties also extend to foreign missions in the District of Columbia; other designated individuals, such as the Secretary of DHS and visiting foreign dignitaries; and National Special Security Events, which include the political party national nominating conventions as well as various international conferences and other major designated events in the United States.

President's Request. For FY2006, the President's budget requests an appropriation of $1,204 million for the protection and criminal investigation missions of the Secret Service, an increase of $29 million (2%) over the FY2005 total of $1,175 million.[78] Within the FY2006 amount are requests for certain specific matters: $100,000 to assist foreign law enforcement organizations in counterfeit investigations; $2.1 million for forensic and related support for investigations of missing and exploited children; and $5 million for a grant for activities related to the investigations of missing and exploited children. In addition, the budget submission directs that "up to $18 million provided for protective travel shall remain available until September 30, 2007" and that "not less than $5,000,000 solely for the unanticipated costs related to security operations for National Special Security Events."[79]

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[75] H.Rept. 109-79, p. 57.

[76] Prepared by Frederick M. Kaiser, Specialist in American National Government, Government and Finance Division.

[77] U.S. Department of Homeland Security, United States Secret Service, *Fiscal Year 2006, Congressional Justification* (Washington: DHS, 2005), p. SS-1.

[78] Ibid., and U.S. Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2006, Appendix* (Washington: GPO, 2005), p. 485.

[79] U.S. Office of Management and Budget, *Fiscal Year 2006 Budget for the United States Government* (Washington: GPO, Feb. 2005), p. 485. (Hereafter cited as OMB, *FY2006*

(continued...)

H.R. 2360. The House Appropriations Committee recommends an appropriation of nearly $1,233 million, an increase of almost $29 million, or 2%, above the President's request and almost $58 million, or 5%, above the FY2005 appropriation.[80]

Issues for Congress. Developments in the contemporary era, particularly after the 2001 terrorist attacks, have added to the Secret Service's roles and responsibilities. Even though its two primary missions remain the same as they have for the past 100 years, the actual assignments, activities, duties, and functions have been expanded and have become more complex and sophisticated than before. The resulting issues for Congress (and the executive) range from the sufficiency of USSS resources to meet its new obligations to the adequacy of interagency cooperation. The former involves not just facilities, equipment, and personnel levels but also training, language skills, and protective research. The latter involves coordination not just with entities inside the Department but also with organizations outside it: i.e., in other federal departments and agencies, State and local governments, foreign governments, and the private sector. Along with this are occasional requests from subnational governments for the Secret Service (or DHS) to reimburse them for their expenses associated with specific USSS protective operations within their jurisdictions. Another matter extends to the capability of the Secret Service to maintain its traditional role in the enforcement of certain financial crimes, such as anti-counterfeiting. Such criminal conduct has also become more sophisticated and complex. And combating it may now have to compete with new higher priorities and expanded duties in other fields, most markedly in anti-terrorism.

Title III: Preparedness and Response

Title III Preparedness and Response, provides funding for the Office of State and Local Government Coordination and Preparedness (SLGCP), which includes the Office for Domestic Preparedness. In addition, Title III funds the Emergency Preparedness and Response (EPR) Directorate.

Table 6 shows the FY2005 enacted and FY2006 requested appropriations for Title III. The Administration has requested an appropriation of $6,710 million in net budget authority for Title III for FY2006. This amount represents an 4% decrease compared to the FY2005 enacted total of $6,963 million (not including $2,508 million for Bioshield).[81] For the FY2006 request, Title III accounts for 22% of

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[79] (...continued)
Budget.)

[80] H.Rept. 109-79, pp. 155-156.

[81] The FY2005 enacted net budget authority of $6,963 million does not include a $2,508 million Bioshield obligation limitation, nor does it include the $6.5 billion in supplemental disaster relief funding. For more information on the supplemental appropriations, see CRS Report RL32581, *Assistance After Hurricanes and Other Disasters: FY2004 and FY2005*
(continued...)

requested net appropriated DHS budget authority; 10% for EPR, and 12% for SLCGP. The House-passed version of H.R. 2360 provides an appropriation of $6,688 million in net budget authority for Title III. This represents a $21 million or less than 1% decrease compared to the President's request.

Table 6. Title III: Preparedness and Response

(budget authority in millions of dollars)

Operational Component	FY2005 Enacted	FY2006 Request	FY2006 House	FY2006 Senate	FY2006 Enacted
Office for Domestic Preparedness/Office of state and local government coordination and planning					
— State and local programs	3,086	2,891	2,831		
— Salaries and Expenses	4	4	4		
— Emergency management planning grants	180	170	180		
— Firefighter assistance grants	715	500	650		
Net subtotal	**3,985**	**3,565**	**3,665**		
Counter-Terrorism fund	**8**	**10**	**10**		
Emergency Preparedness and Response					
— Office of Under Secretary EPR	4	4	2		
— Admin; regional operations	203	218	225		
— Operating expenses (rescission)	-5	—	—		
— Prepare, mitigation, response & recovery	239	235	249		
— Public health programs [a]	34	34	34		
— Biodefense countermeasures (obligation limitation) [b]	2,508	—	—		
— Disaster relief [c]	8,542	2,140	2,000		
— Flood map modernization fund	200	200	200		
— Radiological preparedness [d]	-1	-1	-1		
— National flood insurance fund [e]	—	—	—		
— National flood mitigation [f]	—	—	—		
— Pre-disaster mitigation fund	100	150	150		
— Emergency food and shelter	153	153	153		
— Disaster assistance direct loan account	1	1	1		
Net subtotal	**11,978**	**3,135**	**3,013**		
Net budget authority subtotal: Title III	**15,971**	**6,710**	**6,688**		

Source: CRS analysis of the FY2006 President's Budget, and DHS, *Budget in Brief*, House Appropriation Committee tables of May. 20, 2005, introduced H.R. 2360 and H.Rept. 109-79.

Note: Totals may not add due to rounding.

a. Total amount funds the National Disaster Medical System (NDMS), a system of health workers and emergency transport to provide medical care during disasters.

b. Includes $20 million rescission from Bioshield (biodefense countermeasures) enacted by the Consolidated Appropriations Act of 2005 (P.L. 108-447).

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[81] (...continued)

Supplemental Appropriations, by Keith Bea and Ralph M. Chite.

c. FY2005 totals include $6.5 billion in disaster relief funding enacted by P.L. 108-324. For more information on those supplemental appropriations, see CRS Report RL32581, *Assistance After Hurricanes and Other Disasters: FY2004 and FY2005 Supplemental Appropriations*.
d. Radiological Emergency Preparedness funds are provide through reimbursements and are not actually appropriated funds. The Administration projects that funding obtained from other sources will exceed estimated BA needs by $17 million in FY2005, and $18 million in FY2006.
e. Amounts available in the National Flood Insurance Fund are derived through premiums and are not appropriated. These amounts are completely offset in the Committee tables, in the amount of $113 million for FY2005, and $124 million in FY2006.
f. Amounts for National Flood Mitigation are offset by a transfer from the National Flood Insurance Fund, $20 million in FY2005, and $28 million in FY2006.

Office for State and Local Government Coordination and Preparedness (SLGCP)

The SLGCP is the single point of contact within DHS for facilitating and coordinating departmental state and local programs. SLGCP provides information to states and localities on best practices and federal homeland security activities. Within SLGCP, the Office for Domestic Preparedness (ODP) administers federal homeland security assistance programs for states and localities. To assist state and local homeland security efforts, ODP administers formula and discretionary grants and training, exercise, and technical assistance programs.

President's Request. The FY2006 budget request proposes the following amounts for the SLGCP homeland security assistance programs:

- Emergency Management Performance Grants (EMPG) . . . . $170 million;
- Citizen Corps Programs (CCP) . . . . . $50 million;
- State Homeland Security Grant Program (SHSGP) . . . . $1,020 million;[82]
- Urban Area Security Initiative (UASI) . . . . . $1,020 million;
- Targeted Infrastructure Protection Program (TIPP) (a new program) . . . . . $600 million; and
- Assistance to Firefighters Program (FIRE) . . . . . $500 million.[83]

H.R. 2360. The House Appropriations Committee proposes the following amounts for the SLGCP homeland security assistance programs:

- Emergency Management Performance Grants . . . $180 million;
- Citizen Corps Programs . . . . . $40 million;
- State Homeland Security Grant Program . . . . . $750 million;
- Urban Area Security Initiative . . . . . $1,215 million;[84]

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[82] The $1,020 million provided for each of the SHSGP and UASI programs includes $200 million (for a total of $400 million) for the Law Enforcement Terrorism Prevention Program (LETPP). **Table 7** shows these amounts broken out: $800 million each for SHSGP and UASI, and $400 million for LETPP.

[83] OMB, *FY2006 Budget*, p. 478.

[84] Includes funding for port, rail, and infrastructure security.

- Assistance to Firefighters Program . . . . . $600 million.[85]

Table 7 provides program level details for SLGCP.

Table 7. SLGCP Program Level Details, FY2005-2006

(budget authority in millions of dollars)

Operational component	FY2005 enacted	FY2006 request	FY2006 House	FY2006 Senate	F2006 Conf.
Office of state and local government coordination and preparedness	**3,985**	**3,565**	**3,665**		
— State homeland security grant program	1,100	820	750		
— Urban area security initiative	885	820	850		
— Citizen corps program	15	50	40		
— Emergency management performance grants	180	170	180		
— Firefighters assistance	715	500	650		
— State and local training program	55	83	65		
— Law enforcement terrorism prevention	400	400	400		
— Technical assistance	30	8	20		
— National exercise program	52	52	52		
— Evaluations program	14	14	14		
— Transportation and infrastructure program (TIPP)	315	600	365		
— Management and administration	4	48	54		
— Technology transfer	50	—	—		
— National domestic preparedness consortium	135	—	125		
— Metropolitan medical response system	30	—	40		
— Rural domestic preparedness consortium	5	—	10		
— Commercial equipment direct assistance program	—	—	50		

Source: Conference Report (H.Rept. 108-774) accompanying P.L. 108-334 (FY2005 DHS Appropriations); OMB, *FY2006 Budget*, Appendix, p. 478; House Appropriation Committee tables of May 20, 2005, introduced H.R. 2360 and H.Rept. 109-79.

Issues for Congress. The budget request raises policy questions because it proposes to reduce the overall level of funding for assistance to state and local preparedness programs, gives new emphasis to assistance for the protection of port,

[85] House Appropriations Committee Homeland Security tables of March 15, 2005

transit, and other infrastructure; and changes the grant allocation formula for one of the grants administered by ODP.

Reduction in Funding. In FY2005, Congress appropriated approximately $3.99 billion for SLGCP and state and local homeland security assistance.[86] In the FY2006 budget request, the Administration proposes a total of $3.57 billion for SLGCP and federal homeland security assistance, a reduction of $420 million from FY2005 funding. Additionally, the FY2006 budget request provides no line item funding for the Law Enforcement Terrorism Prevention Program (LETPP). It proposes, however, to direct states and localities to allocate no less than 20% of SHSGP and UASI funding for LETTP activities.[87] Apparently, this is a reduction in SHSGP and UASI funding for equipment, training, exercises, and planning, which states and localities were authorized to fund with 100% of their allocated amount in FY2005. One could argue that the overall funding reduction of $420 million and the Administration's requirement of states and localities allocating no less than 20% of their SHSGP and UASI funding for LETPP activities represents a further reduction of funding for federal homeland security assistance.

The House Appropriations Committee recommends a total of $3.67 billion for SLGCP and federal homeland security assistance, a reduction of $320 million from FY2005 funding. This proposed reduction includes $350 million less for SHSGP than was appropriated in FY2005.[88]

The Administration's budget proposal requests $500 million for FIRE in FY2006, a cut of 23% from the FY2005 appropriated level. Priority would be given to grant applications enhancing counter-terrorism capabilities. Grants would be available only for training, vehicle acquisition, firefighting equipment, and personal protective equipment. Under the budget proposal, activities such as wellness/fitness and fire station modification would not be funded. Activities such as prevention, public fire safety education and awareness, and fire code enforcement would be funded under a separate fire prevention and firefighter safety grant program. For FY2006, the Administration is requesting no funding of the SAFER grants, which provide assistance to fire departments for hiring personnel.[89] After House Amendment 134 was adopted during floor debate, House-passed HR 2360 included $650 million for firefighter assistance, including $575 million for fire grants and $75 million for SAFER Act grants. The Committee does not agree with the Administration's proposal to shift the program's priority to terrorism or to limit the list of eligible activities.

Public Health and Medical Programs in SLGCP.[90] SLGCP grant programs include the Metropolitan Medical Response System (MMRS) and several

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[86] P.L. 108-334, Title III, FY2005 DHS appropriations.

[87] OMB, *FY2006 Budget*, p. 478.

[88] House Appropriations Committee Homeland Security tables of March 15, 2005.

[89] This information provided by Len Kruger, Research, Science, and Industry Division.

[90] This information provided by Sarah Lister, Domestic Social Policy Division.

grants that fund EMS Services. (In addition, the "Public Health Programs" budget line under Emergency Preparedness and Response funds the National Disaster Medical System, a system of health workers and emergency transport to provide medical care during disasters.)

The Metropolitan Medical Response System (MMRS) is a program of contracts with major cities to coordinate multiple local government agencies in emergency planning. The program was transferred to the EPR Directorate at DHS from the Department of Health and Human Services in the Homeland Security Act, and subsequently was transferred to SLGCP from the EPR Directorate in the FY2005 Homeland Security appropriations bill. Congress appropriated $30 million for the program in FY2005, which was decreased from $50 million in FY2004. MMRS is slated for elimination in the FY2006 budget proposal, as it has been in each budget proposal since it was transferred to DHS. The Administration proposes that ongoing municipal emergency planning activities be supported at the discretion of states, using funds from the Homeland Security Grants and the Urban Areas Security Initiative Grants programs. The House Appropriations Committee does not agree with the Administration's proposal to eliminate this program. The Committee recommends an appropriation of $40 million for MMRS.[91]

Members of the Emergency Medical Services (EMS) community are considered first responders but are not given funding priority in any sizeable homeland security grant programs. A few small grant programs are available through the National Highway Traffic Safety Administration (NHTSA), though they are not designed for homeland security activities. EMS providers are also eligible for preparedness funds through DHS first responder grants (SHSGP, UASI and FIRE) and through the hospital preparedness program at the Department of Health and Human Services (HHS). But a recent report found that while EMS providers may represent one-third of traditional first-responders, they have received only 4% of the preparedness funds available through DHS, and 5% of funds available through HHS.[92] In its report on homeland security appropriations for FY2006, the House Committee on Appropriations directed that no less than 10% of SHSGP and UASI funds must be provided to EMS providers, to better train and equip them to provide critical life-saving assistance when responding to a chemical, biological, radiological or explosive event.[93]

Port, Rail, and Infrastructure Security. In FY2005 Congress appropriated $150 million for port security and $150 million for rail security (both part of UASI).[94] The Administration, in the FY2006 budget request, proposes the establishment of a new state and local homeland security assistance program, TIPP, and requests $600 million for the program. TIPP would provide funding to enhance

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[91] House Appropriations Committee Homeland Security tables of March 15, 2005

[92] New York University, Center for Catastrophe Preparedness and Response, *Emergency Medical Services: The Forgotten First Responder,* April 2005, at [http://www.nyu.edu/ccpr/index.html].

[93] H.Rept. 109-79, p. 85.

[94] P.L. 108-334, Title III.

the security of ports, transits systems, and other infrastructure, as determined by the DHS Secretary.[95] The budget request, however, does not specify how much funding would be allocated for port security, or transit systems. Since the Administration proposes TIPP as a discretionary grant program, one could argue that there is no way to determine the amount that would be allocated for port and rail security which have been congressional priorities.

The House Appropriations Committee recommends $365 million for port, rail, and infrastructure security, however, the Committee does not agree with the Administration in establishing a separate grant program for these security activities.[96]

Formula Changes. The Administration proposes to change the formula for ODP's SHSGP. The FY2006 budget request proposes $1.02 billion for SHSGP to be allocated based on risks, threats, vulnerabilities, and unmet first responder capabilities, provided each state and territory is allocated no less than 0.25% of total funds appropriated for this program. There is no proposed formula change for UASI, CCP, EMPG, or FIRE. The Administration does, however, propose that FIRE applications to enhance terrorism response capabilities be given priority.[97] It can be argued that the proposed formula change for SHSGP does not fully support the National Commission on Terrorist Attacks Upon the United States' (9/11 Commission) recommendation of providing federal homeland security assistance strictly based on threat and risk,[98] because of the Administration's proposed state and territory guaranteed minimum of 0.25%.

The House Appropriations Committee report on FY2006 DHS appropriations states that the Committee recognizes pending legislation to modify state formula grants and presumes ODP would distribute funds based on any successor legislation to Section 1014 of the USA PATRIOT Act (P.L. 107-56). Provided no succeeding legislation to the USA PATRIOT Act is enacted, the Committee directs ODP to assess each state's threat, risk, and need to determine their minimum essential preparedness capability levels and allocate remaining funds to address those identified gaps in preparedness.[99]

Emergency Preparedness and Response (EPR)[100]

President's Request. Few substantive changes are proposed in the FY2006 budget justification for the EPR accounts. The disaster relief funding request submitted by the Administration is similar to the amount requested in

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[95] OMB, *FY2006 Budget*, p. 478.

[96] House Appropriations Committee Homeland Security tables of March 15, 2005

[97] Ibid., pp. 478-480.

[98] National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report* (Washington: GPO, Aug. 2004), p. 396.

[99] H.Rept. 109-79, p. 77.

[100] Prepared by Keith Bea, Specialist in American National Government, Government and Finance Division.

previous fiscal years. Funding for two hazard mitigation programs would increase under the proposal; an increase of $50 million ($100 million appropriated for FY2005) is proposed for pre-disaster mitigation grants awarded on a competitive basis, and an increase of $8 million ($20 million authorized to be transferred in each previous year) for flood mitigation assistance. Post-disaster mitigation grants, however, would continue to be funded at a lower level than historically provided.

Issues for Congress. The House Committee on Appropriations reported legislation that differs in certain respects from the Administration request and raises issues to be addressed. In short, the committee has recommended the following, or directs that action occur in the following areas: (1) a reduction of $2 million for the Office of the Under Secretary for Emergency Preparedness and Response in light of a "lack of cooperation received from EP&R, specifically regional and field offices;"[101] (2) increased funding of $10 million to further development of the national preparedness system;[102] (3) completion of a report by EPR (March 15, 2006) on disaster relief overpayments made over the past four years; and (4) mitigation assistance higher than that proposed by the Administration.

Regional Office Actions. One of the management issues confronting DHS officials and Congress concerns the establishment of regional offices. FEMA, like other legacy agencies incorporated into DHS, had established a network of regional offices to coordinate operations with state and local governments.[103] In order to stimulate consideration of the need to evaluate the spectrum of regional offices, Congress required the development of a plan by the Secretary of DHS for "consolidating and co-locating" regional or field offices within one year of enactment.[104] The report, issued in February 2004, summarized the efforts taken as of that date and the "proposed approach to develop a comprehensive consolidation/collocation plan..."[105] Considerations noted in the report include real estate and facilities management, linking the planning process to the strategic vision of the department, and primarily, mission effectiveness. DHS concluded that up to two years would be required to complete the study of regional office consolidation. To the extent known, no further reports or plans have been released by DHS on this issue. The House Committee on Appropriations reported concern with the failure of regional and field offices to cooperate with Congress, specifically by adjusting "their interpretation of Committee report language in several instances in an apparent

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[101] H.Rept. 109-79, p. 85-86.

[102] H.Rept. 109-79, p. 89.

[103] Ten regional and two area offices implement EPR programs throughout the nation and in the insular areas and commonwealths. See "FEMA Regional Offices," at [http://fema.gov/regions/index.shtm], visited Feb. 9, 2005.

[104] Sec. 706 of P.L. 107-296

[105] Letter from Pamela J. Turner, Assistant Secretary for Legislative Affairs, Department of Homeland Security, to the Honorable Christopher Cox, Chairman, House Select Committee on Homeland Security, Feb. 4, 2004.

attempt to avoid execution."[106] Should the expected realignment of DHS regional offices occur, it might have a bearing on further consideration of this funding reduction by the House committee.

National Preparedness System. As directed by Congress in Title V of the Homeland Security Act of 2002 (P.L. 107-296) and by the President in Homeland Security Presidential Directive 5 (HSPD 5), DHS has developed documents, systems and procedures to improve the nation's readiness for catastrophes. The House Committee on Appropriations commended EPR on development of the National Incident Management System (NIMS), the National Preparedness Goal, and the National Response Plan.[107] The establishment of federal preparedness standards, the use of those standards as touchstones to assess whether state or local government financial assistance should be conditioned, and the relationship of those standards to the strategic plan for DHS might be examined by Congress.[108]

Disaster Relief Expenditures. Congress appropriates money to the Disaster Relief Fund (DRF) to ensure that federal assistance is available to help individuals and communities stricken by severe disasters. Funds appropriated to the DRF remain available until expended. DHS allocates money from the DRF to provide assistance to individuals, families, state and local governments, and certain nonprofit organizations, as authorized by the Stafford Act.[109] Stafford Act aid is available after the President issues a declaration that federal assistance is needed to supplement the resources of states and localities that are overwhelmed by catastrophes. Federal assistance supported by DRF money is used by states, localities, individuals, and certain non-profit organizations for mass care, restoration of damaged or destroyed facilities, clearance of debris, and certain uninsured needs.

Appropriations to, and the operations of the DRF generally evoke little controversy. However, questions have been raised concerning the distribution of aid in Florida after the hurricanes of 2004. Congress has previously explored the issue of rising federal disaster assistance costs and reliance upon supplemental appropriations.[110] In light of concerns about funding decisions after the hurricanes, and the rising deficit, Members of the 109th Congress might elect to consider means

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[106] H.Rept. 109-79, p. 88.

[107] H.Rept. 109-79, p. 89.

[108] For more information see CRS Report RL32803, *The National Preparedness System: Issues in the 109th Congress*, by Keith Bea.

[109] The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §5121 et seq.

[110] U.S. Congress, Senate Bipartisan Task Force on Funding Disaster Relief, *Federal Disaster Assistance*, S.Doc. 104-4, 104th Cong., 1st sess., (Washington: GPO, 1995). The House convened a task force that issued an unpublished report. Following completion of the task force efforts, some Members introduced a concurrent resolution (H.Con.Res. 39, 104th Congress) seeking a "fundamental overhaul of federal disaster policies." See also U.S. Congress, House Committee on the Budget, Task Force on Budget Process, *Budgetary Treatment of Emergencies*, hearing, 105th Cong., 2nd sess., June 23, 1998 (Washington: GPO, 1998).

of controlling costs or establishing alternative funding mechanisms. As shown in **Table 12** in **Appendix II** DRF obligations have increased considerably since 1990 in comparison to those recorded in previous decades.

The cause of the increase in federal expenditures since 1990 has been the subject of some debate. A report issued by the OIG for FEMA concluded that the increase in federal disaster costs since 1989 "is due to a greater number and magnitude of disasters, expansion of the law and eligibility for assistance, and interpretation of the law and regulations."[111] Some contend that other factors, notably political considerations, contribute to the costs of disaster relief as well. The author of one study reportedly analyzed data from the insurance industry, climatic study organizations, and DHS, and concluded that "electoral motivations ... had a dramatic effect on which states were granted disaster declarations."[112] More specifically, and less dramatically, the author reports in a published summary of his work: "The best predictor of a disaster declaration, bar none, is actual need. The question arises in these marginal cases, when it's unclear whether to give or not."[113] On the other hand, a study issued by GAO also considered the effects of politics on disaster declarations but arrived at a different conclusion. After examining presidential declaration data from the perspective of the party affiliation of governors and members of state congressional delegations, the authors concluded that there "were no indications that party affiliation affected White House major disaster declaration decisions."[114]

In considering a gubernatorial request for disaster relief, the President evaluates a number of factors, including the cause of the catastrophe, damages, needs, certification by state officials that state and local governments will comply with cost sharing and other requirements, and official requests for assistance. Neither the Stafford Act nor implementing regulations provide for a congressional role in the declaration process.[115]

The level of expenditures from the DRF fluctuates from year to year primarily as a consequence of three factors — the number of disaster declarations issued, the extent of destruction caused by the disasters, and the amount of uninsured losses that result from declared disasters. Discussions in Congress on the escalating disaster relief costs move between two policy concerns — the need to control federal costs, particularly at a time of significant deficits, and the need of constituents who have suffered devastating losses.

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[111] U.S. Federal Emergency Management Agency, at [http://www.fema.gov/library/pp2man.shtm], visited Nov. 19, 2004.

[112] For a summary see Andrew Reeves, "Plucking Votes from Disasters," *Los Angeles Times*, May 12, 2004, p. A19.

[113] Brian Tarcey, "Flooding the Ballot Box: The Politics of Disaster," *Harvard Magazine*, at [http://www.harvard-magazine.com/on-line/030492.html], visited May 21, 2004.

[114] U.S. General Accounting Office, *Disaster Assistance: Timeliness and Other Issues Involving the Major Disaster Declaration Process*, GAO/RCED-89-138, May 25, 1989, pp. 1, 4.

[115] For regulations on the request and declaration process, see 44 CFR §§206.35-206.39.

Members of the 109th Congress may wish to evaluate several options in balancing the needs of disaster stricken areas with budgetary constraints. These options include and are not limited to the following approaches.[116]

- *Amend the Stafford Act to determine whether existing statutory declaration criteria are appropriate.* Reducing the categories or narrowing their scope would result in cost savings as fewer disasters would trigger federal assistance. Such changes, however, would result in greater financial burdens for individuals and communities in distress.

- *Modify how Congress and the President budget for emergencies.* Currently, Congress provides additional funds during the fiscal year, usually in supplemental appropriations, to respond to specific natural disasters and other emergency, or unanticipated, situations. Congress and the President usually designate the additional spending as an "emergency requirement," effectively exempting it from budget constraints associated with the annual budget resolution. Some believe this practice of budgeting for emergencies might lead to unnecessary or wasteful spending. In addition, some believe that the existing budgetary treatment of emergency spending provides an incentive to designate non-emergency spending as an emergency requirement in order to circumvent the existing budgetary constraints. To address these concerns, some have proposed the following two reforms, establishment of a reserve fund or criteria for the designation of an emergency, as follows.

- *Establish a reserve fund for disaster assistance.* Proponents of a reserve fund for disaster assistance argue that the average annual amount of overall emergency spending can be projected based on past experience, even though specific emergencies cannot be predicted. Therefore, they further argue that an expected amount of disaster assistance spending should be incorporated into the overall amount of spending in the President's budget and the budget resolution. Proponents of such a reserve fund generally suggest that an historical average of actual disaster assistance spending would provide sufficient funds to meet specific emergencies as they arise. Legislation pending before Congress (S. 24) would establish such a fund in the Treasury.

- *Establish criteria for emergency spending*. Proponents of emergency spending criteria argue that any spending for disasters and other emergencies should meet specific criteria to be considered outside the constraints associated with the budget resolution and outside the regular annual appropriations process. Past budget resolutions have required that spending designated as an "emergency

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[116] Contributions on emergency funding provided by Bill Heniff, Jr., Analyst in American National Government, Government and Finance Division.

requirement" meet criteria such as the "underlying situation poses a threat to life, property, or national security" and is sudden, urgent, unforeseen, and temporary (for example, see the budget resolution considered by the 108th Congress, S.Con.Res. 95, H.Rept. 108-498). Proponents, however, suggest that such criteria should be statutory.[117]

Hazard Mitigation Assistance. Federal hazard mitigation assistance is provided through several grant-in-aid programs. Since 1988 hazard mitigation funds have been authorized by Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; the Section 404 program is also referred to as the Hazard Mitigation Grant Program (HMGP). [118] Such grants are provided in states in which major disaster declarations have been issued. HMGP funding derives from the DRF, not line item appropriations. Section 404 funds have been used to help communities and property owners improve buildings to withstand earthquake shaking, purchase hurricane shutters, and relocate buildings from flood-prone areas.

Some debate might occur on the maximum amount of HMGP awards to be given to each state. From 1993 until 2004 the maximum grant that could be provided to a state equaled 15% of the eligible disaster relief provided under the Stafford Act. In 2004 Congress reduced by half the maximum contribution to be provided through HMGP, from 15% of major disaster assistance to 7.5%.[119] The FY2006 budget requests maintains the ceiling at the lower level. Members of the 109th Congress might elect to consider legislation to return to the higher level. Such legislation was approved by the House during the 108th Congress (H.R. 3181) but not acted upon by the Senate.

In addition to HMGP, Congress has authorized mitigation assistance through the pre-disaster mitigation program (PDM) and the flood mitigation assistance program (FMA). Authority for the former expires at the end of calendar year 2005. Congress might consider legislation to reauthorize the program. The House Committee expressed support for the PDM program by recommending an appropriation of $150 million in FY2006, slightly below the amount requested but $50 million more than appropriated in FY2005. Similarly, the House Committee expressed support for the FMA program by recommending for FY2006 twice the amount provided in FY2005 and previous fiscal years ($20 million). The $20 million

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[117] For example, the state of Louisiana defines "emergency," for the purpose of appropriating emergency funds, as "an event or occurrence not reasonably anticipated by the legislature. 'An event not reasonably anticipated' shall be one not considered and rejected, in the same relative form or content, by the legislature during the preceding session either by specific legislative instrument or amendment thereto on the floor of either house or by a committee thereof." See La. Rev. Stat. Title 39, §461.1.A.(2).

[118] The HMGP grants are authorized in Section 404 of the Stafford Act, 42 U.S.C. §5170c.

[119] Section 417, P.L. 108-7, 117 Stat. 525.

increase would fund the new program established by the 108th Congress to address repetitive flood loss properties.[120]

Debate may also take place on an incentive enacted in the Disaster Mitigation Act of 2000, P.L. 106-390. The provision authorizes the President to increase the HMGP ceiling to 20% of the total assistance provided under the Stafford Act if a state meets certain requirements, including adoption of an enhanced mitigation plan.[121] The FY2006 request provides that HMGP grants for states with enhanced plans be 12.5%, not 20%, of the total assistance provided. Members of the 109th Congress might elect to debate whether states with enhanced plans should receive the full 20% authorized in the statute. The House Appropriations Committee did not recommend language pertaining to enhanced mitigation plans and referred such authorization action to the Committee on Transportation and Infrastructure.[122]

Title IV: Research and Development, Training, Assessments, and Services

Activities funded by Title IV include the Bureau of Citizenship and Immigration Services (USCIS), IAIP, FLETC, and the S&T.

Table 8 shows the FY2005 enacted and FY2006 requested appropriations for Title IV. The Administration has requested an appropriation of $4,320 million in gross budget authority for Title IV in FY2006. This represents an 8% increase over the enacted FY2005 level of $4,011 million. The Administration is requesting an appropriation of $2,546 million in net budget authority for Title IV in FY2006, representing a 6% increase over the FY2005 enacted level of $2,392 million. Of the requested net appropriation for DHS for FY2006: USCIS accounts for less than 1%; IAIP accounts for 3%; S&T accounts for 5%; FLETC accounts for less than 1%; and all Title IV accounts combined account for 8% of requested net appropriated DHS budget authority. House-passed H.R. 2360 provides a net appropriation of $2,522 million in net budget authority for Title IV in FY2006. This amount represents a $126 million or nearly 5% increase as compared to the FY2005 enacted amount; and a $24 million or 1% decrease as compared to the FY2006 request.

Table 8. Title IV: Research and Development, Training, Assessments, and Services

(budget authority in millions of dollars)

Operational component	FY2005 enacted	FY2006 request	FY2006 House	FY2006 Senate	FY2006 Conf.
Citizenship and immigration services (direct appropriation)					

[120] P.L. 108-264, 42 U.S.C. 4102a.

[121] "... the President may increase to 20%..." 42 U.S.C. §5165(e).

[122] H.Rept. 109-79, p. 93.

Operational component	FY2005 enacted	FY2006 request	FY2006 House	FY2006 Senate	FY2006 Conf.
Gross subtotal	**1,775**	**1,854**	**1,894**		
— Offsetting fees[a]	-1,615	-1,774	-1,774		
Net subtotal	**160**	**80**	**120**		
Information analysis and infrastructure protection					
— Management and administration	132	204	190		
— Assessments and evaluation	762	669	663		
Net subtotal	**894**	**873**	**853**		
Federal law enforcement training center	**227**[b]	**224**	**259**		
Science and technology					
— Management and administration	69	81	81		
— Research, development, acquisition, and operations[b]	1,047	1,287	1,209		
Net subtotal	**1,115**	**1,368**	**1,290**		
Gross budget authority: Title IV	**4,011**	**4,320**	**4,296**		
— Offsetting collections: Title IV	**-1,615**	**-1,774**	**-1,774**		
Net budget authority: Title IV	**2,396**	**2,546**	**2,522**		

Source: CRS analysis of the FY2006 President's Budget, and DHS, *Budget in Brief*, House Appropriation Committee tables of May 20, 2005, introduced H.R. 2360 and H.Rept. 109-79.

Note: Totals may not add due to rounding.

a. Fees included: Immigration Examination Fund; H-1b Visa Fee; and the Fraud Prevention and Detection fee.
b. Includes $4 million in supplemental appropriations provided by P.L.109-13.
c. DHS is proposing to consolidate the department's Research and Development efforts by transferring the Research and Development functions of CBP, ICE, TSA, and the Coast Guard to the Directorate of S&T.

Citizenship and Immigration Services (USCIS)[123]

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

[123] Section prepared by Ruth Ellen Wasem, Specialist in Immigration Policy, Domestic Social Policy Division. For further information see, CRS congressional distribution memorandum, *FY2006 Funding for U.S. Citizenship and Immigration Services*, by Ruth Ellen Wasem.

adjudication of immigrant, nonimmigrant, refugee, asylum, and citizenship benefits largely through monies generated by the Examinations Fee Account.[124] Last year, the Administration increased the fees charged to U.S. citizens and legal permanent residents petitioning to bring family or employees into the United States and to foreign nationals in the United States seeking immigration benefits.[125] In FY2004, 86% of USCIS funding came from the Examinations Fee Account.

In FY2005, USCIS has budget authority for $1.571 billion from the Examinations Fee Account.[126] Congress provided a direct appropriation of $160 million in FY2005. The House report language emphasized that $160 million should be available to reduce the backlog of applications and to strive for a six-month processing standard for all applications by FY2006.[127] Title IV of P.L. 108-447, the Consolidated Appropriations Act for FY2005, also required the Secretary of Homeland Security to impose a fraud prevention and detection fee of $500 on H-1B (foreign temporary professional workers) and L (intracompany business personnel) petitioners. The statute requires that the H-1B and L fraud prevention and detection fee be divided equally among DHS, the Department of State (DOS) and Department of Labor (DOL) for use in combating fraud in H-1B and L visa applications with DOS and H-1B and L petitions with USCIS and in carrying out DOL labor attestation enforcement activities.[128] DHS also receives 5% of the H-1B education and training fees in the Nonimmigrant Petitioner Account.[129]

President's Request. For FY2006, the Administration is seeking an increase of $79 million for USCIS. The Administration is requesting a total of $1,854 million for USCIS, (an increase of 4% over the enacted FY2005 level of $1,775 million) the bulk of the funding coming from increased fees paid by individuals and businesses filing petitions (**Table 8**). For FY2006, USCIS expects to receive a total of $1,774 million from the various fee accounts, most of which ($1,730 million) would be coming from the Examinations Fee Account. According to the USCIS

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[124] §286 of the Immigration and Nationality Act, 8 U.S.C. §1356.

[125] For example, the I-130 petition for family members went from $130 to $185, the I-140 petition for LPR workers went from $135 to $190, the I-485 petition to adjust status went from $255 to $315, and the N-400 petition to naturalize as a citizen went from $260 to $320. *Federal Register*, vol. 69, no. 22, Feb. 3, 2004, pp. 5088-5093.

[126] P.L. 108-334, Conference Report to accompany H.R. 4567, H.Rept. 108-774.

[127] U.S. Congress, House Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2005*, report to accompany H.R. 4567, 108th Cong., 2nd sess., H.Rept. 108-541 (Washington: GPO 2004). The President's Budget request for FY2002 proposed a five-year, $500 million initiative to reduce the processing time for all petitions to six months. Congress provided $100 in budget authority ($80 direct appropriations and $20 million from fees) for backlog reduction in FY2002. P.L. 107-77, Conference report to accompany H.R. 2500, U.S. Congress, House Committee of Conference, *Making Appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the Fiscal Year Ending September 30, 2002, and for Other Purposes*, H.Rept. 107-278 (Washington: GPO 2001).

[128] §426(b) of P.L. 108-447.

[129] §286(s) of INA; 8 U.S.C. §1356(s).

Congressional Justification documents, funds from the Examinations Fee Account alone comprise 93% of the total USCIS FY2006 budget request. The FY2006 Budget also includes $13 million from the H-1B Nonimmigrant Petitioner Account[130] and $31 million from the H-1B and L Fraud Prevention and Detection Account.[131] The Administration proposes to use the $31 million generated from the new fee on H-1B and L petitions to expand its Fraud Detection and National Security Office.[132]

In terms of direct appropriations, the Administration is requesting $80 million — a decrease of $80 from FY2005 (**Table 8**) and a decrease of $155 million from the $235 million Congress appropriated in FY2004.

H.R. 2360. House-passed H.R. 2360 povides an increase of $40 million above the President's request for a total of $120 million, which is $40 million less than the FY2005 enacted appropriation.

Issues for Congress. Many in Congress have expressed concern and frustration about the processing delays and pending caseload. Congress has already enacted statutory requirements for backlog elimination and has earmarked funding backlog elimination for the past several years.[133] The number of pending immigration and naturalization petitions has decre ased by 21.5% from 6.0 million at the close of FY2003 to 4.7 million at the close of FY2004. Nonetheless, this figure remains 25.7% greater than the 3.7 million pending cases at the close of FY2000. USCIS hopes to achieve the six-month petition processing time by FY2006.

Another matter that may arise in the appropriations debate is the coordination and duplication of efforts between USCIS and ICE in the area of fraud and national security investigations. GAO has reported: "The difficulty between USCIS and ICE investigations regarding benefit fraud is not new ... as a result, some USCIS field officials told us that ICE would not pursue single cases of benefit fraud. ICE field officials who spoke on this issue cited a lack of investigative resources as to why they could not respond in the manner USCIS wanted."[134] USCIS has established the Office of Fraud Detection and National Security to work with the appropriate law enforcement entities to handle national security and criminal "hits" on aliens and to identify systemic fraud in the application process.

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[130] §286(s) of INA; 8 U.S.C. §1356(s).

[131] §286(v) of INA; 8 U.S.C. §1356(v).

[132] USCIS added a Fraud Detection and National Security Office to handle duties formerly done by the INS's enforcement arm, which is now part of DHS's ICE Bureau.

[133] For example, see §§451-461 of the Homeland Security Act of 2002 (P.L. 107-296).

[134] GAO, *Management Challenges Remain in Transforming Immigration Programs*, GAO-05-81, Oct. 2004, available at [http://www.gao.gov/new.items/d0581.pdf].

Federal Law Enforcement Training Center (FLETC)[135]

The Federal Law Enforcement Training Center provides training on all phases of law enforcement instruction, from firearms and high speed vehicle pursuit to legal case instruction and defendant interview techniques, for 81 Federal entities with law enforcement responsibilities, State and Local law enforcement agencies, and international law enforcement agencies. Training policies, programs, and standards are developed by an interagency Board of Directors, and focus on providing training that develops the skills and knowledge needed to perform law enforcement functions safely, effectively, and professionally. FLETC maintains four training sites throughout the United States and has a workforce of over 900 employees. In FY2004, FLETC trained almost 44,781 law enforcement students.

President's Request. The FY2006 request for FLETC is $224 million, an decrease of $3 million, and 1%, from the FY2005 enacted appropriation (including supplemental appropriations). FLETC's FY2006 request includes only one program change, an increase of $2.7 million for Simulation Training Technology. This technology will be used to simulate weather, light, urban, and traffic conditions during high-speed pursuits, allowing the agency to increase their students' proficiency at making rapid decisions during critical law enforcement situations.

H.R. 2360. House-passed H.R. 2360 allots $259 million for FLETC in FY2006, $35 million, or 16%, more than the President's request and $32 million, or 14% more than the agency's FY2005 appropriation. This increase is intended to cover the increased training needs that will be engendered by new Border Patrol agents and ICE investigators added by the House Committee.[136]

Information Analysis and Infrastructure Protection (IAIP)[137]

The mission of the DHS IAIP, in short, is to:

- integrate and analyze terrorist threat information;
- map threat information against physical and cyber vulnerabilities of the Nation's critical infrastructure and key assets; and
- implement and/or recommend actions that protect the lives of the American people and ensure the national and economic security of the United States.

President's Request. The IAIP appropriation is divided into two primary accounts: Management and Administration, and Assessments and Evaluations. Management and Administration includes budgets for the Office of the Under

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[135] Prepared by Blas Nuñez-Neto, Analyst in Domestic Security, Domestic Social Policy Division.

[136] H.Rept. 109-79, pp.100-101.

[137] Prepared by John Moteff, Specialist in Science and Technology Policy, Resources, Science and Industry Division; and Todd Masse, Specialist in Domestic Intelligence and Counterterrorism, Domestic Social Policy Division.

Secretary and Other Salaries and Expenses. The latter (Other Salaries and Expenses) includes all the personnel costs of the Directorate. The Assessment and Evaluations budget supports the Directorate's activities. These activities have been divided into 12 programs. Each program contains one or more projects. Projects are defined with varying degrees of specificity. The Directorate's budget justification document breaks funding down to the program level. It is beyond the scope of this report to discuss in much detail the specific activities associated with each of these programs.

The President's FY2006 IAIP request is for $873 million, a decrease of 2.3%. Within A&E, funds are allocated to the 12 programs, as illustrated in Table 9 below. The House Appropriations Committee recommended $861 million for IAIP, about $12 million below what the Administration requested. **Table 9** summarizes the President's request and Congressional action for each account and program.

Management and Administration. The President's FY2006 request for the M&A account is $204 million, an increase of $72 million, or 55%. However, certain adjustments[138] to the enacted amount for FY2005, including the 2006 pay increase, other technical adjustments, and management and technical efficiencies, bring the requested FY2006 base to $135 million, a slight increase over the $132 million enacted in FY2005. The $72 million increase requested for the Management and Administration account includes $11.7 million to increase staffing (146 new positions, funded for half a year),[139] $38 million to upgrade and expand facilities and equipment for the Directorate (including security upgrades), and $19.4 million to construct a Homeland Secure Data Network, to accommodate the automated access and sharing of classified information within the Directorate. Other technical adjustments to the baseline account for the balance. Program changes to the M&A account in FY2006 total $69 million, which will be allocated to "... support 1,400 personnel (contractors and full-time-equivalent). This funding will cover the establishment of facilities capable of meeting both the classified and unclassified space and technology requirements"[140] associated with IAIP's mission.

The House Appropriations Committee recommended $198.2 million for this account, $5.8 million less than what was requested. The $5.8 million reduction is to come from the amount requested for additional positions. The Committee noted that IAIP has still not filled its currently authorized FTE positions and that the Committee would like a review of the mission and function of IAIP in light of the Intelligence

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[138] Adjustments to base are changes made to the prior year's enacted appropriation and generally include transfers of funds from one program to another, or technical adjustments for salaries and other management efficiencies.

[139] The majority of these positions (100) would go toward the Infrastructure Vulnerability and Risk Assessment program involved in studying the tactics and capabilities of terrorist groups and liaising with the Intelligence Community. Another 26 people would be hired for the Threats Determination and Assessment program to do more strategic level threat assessments.

[140] See Department of Homeland Security, *IAIP — Fiscal Year 2006 Congressional Justification*, p. IAIP 56-57.

Reform and Terrorism Prevention Act and the formation of the National Counter Terrorism Center and the Terrorist Screening Center.[141]

Assessments and Evaluations. The President's request for FY2006 in the A&E account is $669 million, a decrease of $92.4 million, or 12% from FY2005. The reduction is the net result of a number of programmatic increases, decreases, and transfers. The IAIP Directorate proposes transferring two activities to other DHS components. One proposal is to transfer support for state and local assistance to help create Buffer Zone Protection Plans around critical assets to the SLGCP, as part of the latter's new $600 million initiative (TIPP). The other proposal is to transfer support for the National Control Systems Test Center (a test bed for analyzing and fixing vulnerabilities in computer control systems) to the S&T. The Cyber Security program has been supporting the Center; the proposal would transfer support to the S&T.

These adjustments to the enacted FY2005 A&E account bring the FY2006 base to $624 million. Requested program enhancements for the A&E account total $49 million. Of the $49 million, the A&E program with the largest increase ($26 million, or 53%) is the Homeland Security Operations Center (HSOC). Major programmatic increases within HSOC include $13.4 million for hardware, software, and support for extending the Homeland Security Information Network[142] to localities and relevant private sector entities; and $12.9 million to purchase, upgrade, and support additional information and communications hardware and software to improve the HSOC capabilities to acquire, manipulate, store and disseminate greater amounts of information. Other programmatic increases in the A&E account include $5 million to support expanded capabilities and operations of the United States Computer Emergency Response Team within the Cyber Security program; $5.5 million to primarily provide for additional contractor support of the Protected Critical Infrastructure Information project (within the Critical Infrastructure Outreach and Partnerships program);[143] $3.0 million within the Critical Infrastructure Outreach and Partnerships program to support implementation and oversight of the National IP Plan; and $5.5 million to hire contractors to better define policy, procedures and processes governing information sharing between DHS and its partners, to draft technical and operational needs statements, and to analyze new requirements.

The IAIP budget justification provides less detail about the programmatic decreases in FY2006, totaling approximately $146 million (including the transfer of the National Control Systems Test Center). The Critical Infrastructure Outreach and Partnerships program decrease includes a $35 million reduction associated with no

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[141] H.Rept. 109-79, pp.101-102.

[142] DHS and the IA/IP view the Homeland Security Information Network as the primary portal for communicating with states, localities, and the private sector. Connectivity via the Network has been established with all 50 states and many law enforcement entities. The FY2006 increase is to extend connectivity to 1800 other sites.

[143] The Protected Critical Infrastructure Information program implements Title II, Subtitle B of the Homeland Security Act, which, among other protections, exempted information voluntarily provided to DHS, and certified as critical infrastructure information by DHS, from the Freedom of Information Act.

longer hosting some Departmental applications as directed by the Department's CIO. Some of the increases and decreases within specific programs are the result of the transfer of projects between programs. For example, some Threat Determination and Assessment activities were transferred to the Infrastructure Vulnerability and Risk Assessment program. The budget request also estimates approximately $3.0 million in savings due to management and technology efficiencies. The A&E program with the highest ($100 million) adjustment to its base is the Protective Actions program. This program assists federal, state, local, tribal, and private sector organizations in identifying vulnerabilities, and devising protection strategies and local protective programs to surround select infrastructure assets. Of the $100 million adjustment, the Buffer Zone Protection Plans (BZPP) project was reduced by $53 million associated with the transfer of assistance to the new TIPP, administered by SLGCP. Another $42 million of the $100 million adjustment was a decrease for Emerging Pilot Projects and Technology Application Pilots. This effort will now be funded within the DHS S&T.

The House Appropriations Committee made a few modifications to the A&E request, as noted in Table 9. The Committee reduced the Critical Infrastructure and Outreach program request by $5 million because it did not receive a report on Information Sharing and Analysis Centers, which it said it needed to assess funding levels for them. The Committee reduced the Homeland Security Operations Center request by $5 million because it did not receive a five-year implementation plan for the Center. The Committee reduced the Biosurveillance request by $1 million because it did not receive a classified report on the program's scope, costs, schedules, and key milestones. The Committee increased the Critical Infrastructure Identification and Evaluation program by $5 million to expand IAIP Comprehensive Reviews of selected infrastructure sectors. The Committee commended IAIP on its Review of the nuclear reactor and fuel storage facilities and would like to see similar Reviews of the chemical and liquified natural gas sectors.[144]

Issues for Congress. The IAIP budget request raises several issues. For example, the increase for the Protected Critical Infrastructure Information program is justified in part based on the anticipation of additional information flowing into DHS. It is not clear to what extent this program is being utilized by critical infrastructure owners and operators. While exempting such information from FOIA addressed one of the primary concerns of the private sector to sharing information, there is still concern about how this information will be handled and used.

Another issue is the National IP Plan. The budget requests an additional $3 million to help complete and implement the Plan. According to HSPD-7, the Plan was supposed to have been released in December 2004. The Plan has not yet been released, and media reports suggest some disagreement between some private sector owners and operators and DHS on the draft Plan.

Finally, the Evaluation and Studies program is requesting an increase of $20 million. However it is not discussed as one of the programmatic increases in the budget justification document, which implies that it does not represent a change in

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[144] H.Rept. 109-79, 103-108.

the baseline level of effort. The increase is noted in the budget justification as an increase in the cost associated with outside consultants and detailees on loan from other agencies aiding in both strategic and tactical threat assessments. This apparently is in addition to the additional personnel being requested for similar activities noted above.

Table 9: IAIP Account Level Funding

(budget authority in millions of dollars)

Account (program)	FY2005 enacted	FY2006 request	FY2006 House	FY2006 Senate	FY2006 Conf.
Management and administration	**132.0**	**204.0**	**190.2**		
Office of the under secretary	5.8	6.9	6.9		
Other salaries and expenses	126.2	197.1	191.3		
Unspecified reduction	—	—	8		
Assessments and evaluations	**761.7**	**669.2**	**663.2**		
Critical infrastructure identification and evaluation	77.9	72.2	77.2		
National infrastructure simulation and analysis center	20.0	16.0	16.0		
Biosurveillance	11.0	11.1	10.1		
Protective actions	191.6	91.4	91.4		
Critical infrastructure outreach and partnerships	106.6	67.2	62.2		
Cyber security	67.4	73.3	73.3		
National security/emergency preparedness telecommunications	140.8	142.6	142.6		
Threat determination and assessment	21.9	19.9	19.9		
Infrastructure vulnerability and risk assessment	71.1	74.3	74.3		
Competitive analysis and evaluation	4.0	—			
Evaluations and studies	14.4	34.5	34.5		
Homeland Security Operations Center	35.0	61.1	56.1		
Information sharing and collaboration		5.5	5.5		
Total IAIP	**893.7**	**873.2**	**853.4**		

Source: CRS analysis of the FY2006 President's Budget, and DHS, Budget in Brief, House Appropriation Committee tables of May 20, 2005, introduced H.R. 2360 and H.Rept. 109-79.

Note: Totals may not add due to rounding.

Science and Technology[145]

The requested FY2006 budget for the Directorate of S&T is $1,368 million. (For details see **Table 10**.) For the first time, all R&D funding for the department is included in this request. Reflecting direction originally given in the FY2004 appropriations conference report (H.Rept. 108-280), R&D programs currently in the TSA and Coast Guard, together with some other smaller programs, would be consolidated in the S&T Directorate in FY2006. Consolidating the Coast Guard R&D program was also proposed last year in the FY2005 budget request, but the change was controversial, and Congress did not approve it. This is the first budget to propose consolidation for the TSA R&D program, because the Homeland Security Act, which established DHS, required that TSA be maintained as a single distinct entity until November 2004 (P.L.107-296, §424). Compared with the enacted FY2005 funding for the S&T Directorate alone ($1,115 million) the FY2006 request is a 23% increase. However, if one includes the enacted FY2005 funding for the consolidated programs formerly funded elsewhere, the requested increase in DHS-wide R&D funding is 4%.

Although the proposed total R&D budget for DHS would change by less than in any previous year since the department's creation, there are some substantial shifts in funding for individual programs. The newly created Domestic Nuclear Detection Office would receive $227 million. Combined with the existing radiological and nuclear countermeasures program, this would mean a doubling of DHS R&D funding in the radiological/nuclear area. Chemical countermeasures, support for other department components, and efforts to counter the threat from MANPADs (portable ground-to-air missiles) would also all roughly double. Meanwhile, funding for rapid prototyping (to accelerate the adaptation or development of technologies that can be deployed in the near term) would drop from $76 million to $21 million, and the R&D activities currently conducted by the TSA (which appear as part of R&D Consolidation in the FY2006 request) would drop from $178 million to $109 million.

The House provided $1,290 million for the S&T Directorate, a reduction of $78 million from the request. The House committee recommended $1,340 million, but a floor amendment by Rep. Obey reduced this by $50 million to fund state conformance with drivers' license standards under the REAL ID Act of 2005 (P.L. 109-13). The House report noted that the Domestic Nuclear Detection Office, although funded under S&T, has been made a freestanding office that reports directly to the Secretary. The committee provided $100 million less than was requested for this office and stated that "DHS still needs to clarify its role in regard to other federal agencies . . . that have similar and more mature programs." Offsetting this decrease were increases of $40 million for explosives countermeasures (for R&D and pilot programs on screening air cargo), $21 million for the Office of Interoperability and Compatibility (for wireless public safety communications), $15 million for critical infrastructure protection research, and $10 million for a technology clearinghouse (called for by P.L. 107-296, §313). An increase of $9 million for rapid prototyping would reflect a transfer of activities back to the core rapid prototyping program from

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[145] Prepared by Daniel Morgan, Analyst in Science & Technology, Resources, Science, and Industry Divison.

other portfolios, such as biological countermeasures and chemical countermeasures. The House report stated that "poor utilization of Rapid Prototyping is a factor in the growing frustration at the slow deployment of new technologies to the field." Although the committee provided the requested amount for university programs, it noted that $45 million is expected to remain unobligated in this program at the end of FY2005, and it urged S&T to continue to expand its university Centers of Excellence.[146]

The FY2006 budget justification for the S&T Directorate also presents program-level data on the directorate's actual FY2004 expenditures, as compared with the program allocations specified in the FY2004 appropriations conference report. These data show substantial reprogramming. For example, actual expenditures on biological countermeasures in FY2004 were $455 million, versus the enacted level of $197 million. Actual funding for construction of the National Biodefense Analysis and Countermeasure Center was $4 million, versus $88 million enacted. University centers and efforts to counter MANPADs, two items that were of particular congressional interest and received more FY2004 funding than had been requested, had actual expenditures of $22 million and $17 million respectively, versus $69 million and $60 million enacted. As Congress considers appropriations for FY2006, these FY2004 data may raise questions about how the S&T Directorate establishes priorities among its programs and how it handles changes in those priorities after funding decisions have been made.

Table 10. Science and Technology Directorate Accounts and Activities, FY2005-FY2006

(budget authority in millions of dollars)

Account/Activity	FY2005 enacted	FY2006 request	FY2006 House	FY2006 Senate	FY2006 Conf.
Science and Technology Directorate	**1,115.4**	**1,368.4**	**1,290.0**		
Salaries and expenses	68.6	81.4	81.4		
R&D, acquisition, and operations	1,046.8	1,287.0	1,208.6		
— biological countermeasures	*362.6*	*362.3*	*360.0*		
— National Biodefense Analysis and Countermeasures Center	*35.0*	—	—		
— chemical countermeasures	*53.0*	*102.0*	*90.0*		
— explosives countermeasures	*19.7*	*14.7*	*54.7*		
— radiological/nuclear countermeasures	*122.6*	*19.1*	*19.1*		
— Domestic Nuclear Detection Office	—	*227.3*	*127.3*		
— threat and vulnerability testing and assessment	*65.8*	*47.0*	*47.0*		
— critical infrastructure protection	*27.0*	*20.8*	*35.8*		
— cyber security	*18.0*	*16.7*	*16.7*		
— standards	*39.7*	*35.5*	*35.5*		
— support of DHS components	*54.6*	*93.6*	*80.0*		

[146] H.Rept. 109-79,108-114.

Account/Activity	FY2005 enacted	FY2006 request	FY2006 House	FY2006 Senate	FY2006 Conf.
— university and fellowship programs	*70.0*	*63.6*	*63.6*		
— emerging threats	*10.8*	*10.5*	*10.5*		
— rapid prototyping	*76.0*	*20.9*	*30.0*		
— counter MANPADs	*61.0*	*110.0*	*110.0*		
— SAFETY Act	*10.0*	*5.6*	*10.0*		
— Office of Interoperability and Compatibility	*21.0*	*20.5*	*41.5*		
— R&D consolidation	—	*116.9*	*116.9*		
— technology development and transfer	—	—	*10.0*		
— general reduction	—	—	*– 50.0*		
TSA R&D [a]	**178.0**	—	—		
U.S. Coast Guard RDT&E [a]	**18.5**	—	—		
CBP R&D [a]	**1.4**	—	—		
DHS TOTAL R&D	**1,313.3**	**1,368.4**	**1,290.0**		

Source: CRS analysis of the FY2006 President's Budget; DHS, *Budget in Brief*; House Appropriations Committee tables of May 20, 2005; House-passed H.R. 2360; and H.Rept. 109-79.

Note: Totals may not add due to rounding.

a. The TSA, Coast Guard, and CBP R&D amounts are included for FY2005 to provide a total comparable with the FY2006 request for S&T, which consolidates all R&D funding for the Department.

Related Legislation

FY2006 Budget Resolution, S.Con.Res. 18/H.Con.Res 95

The annual concurrent resolution on the budget sets forth the congressional budget. The Senate budget resolution, S.Con.Res. 18 was introduced on March 11, 2005, and passed the Senate on March 17, 2005. S.Con.Res. 18 provides $848.8 billion in discretionary spending. The House budget resolution, H.Con.Res. 95, was introduced on March 11, 2005, and passed the House on March 17, 2005. H.Con.Res. 95 proposes $843 billion in discretionary budget authority. On April 28, 2005 the conference committee reported, and both the House and Senate passed, H.Rept. 109-62 providing $843 billion in discretionary budget authority for FY2006.[147]

[147] For more information see CRS Report RL32812 *The Budget for FY2006*, by Philip D. Winters.

FY2005 Supplemental Appropriations for Iraq and Afghanistan, Tsunami Relief, and Other Activities[148]

On February 14, 2005, the President submitted an $81.9 billion request for supplemental FY2005 funding for military operations, international affairs, intelligence, and homeland security activities. The request includes an additional $161 million for the Coast Guard to offset the costs of operations in Iraq. The request for Coast Guard includes $111 million for operations in support of Operation Iraqi Freedom and Operation Enduring Freedom, including port security and law enforcement capabilities; strategic waterside security teams; and funding of active duty and mobilized reserve personnel. The request further includes $49 million for the retrofit, renovation and subsystem replacement of Coast Guard 110-foot patrol boats. The supplemental request also includes $110 million for the Department of Energy's Megaports Initiative. This initiative provides for the deployment of radiation detection technology and law enforcement personnel to foreign ports (in this case the funding would be for four specific ports) to detect, deter, and interdict nuclear and other radioactive material. Though this request is for the DOE, the Megaports Initiative supports CBP's CSI program.

H.R. 1268 was introduced on March 11, 2005, and passed the House March 16, 2005. The bill passed the Senate on April 21, 2005. The conference committee reported the conference report (H.Rept. 109-72) was filed on May 3, 2005. H.Rept. 109-72 was agreed to in the House on May 5, 2005; and was agreed to in the Senate on May 10, 2005. The President signed H.R. 1268 on May 11, 2005, and the bill became P.L. 109-13.

Within DHS, P.L. 109-13 provides: CBP with an additional $125 million for 500 new Border Patrol agents above the FY2005 enacted level, and with $52 million in additional construction funding; ICE with an additional $454 million for additional investigators, enforcement agents, detention officers and detention bedspace; Coast Guard with an additional $161 million as requested (see above); and FLETC with an additional $4 milllion. As enacted, P.L. 109-13 also includes the REAL ID Act of 2005.[149]

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[148] For more information see CRS Report RL32783 *FY2005 Supplemental Appropriations for Iraq and Afghanistan, Tsunami Relief, and Other Activities*, by Amy Belasco and Larry Nowels.

[149] For more information see CRS Report RL32754 *Immigration: Analysis of the Major Provisions of H.R. 418, the REAL ID Act of 2005*, by Michael John Garcia, Margaret Mikyung Lee, Todd Tatelman, and Larry M. Eig.

Appendix I — DHS Appropriations in Context

DHS Appropriations and Federal Homeland Security Spending

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 11** 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 request for FY2006 accounts for approximately 54% of total federal funding for homeland security. The Department of Defense comprises the next highest proportion at 19% of all federal spending on homeland security. The Department of Health and Human Services at 8.8%, the Department of Justice at 6.2% and the Department of Energy at 3.3% round out the top five agencies in spending on homeland security. These five agencies collectively account for nearly 95% 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 FY2006 requests a total homeland security budget authority of $27.3 billion for DHS, the requested gross budget authority is reported as $41.1 billion. The same is true of the other agencies listed in the table.

Table 11. Federal Homeland Security Funding by Agency, FY2002-FY2006

(budget authority in millions of dollars)

Department	FY02	FY03	FY04	FY05	FY06 est.	FY06 as % of total
Department of Homeland Security (DHS)	17,380	23,063	22,923	24,887	27,333	54.1%
Department of Defense (DOD)	5,159	8,442	7,024	8,570	9,514	19.0%
Department of Health and Human Services (HHS)	1,913	4,144	4,062	4,231	4,407	8.8%
Department of Justice (DOJ)	2,143	2,349	2,180	2,678	3,104	6.2%
Department of Energy (DOE)	1,220	1,408	1,364	1,562	1,666	3.3%
Department of State (DOS)	477	634	696	824	938	1.9%
Department of Agriculture (AG)	553	410	411	600	704	1.4%
Department of Transportation (DOT)	1,419	383	284	182	192	0.4%
National Science Foundation (NSF)	260	285	340	342	344	0.7%
Other Agencies	2,357	1,329	1,550	2,129	1,741	3.5%
Total Federal Budget Authority	**32,881**	**42,447**	**40,834**	**46,005**	**49,943**	**100%**

Source: CRS analysis of data contained in "Section 3. Homeland Security Funding Analysis," and Appendix K of the Analytical Perspectives volume of the FY2006 President's Budget (for FY2004-FY2006); 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.

Note: Totals may not add 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 non-homeland security activities with greater specificity.

Appendix II — Disaster Relief Fund

Table 12. Disaster Relief Fund, FY1974-FY2005

(millions of dollars, 2002 constant dollars)

	Appropriations (available funds)						
				Total appropriations		Outlays	
FY	[a]Req.	Orig.	Supp.	Nominal	Constant	Nominal	Constant
1974	100	200	233	433	1,412	250	816
1975	100	150	50	200	591	206	609
1976	187	187	0	187	517	362	999
1977	100	100	200	300	770	294	754
1978	150	115	300	415	997	461	1,108
1979	200	200	194	394	876	277	616
1980	194	194	870	1,064	2,175	574	1,173
1981	375	358	0	358	668	401	746
1982	400	302	0	302	526	115	201
1983	325	130	0	130	217	202	337
1984	0	0	0	0	0	243	391
1985	100	100	0	100	156	192	299
1986	194	100	250	350	533	335	511
1987	100	120	[b]0	120	178	219	325
1988	125	120	0	[c]120	173	187	269
1989	200	100	[d]1,108	1,208	1,674	140	194
1990	270	98	[e]1,150	1,248	1,668	1,333	1,781
1991	270	0	0	0	0	552	711
1992	[f]184	185	4,136	[g]4,321	5,429	902	1,134
1993	292	292	2,000	[h]2,292	2,816	2,276	2,796
1994	[i]1,154	226	[j]4,709	4,935	5,935	3,743	4,502
1995	320	320	[k]3,275	3,595	4,235	2,116	2,492
1996	320	222	[k]3,275	[k]3,497	4,042	2,233	2,581
1997	320	[l]1,320	[l]3,300	4,620	5,248	2,551	2,898
1998	[m]2,708	320	[n]1,600	1,920	2,155	1,998	2,242
1999	[o]2,566	[p]1,214	[q]1,130	2,344	2,597	3,746	4,149
2000	2,780	[r]2,780	0	2,780	3,019	2,628	2,853
2001	2,909	300	[s, t]	[t]5,890	6,249	3,217	3,413
2002	[u]1,369	664	[v]7,008	[v]12,160	12,677	3,947	4,114
2003	1,843	800	[w]1,426	[w]2,199	2,255	8,541	8,761
2004	1,956	1,800	[x]2,275	[x]2,042	[y]2,068	[y]3,044	[y]3,082
2005	2,151	2,042	[x]8,500	10,542	[z]10,542	[y]3,363	[y]3,363
Total	**24,240**	**16,360**	**48,988**	**72,099**	**84,455**	**50,648**	**60,224**

Sources: U.S. President annual budget documents; appropriations legislation; U.S. FEMA budget justifications. Constant dollar amounts based on CRS calculations based on GDP (chained) price

index in U.S. President (Bush), *Historical Tables, Budget of the United States Government, Fiscal Year 2005* (Washington, 2004), pp. 184-185. Table prepared by Keith Bea, Specialist in American National Government, Government and Finance Division.

a. Data in the request column generally represent the first budget request submitted by the Administration each year and do not include amended or supplemental requests. Note, however, additional detail in this column.
b. In Feb. 1987, a total of $57.5 million was rescinded and transferred from the DRF to the Emergency Food and Shelter Program account (P.L. 100-6). That amount was returned to the fund the same year in supplemental appropriations legislation enacted in July 1987 (P.L. 100-71).
c. P.L. 100-202, the Continuing Appropriations Act for FY1988, appropriated $120 million for disaster relief. According to FEMA, the original appropriation for that fiscal year was $125 million, but $5 million was transferred to the Department of Labor for "low income agriculture workers."
d. Supplemental funds were included in P.L. 101-100, continuing appropriations legislation enacted after Hurricane Hugo struck in Sept. 1989. According to FEMA, this amount was "referred to as a supplemental but was an increase in the original appropriation during a continuing resolution."
e. P.L. 101-130, enacted after the Loma Prieta earthquake, appropriated $1.1 billion in supplemental funding for FY1990. In addition, $50 million was appropriated in P.L. 101-302, dire emergency supplemental appropriations legislation. **Table 12** does not reflect a $2.5 million transfer from the President's unanticipated needs fund.
f. FY1992 request does not include the budget amendment of $90 million submitted by the Administration.
g. Appropriations for FY1992 included a $943 million dire emergency supplemental in P.L. 102-229, enacted in fall 1991 after Hurricane Bob; $300 million after the Los Angeles riots and flooding in Chicago (spring 1992) in P.L. 102-302; and $2.893 billion in P.L. 102-368 after Hurricanes Andrew and Iniki, Typhoon Omar, and other disasters.
h. Total for FY1993 includes the $2 billion supplemental approved after the Midwest floods in 1993 (P.L. 103-75).
i. The original FY1994 budget request was $292 million. On July 29, 1993, a supplemental request of $862 million was sent by President Clinton to Congress.
j. Supplemental appropriations for FY1994 enacted after the Northridge earthquake struck Los Angeles (P.L. 103-211).
k. Additional supplemental appropriation approved for Northridge earthquake costs (P.L. 104-19) for FY1995, with the same amount ($3.275 billion) reserved for a contingency fund for FY1996. However, $1 billion of the contingency fund was rescinded in FY1996 omnibus appropriations, P.L. 104-134. In the same legislation, another $7 million was also appropriated to other FEMA accounts for costs associated with the bombing of the Alfred P. Murrah federal building in Oklahoma City.
l. The FY1998 budget appendix (p. 1047) noted a transfer of $104 million from the disaster relief fund in FY1996. In the FY1997 appropriations act (P.L. 104-204), $1 billion that had been rescinded in FY1996 (P.L. 104-134) was restored, and $320 million in new funds were appropriated. Supplemental appropriations of $3.3 billion were approved in P.L. 105-18 after flooding in the Dakotas and Minnesota, and after storms in other states were declared major disasters. The legislation specified, however, that of the total, $2.3 billion was to be available in FY1998 only when FEMA submitted a cost control report to Congress. This requirement was met, and the funding was made available in FY1998.
m. The FY1998 request consisted of a $320 million base amount plus $2.388 billion "to address actual and projected requirements from 1997 and prior year declarations." (*Budget Appendix FY1998*, p. 1047). Does not include $50 million requested for the DRF for mitigation activities.
n. Supplemental appropriations legislation (P.L. 105-174) for FY1998 approved for flooding associated with El Niño and other disasters.
o. The FY1999 request consisted of $307.8 million for the DRF and an additional $2.258 billion in contingency funding to be available when designated as an emergency requirement under the Balanced Budget Act of 1985, as amended.
p. The FY1999 omnibus appropriations act (P.L. 105-277, 112 Stat. 2681-579) included $906 million for costs associated with Hurricane Georges, flooding associated with El Niño, and other disasters.

q. Emergency supplemental appropriations for FY1999 (P.L. 106-31) included $900 million for tornado damages as well as $230 million for unmet needs, subject to allocation directions in the conference report (H.Rept. 106-143).

r. FY2000 appropriations act (P.L. 106-74, 113 Stat. 1085) included disaster relief funding as follows: $300 million in regular appropriations and $2.480 billion designated as emergency spending for costs associated with Hurricane Floyd and other disasters. In addition, the Consolidated Appropriations Act (P.L. 106-113) authorized the Director of FEMA to use up to $215 million in disaster relief funds appropriated in P.L. 106-74 for the purchase of residences flooded by Hurricane Floyd, under specified conditions.

s. Supplemental appropriations legislation (P.L. 106-246) authorized that $77 million from the DRF to be used for buyout and relocation assistance for victims of Hurricane Floyd. The act also appropriated $500 million in a separate account for claim compensation and administrative costs associated with the Cerro Grande fire that destroyed much of Los Alamos, New Mexico.

t. P.L. 107-38 appropriated $40 billion in response to the terrorist attacks of Sept. 11, 2001. Pursuant to the statute, these funds for FY2001 were allocated by the Office of Management Budget from the Emergency Response Fund (ERF). Of the total appropriated in P.L. 107-38 after the Sept. 11 attacks, $4.4 billion were allocated for FY2001 through P.L. 107-117 (115 Stat. 2338). The total available for obligation for FY2001 ($5.9 billion) taken from FEMA *Justification of Estimates, FY2003*, p. DR-2.

u. Request for FY2002 did not include funding for the Disaster Relief Contingency Fund.

v. Congress appropriated a total of $7.008 billion for FY2002 in P.L. 107-117 and P.L. 107-206 to meet additional needs associated with the terrorist attacks. Total funds available ($12.16 billion) include a transfer from TSA, $1 billion released from the Emergency Contingency Fund, and other sources. See DHS, Emergency Preparedness and Response Directorate, *Justification of Estimates, FY2004*, p. DR-2.

w. Includes $442 million in P.L. 108-69 and $938 million in P.L. 108-83 to meet needs associated with tornadoes, winter storms, the recovery of wreckage of the Space Shuttle *Columbia* and other disasters. Also, funds appropriated in these measures and in the FY2004 appropriations act for DHS (P.L. 108-90) have been used for costs associated with Hurricane Isabel. Total of $2.199 billion available taken from: DHS, Emergency Preparedness and Response Directorate, *Justification of Estimates, FY2005*, p. FEMA-18.

x. P.L. 108-106 which primarily addressed reconstruction costs in Iraq and Afghanistan also contained an appropriation of $500 million for needs arising from disasters in fall 2003, including Hurricane Isabel and the California fires. Section 4002 of the act designates the funds an emergency requirement pursuant to the budget resolution adopted by Congress (H.Con.Res. 95), but the Consolidated Appropriations Act for FY2004 (Section 102(a), Division H, P.L. 108-199) rescinded $225 million of the $500 million appropriated in P.L. 108-106. Total of $2.043 billion taken from: DHS, Emergency Preparedness and Response Directorate, *Justification of Estimates, FY2005*, p. FEMA-18. P.L. 108-303, enacted after Hurricanes Charley and Frances struck Florida, appropriated $2 billion to the DRF and gave discretion to DHS to transfer $300 million to the Small Business Administration for disaster loans. P.L. 108-324, Division B of the Military Construction Appropriations Act for FY2005, appropriated an additional $6.5 billion to the DRF.

y. Outlay data and constant dollar calculations based on estimates.

z. Funds presented in current dollars.