

CRS Report for Congress

Homeland Security Department: FY2009 Request for Appropriations

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**Prepared for Members and
Committees of Congress**

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 report lists the key CRS staff relevant to the issues covered and related CRS products.

Homeland Security Department: FY2009 Request for Appropriations

Summary

This report describes the FY2009 appropriations for the Department of Homeland Security (DHS). The Administration requested a net appropriation of \$38.8 billion in budget authority for FY2009. The requested net appropriation for major components of the department included the following: \$9,487 million for Customs and Border Protection (CBP); \$4,748 million for Immigration and Customs Enforcement (ICE); \$4,057 million for the Transportation Security Administration (TSA); \$9,071 million for the U.S. Coast Guard; \$1,414 million for the Secret Service; \$1,286 for the National Protection and Programs Directorate (NPP); \$5,573 million for the Federal Emergency Management Agency (FEMA); \$151 million for US Citizenship and Immigration Services (USCIS); \$869 million for the Science and Technology Directorate (S&T); and \$564 million for the Domestic Nuclear Detection Office (DNDO).

This report will be updated as legislative action occurs.

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Homeland Security Department: FY2009 Request for Appropriations

Most Recent Developments

President's FY2009 Budget Submitted. The President's budget request for the Department of Homeland Security (DHS) for FY2009 was submitted to Congress on February 4, 2008. The Administration requested \$50.5 billion in gross budget authority for FY2009 (including mandatories, fees, and funds). The Administration's request includes gross appropriations of \$46.8 billion, and a net appropriation of \$38.8 billion in budget authority for FY2009, of which \$37.6 billion is discretionary budget authority, and \$1.2 billion is mandatory budget authority. The FY2008 enacted net appropriated budget authority for DHS was \$38.8 billion (\$41.7 billion including supplemental appropriations).

Table 1. Legislative Status of Homeland Security Appropriations

Subcommittee Markup		House Report	House Passage	Senate Report	Senate Passage	Confr. Report	Public Law
House	Senate						

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

Note on Most Recent Data. Data used in this report include data from the President's Budget Documents, the FY2009 *DHS Congressional Budget Justifications*, and the FY2009 *DHS Budget in Brief*. Data used in **Table 21** are taken from the *Analytical Perspectives* volume of the FY2009 President's Budget. These amounts do not correspond to amounts presented in **Tables 4-20**, from the *FY2009 DHS Congressional Budget Justifications*. Except when discussing total amounts for the bill as a whole, all amounts contained in this report are rounded to the nearest million.

Background

This report describes the President's FY2009 request for funding for DHS programs and activities, as submitted to Congress on February 4, 2008. It compares the enacted FY2008 amounts to the request for FY2009, and tracks legislative action and congressional issues related to the FY2009 DHS appropriations bills with particular attention paid to discretionary funding amounts. The 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.

Department of Homeland Security

The Homeland Security Act of 2002 (P.L. 107-296) transferred the functions, relevant funding, and most of the personnel of 22 agencies and offices to the new Department of Homeland Security created by the act. Appropriations measures for DHS have been organized into five titles: Title I Departmental Management and Operations; Title II Security, Enforcement, and Investigations; Title III Preparedness and Recovery; Title IV Research and Development, Training, Assessments, and Services; and Title V general provisions.

Title I contains appropriations for the Office of Management, the Office of the Secretary, the Office of the Chief Financial Officer, Analysis and Operations (A&O), the Office of the Chief Information Office (CIO), the Office of the Inspector General (OIG), and the Office of the Federal Coordinator for Gulf Coast Rebuilding.

Title II contains appropriations for Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), the Transportation Security Administration (TSA), the Coast Guard (USCG), and the Secret Service. The U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) program was appropriated within Title II through the FY2007 appropriation. The FY2008 appropriation transferred US-VISIT, as proposed by the Administration, to the newly created National Protection & Programs Directorate (NPPD) in Title III. Division E of P.L. 110-161, the DHS Appropriations Act, 2008, enacted this reorganization, which is reflected by the FY2009 request.

Through the FY2007 appropriation, Title III contained appropriations for the Preparedness Directorate, Infrastructure Protection and Information Security (IPIS) and the Federal Emergency Management Administration (FEMA). The President's FY2008 request included a proposal to shift a number of programs and offices to eliminate the Preparedness Directorate, create the NPPD, and move several programs to FEMA. These changes were largely agreed to by Congress in the FY2008 appropriation, reflected by Title III in Division E of P.L. 110-161. The FY2009 request also reflects this reorganization.

Title IV contains appropriations for U.S. Citizenship and Immigration Services (USCIS), the Science and Technology Directorate (S&T), and the Federal Law Enforcement Training Center (FLETC).

302(a) and 302(b) Allocations

The maximum budget authority for annual appropriations (including DHS) is determined through a two-stage congressional budget process. In the first stage, Congress sets overall spending totals in the annual concurrent resolution on the budget. Subsequently, these amounts are allocated among the appropriations committees, usually through the statement of managers for the conference report on

the budget resolution. These amounts are known as the 302(a) allocations. They include discretionary totals available to the House and Senate Committees on Appropriations for enactment in annual appropriations bills through the 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 annual concurrent resolution on the budget sets forth the congressional budget. There is as yet no budget resolution for FY2009. **Table 2** shows DHS' 302(b) allocations for FY2008 and the current appropriations cycle.

Table 2. FY2009 302(b) Discretionary Allocations for DHS
(budget authority in billions of dollars)

FY2008 Comparable	FY2009 Request Comparable	FY2009 House Allocation	FY2009 Senate Allocation	FY2009 Enacted Comparable
\$38.7				

Source: CRS analysis of the *FY2009 DHS Congressional Budget Justifications*.

Budget Authority, Obligations, and Outlays

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

Budget authority is established through appropriations acts or direct spending legislation and determines the amounts that are available for federal agencies to spend. The Antideficiency Act¹ 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.

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

Outlays are the funds that are actually spent during the fiscal year.² Because multi-year and no-year budget authorities may be obligated over a number of years, outlays do not always match the budget authority enacted in a given year. Additionally, budget authority may be obligated in one fiscal year but spent in a future fiscal year, especially with certain contracts.

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

Discretionary and Mandatory Spending

Gross budget authority, or the total funds available for spending by a federal agency, may be composed of discretionary and mandatory spending. Of the \$46.4 billion gross budget authority requested for DHS in FY2009, 82% is composed of discretionary spending and 18% 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 of 1990³ 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 Collections⁴

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

Some collections offset a portion of an agency's discretionary budget authority. Other collections offset an agency's mandatory spending. They are typically

² Appropriations, outlays, and account balances for government treasury accounts can be viewed in the end of year reports published by the U.S. Treasury titled *Combined Statement of Receipts, Outlays, and Balances of the United States Government*. The DHS portion of the report can be accessed at [<http://fms.treas.gov/annualreport/cs2005/c18.pdf>].

³ P.L. 101-508, Title XIII.

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

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

Table 3 tabulates all of the offsets within the DHS budget as enacted for FY2008 and in the FY2009 request.

Table 3. FY2009 Request: Moving From Gross Budget Authority to Net Appropriation — Fee Accounts, Offsetting Fees, and Trust and Public Enterprise Accounts
(budget authority in millions)

Account/Agency	Account Name	FY2008 Enacted	FY2009 Request
DHS gross budget authority^a (gross discretionary + fees+ mandatory + funds)		52,915	50,502
Discretionary fee funded offsets			
ICE	Federal Protective Service	613	616
TSA	Aviation security fees	2,113	2,329
	TWIC	64	9
	Hazmat	18	18
	Registered Traveler	4	10
FEMA/EPR	National Flood Insurance Fund	111	157
CBP	Small airports	7	7
Subtotal discretionary fee funded offsets		2,930	3,146
Mandatory fee funded offsets			
CBP	Immigration inspection	562	570
	Immigration enforcement	3	3
	Land border	27	27
	COBRA	392	411
	APHIS	321	333
	Puerto Rico	98	97
ICE	Immigration inspection	114	118
	SEVIS	56	75
	Breached bond detention fund	64	120

Account/Agency	Account Name	FY2008 Enacted	FY2009 Request
TSA	Aviation security capital fund	250	676
	Checkpoint screening security fund	250	—
	Alien flight school background checks	3	3
USCIS	Immigration examination fee	2,495	2,495
	H1b, and H1b & L fees	44	44
Subtotal mandatory fee funded offsets		4,679	4,972
Mandatory budget authority			
Secret service	Secret service retired pay ^b	210	225
Coast guard	Coast guard retired pay ^c	(1,185)	(1,237)
Subtotal mandatory budget authority		210	225
Trust funds and public enterprise funds			
CBP	Customs unclaimed goods	6	6
FEMA	National Flood Insurance Fund ^d	2,833	3,037
Coast Guard	Boat safety	133	125
	Oil spill recovery	147	149
Subtotal trust and public enterprise funds		3,119	3,317
DHS gross budget authority^a		52,915	50,502
Total offsets		-10,938	-11,660
Rescissions		-262	—
Emergency Supplemental (P.L. 110-116)		-2,900	—
DHS net appropriated BA (Mandatory + Discretionary)		38,817	38,843

Source: CRS analysis of the FY2009 President's Budget, and the DHS *FY2009 Budget in Brief*.

Notes: Totals may not add due to rounding.

- DHS gross budget authority is the total budget authority available to the Department in a given fiscal year. This amount includes both appropriated and non-appropriated funding.
- Secret Service Retired Pay is permanently and indefinitely authorized, and as such is not annually appropriated. Therefore it is offset in **Table 3**.
- In contrast to Secret Service Retired Pay, Coast Guard Retired pay must be annually appropriated, and therefore is not offset in **Table 3**.
- This fund is comprised of both discretionary and mandatory appropriations; thus its component parts appear twice in this table.

Appropriations for the Department of Homeland Security

DHS Appropriations Trends

Table 4 presents DHS Appropriations, as enacted, for FY2003 through the FY2009 request. The appropriation amounts are presented in current dollars and are not adjusted. The amounts shown in **Table 4** represent enacted amounts at the time of the start of the next fiscal year's appropriation cycle. Thus, the amount shown for FY2003 is the enacted amount shown in the House Committee report attached to the FY2004 DHS Appropriations bill. FY2008 is from the Joint Explanatory Statement for Division E of P.L. 110-161, and FY2009 is from the FY2009 DHS Budget Justifications.

Table 4. DHS Appropriations, FY2003-FY2009
(budget authority in millions of dollars)

FY2003	FY2004	FY2005	FY2006	FY2007	FY2008 Enacted	FY2009 request
29,069 ^a	30,175 ^b	30,554 ^c	31,679	35,311 ^d	38,817	38,843

Sources: FY2003 enacted taken from H.Rept. 108-169; FY2004 enacted taken from H.Rept. 108-541; FY2005 enacted taken from H.Rept. 109-79; FY2006 enacted taken from H.Rept. 109-476; FY2007 appropriation amounts are from the H.Rept. 110-181; and FY2008 enacted amounts are from Division E of P.L. 110-161, and tables in the Joint Explanatory Statement for Division E, published in the Congressional Record, December 17, 2007, pp. H16107-H16121 (incorporating amendments to the budget request).

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

- a. S.Rept. 108-86 reported the FY2003 enacted amount as \$29,287 million. CRS was unable to identify the reason for this discrepancy. For the purposes of this table the House number was used to maintain consistency with other fiscal years.
- b. Amount does not include \$4,703 million in advance appropriations for Project Bioshield.
- c. Amount does not include \$2,508 million in advance appropriations for Project Bioshield.
- d. Amount includes \$1,829 million in emergency budget authority that was enacted as a part of the FY2007 DHS Appropriations Act (P.L. 109-295).

Summary of DHS Appropriations

Table 5 is a summary table comparing the enacted appropriations for FY2007 and the requested, recommended by the House and Senate, and enacted for FY2008.

Table 5. DHS: Summary of Appropriations
(budget authority in millions of dollars)

Operational Component	FY2008 Appropriation				FY2009 Appropriation			
	FY2008 Enacted ^a	FY2008 Supp.	FY2008 Resc.	FY2008 Total	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
Title I: Departmental Operations								
Subtotal: Title I	986			986	1,187			
Title II: Security, Enforcement, and Investigations								
Customs and Border Protection	9,423			9,423	9,487			
Immigration and Customs Enforcement	4,735			4,735	4,748			
Transportation Security Administration	4,118			4,118	4,057			
U.S. Coast Guard	8,627			8,627	9,071			
U.S. Secret Service	1,385			1,385	1,414			
Net subtotal: Title II	28,287			28,287	28,778			
Total fee collections	4,958			4,958	5,421			
Gross subtotal: Title II	33,245			33,245	34,199			
Title III: Preparedness and Recovery								
National Protection & Programs Directorate	1,177			1,177	1,286			
Office of Health Affairs	117			117	161			
Counter Terrorism Fund	—			—	—			
Federal Emergency Management Administration	6,826	2,900 ^b		9,726	5,573			
Net subtotal: Title III	8,120			11,020	7,020			
Title IV: Research and Development, Training, Assessments, and Services								
Citizenship and Immigration Services	81			81	151			
Federal Law Enforcement Training Center	289			289	274			
Science and Technology	830			830	869			
Domestic Nuclear Detection Office	485			485	564			

Operational Component	FY2008 Appropriation				FY2009 Appropriation			
	FY2008 Enacted ^a	FY2008 Supp.	FY2008 Resc.	FY2008 Total	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
Net subtotal: Title IV	1,685			1,685	1,857			
Total fee collections	2,539			2,539	2,539			
Gross subtotal: Title IV	4,224			4,224	4,396			
Title V: General Provisions								
Rescissions	-262			-262	—			
Department of Homeland Security Appropriation								
Gross DHS budget authority	46,314	2,900^b		49,214	46,803			
Total fee collections	-7,497	—		-7,497	-7,960			
Net DHS budget authority	38,817	2,900^b		41,717	38,843			

Source: CRS Analysis of the DHS *FY2009 Congressional Budget Justifications*.

Note: Tables may not add due to rounding.

a. Column “FY2008 Enacted” includes emergency funding for DHS enacted by Division E of P.L. 110-161.

b. \$2,900 million in FY2008 emergency supplemental funding for Disaster Relief enacted by Division B - Sec. 158 of P.L. 110-28, *The Department of Defense Appropriations Act, 2008*.

Title I: Departmental Management and Operations⁵

Title I covers the general administrative expenses of DHS. It includes the Office of the Secretary and Executive Management (OS&EM), which is comprised of the immediate Office of the Secretary and 12 entities that report directly to the Secretary; the Undersecretary for Management (USM) and its components, such as the offices of the Chief Administrative Services Officer, Chief Human Capital Officer, and Chief Procurement Officer; the Office of the Chief Financial Officer (OCFO); the Office of the Chief Information Officer (OCIO); Analysis and Operations Office (AOO); Office of the Federal Coordinator for Gulf Coast Rebuilding (OFCGCR); and Office of the Inspector General (OIG). **Table 6** shows Title I appropriations for FY2008 and congressional action on the request for FY2009.

President's FY2009 Request. FY2009 requests relative to comparable FY2008 enacted appropriations were as follow: OS&EM, \$127 million, an increase of \$30 million (+31%); USM, \$321 million, an increase of \$176 million (+121%); OCFO, \$56 million, an increase of \$25 million (+81%); OCIO, \$247 million, a decrease of \$48 million (-16%); AOO, \$334 million, an increase of \$28 million (+9%); OFCGCR, .25 million, a decrease of approximately \$3 million (-90%); and OIG, \$101 million, a decrease of \$8 million (-7%). The total FY2009 request for Title I was \$1,187 million. This represents an increase of \$201 million (+20%) over the FY2008 enacted level.

Of the amounts requested, the largest increase would occur in the USM, which is seeking \$120 million for the planned consolidation of DHS executive program leadership on the West Campus of the Saint Elizabeth's Hospital grounds in accordance with the DHS National Capital Region Housing Master Plan signed by the Secretary on October 25, 2006. The consolidation includes up to 4.5 million gross square feet of office space at the Saint Elizabeth's site. Other areas of increased USM funding include department-wide program management teams (\$4 million), the department-wide acquisition intern program (\$3 million), and increased counterintelligence and security needs (\$1 million). A small increase in USM funding is being sought to provide added support for the Deputy Under Secretary for Management for the transition process.

Formed in 2002, DHS has not previously been through a presidential transition. Many of its principal components, however, have done so, some several times over. For example, the United States Secret Service began as a Treasury Department bureau in 1865; the Bureau of Immigration, which grew into the Bureau of Immigration and Naturalization and the Immigration and Naturalization Service, was established in the Treasury Department in 1891;⁶ the United States Coast Guard was statutorily chartered in 1915;⁷ the Bureau of Customs was created in the Treasury

⁵ Prepared by Harold C. Relyea, Specialist in American National Government, Government and Finance Division.

⁶ 26 Stat. 1085.

⁷ 38 Stat. 800.

Department in 1927;⁸ and the Federal Emergency Management Agency was mandated by E.O. 12127 of March 31, 1979.⁹ At DHS, the Under Secretary for Management has responsibility for, “before December 1 of any year in which a Presidential election is held, the development of a transition and succession plan, to be made available to the incoming Secretary and Under Secretary for Management, to guide the transition of management functions to a new Administration.”¹⁰

On January 10, 2008, in response to a request of the Secretary of Homeland Security, the Homeland Security Advisory Council issued a report by its Administration Transition Task Force. The panel’s recommendations regarding transition preparation addressed seven broad areas: threat awareness, leadership, congressional oversight/action, policy, operations, succession, and training.¹¹ Details about the implementation of the panel’s recommendations are not available for security reasons, according to DHS.

⁸ 44 Stat. 1381.

⁹ 3 C.F.R., 1979 Comp., pp. 376-377.

¹⁰ 6 U.S.C. §341(a)(9)(B).

¹¹ U.S. Department of Homeland Security, Homeland Security Advisory Council, *Report of the Administration Transition Task Force* (Washington: January 2008), available at [http://www.dhs.gov/xlibrary/assets/hsac_ATTF_Report.pdf].

Table 6. Title I: Department Management and Operations
(budget authority in millions of dollars)

Operational Component	FY2008 Appropriation				FY2009 Appropriation			
	FY2008 Enacted ^a	FY2008 Supp.	FY2008 Resc.	FY2008 Total	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
Office of the Secretary and Executive Management	97			97	127			
Office of Screening Coordination and Operations	—			—	—			
Office of the Undersecretary for Management	145 ^b			145	321			
Office of the Chief Financial Officer	31			31	56			
Office of the Chief Information Officer	295			295	247			
Analysis and Operations	306 ^c			306 ^c	334			
Office of the Federal Coordinator for Gulf Coast Rebuilding	3			3	— ^e			
Office of the Inspector General	109 ^d			109 ^d	101			
Net Budget Authority: Title I	986			986	1,187			

Source: CRS Analysis of the DHS *FY2009 Congressional Budget Justifications*.

Note: Tables may not add due to rounding.

a. Column “FY2008 Enacted” includes emergency funding for DHS enacted by Division E of P.L. 110-161.

b. Includes an unspecified \$5 million reduction per P.L. 110-161.

c. Per P.L. 110-161 Does not include \$9 million rescission of prior year balances appropriated by P.L. 109-295.

d. Includes a \$14 million transfer of funds from FEMA’s Disaster Relief account.

e. \$250,000 was requested for the Office of the Federal Coordinator for Gulf Coast Rebuilding in FY2009; this table only shows millions, however.

Personnel Issues.¹² The Office of the Chief Human Capital Officer (OCHCO) manages and administers human resources at DHS and includes the Office of Human Capital (OHC). The OCHCO reports to the Under Secretary for Management, and its appropriation is included in that of the Under Secretary. The office “establishes policy and procedures” and “provides oversight, guidance, and leadership for human resources functions, including learning and development.” The OHC designs and implements human resources programs, including their strategy and technology components, and the response to the issues identified in the Federal Human Capital Survey (FHCS).

The FY2009 budget requests \$48 million¹³ and 86 full-time equivalent (FTE) employees for the OCHCO and the OHC. The requested funding is \$29 million above the \$19 million provided for FY2008. The number of FTEs would increase by 33 over the 53 authorized for FY2008. An appropriation is not requested for the new human resources management system (MAX-HR) that was authorized in P.L. 107-296.¹⁴

Table 7 below shows the funding and staff for the OCHCO and the OHC as enacted in FY2008, and as requested for FY2009.

¹² Prepared by Barbara L. Schwemle, Analyst in American National Government, Government and Finance Division.

¹³ Salaries and benefits (\$11.1 million) and other services (\$28 million) account for some 81% of the total of \$48.1 million. Other services include contractual services with non-federal sources.

¹⁴ Title VIII, Subtitle E, Section 841 of P.L. 107-296, enacted on November 25, 2002 (116 Stat. 2135, at 2229-2234), established a new human resources system for DHS that, to date, has not been fully implemented. DHS and the Office of Personnel Management (OPM) jointly published final regulations to implement the system in the *Federal Register* on February 1, 2005. (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, February 1, 2005, pp. 5271-5347.) The regulations provided new policies on position classification, pay, performance management, adverse actions and appeals, and labor-management relations for DHS employees. The system was expected to cover about 110,000 of the department’s 180,000 employees and be implemented in phases. (See CRS Report RL32261, *DHS’s Max-HR Personnel System: Regulations on Classification, Pay, and Performance Management Compared With Current Law, and Implementation Plans*, 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.) However, shortly after the regulations were issued, the National Treasury Employees Union (“NTEU”) and several other labor organizations filed a lawsuit alleging that DHS and OPM exceeded the authority granted to them under the Homeland Security Act. For an analysis of the court decisions on the adverse actions and appeals and labor-management relations policies, see CRS Report RL33052, *Homeland Security and Labor-Management Relations: NTEU v. Chertoff*, by Thomas J. Nicola and Jon O. Shimabukuro. Section 511 of H.R. 1684, the Department of Homeland Security Authorization Act for FY2008, as passed by the House of Representatives, would repeal the authority for the department’s new personnel system and render void any regulations prescribed thereunder. The bill passed the House on a 296-126 (Roll No. 318) vote on May 9, 2007, but no further action has occurred.

Table 7. Office of the Chief Human Capital Officer and Office of Human Capital Appropriations
(budget authority in millions of dollars)

Account	FY2008 Enacted	FY2009 Request
Salaries and Expenses CHCO	\$9	\$48
Max-HR System	0	0
Human Resources — Operational Initiatives and HR Management Systems	\$10 ^a	0
Total	\$19	\$48
Staffing (full time equivalent, FTE, positions)	53	86

Sources: P.L. 110-161, December 26, 2007; and FY2009 DHS Justifications, Departmental Management and Operations, Undersecretary for Management, Office of the Chief Human Capital Officer, p. USM-7.

- a. According to the explanatory statement accompanying the consolidated appropriations act, DHS is directed to ensure that this appropriation is used for “programs that directly address the shortcomings identified in [the 2006 Federal Human Capital Survey] or in a subsequent DHS survey that the Department plans to conduct.” These programs could include the “planned DHS survey, gap analysis of mission critical occupations, hiring and retention strategies, robust diversity programs, and Department-wide education and training initiatives.” The Secretary must submit a plan for expending the funds prior to their obligation. (*Congressional Record*, daily edition, vol. 153, December 17, 2007, p. H16079.)

The justification that accompanied the DHS budget request for FY2009 states that the increased funding will be used for continued support of the learning and development strategy to train the department’s workforce through the Preparedness Center, the Leadership Institute, the Homeland Security Academy, and the Center for Academic and Interagency Outreach. The requested appropriation also will be used to fund the continued modernization of the human resources systems, including eRecruitment and ePerformance, “to implement a prototype pay for performance plan for a limited number of DHS employees,” and to invest in diversity and recruitment and retention programs.¹⁵

Under the leadership of the OHC, the department will “monitor and evaluate the implementation of the performance management system.” Initiatives related to the diversity of the DHS workforce will include finalizing and implementing the diversity strategy; outreach to colleges, universities, organizations, and professional associations; training on diversity; increased diversity among the department’s executives; and improved outreach to veterans.¹⁶

The OHC will conduct an internal survey of DHS employees, analyze the results, and develop a plan to address any concerns. It will determine current and

¹⁵ DHS Justifications, Undersecretary for Management, pp. USM-4-USM-5.

¹⁶ DHS Justifications, Departmental Management and Operations, Undersecretary for Management, Office of the Chief Human Capital Officer, p. USM-7.

future staffing needs for mission critical occupations, analyze employee turnover and attrition using methods such as exit interviews and surveys, and link the results of that analysis to training and strategies for recruitment and retention.¹⁷ With regard to fostering better results on the FHCS, the office will focus on developing and monitoring policies and programs that will improve the work environment and perceptions of employees. According to its Annual Performance Report for Fiscal Years 2007-2009, DHS has established a target of achieving a 50% favorable response rate on the FHCS.¹⁸

In FY2009, the OHC will convert 23 contractor positions to federal positions to provide the office with a workforce that is stable and cost effective and “to perform ongoing initiatives and provide depth” in issue areas. Furthermore, according to DHS, the conversions will enable the OHC “to broaden and sustain its diversity, veteran outreach, recruiting and retention, employee morale, service delivery,” and management of human resources lines of business. A challenge that will face the department in FY2009 is the transition to a new Administration.¹⁹ In a February 7, 2008, letter to DHS Secretary Michael Chertoff, Representative Bennie G. Thompson, chairman of the House Committee on Homeland Security, requested that the Secretary “issue a policy directive to prohibit the ‘burrowing in’ of political appointees into non-political career positions within the Department” within 60 days. Representative Thompson stated that he was “sure that [the Secretary] would agree that it would be inappropriate to fill career non-political executive level positions with political appointees absent an open and fully competitive process.”²⁰

The OHC will use the savings that accrue from conversion of the contractor positions to fund services such as responding to the FHCS, conducting a survey of employee morale, and responding to its findings. Its contracts will focus “on short term projects to meet surge requirements, one-time infrastructure costs, and areas where expertise is not easily obtained ... or would be more cost effective if provided by contractors.”²¹

Analysis and Operations²²

The DHS intelligence mission is outlined in Title II of the Homeland Security Act of 2002 (codified at 6 U.S.C. 121). Organizationally, and from a budget

¹⁷ Ibid., p. USM-16.

¹⁸ U.S. Department of Homeland Security, *Annual Performance Report Fiscal Years 2007-2009* (Washington: DHS, [February 4, 2008]), p. 82.

¹⁹ DHS Justifications, Departmental Management and Operations, Undersecretary for Management, Office of the Chief Human Capital Officer, pp. 7-8.

²⁰ Letter from Representative Bennie G. Thompson to the Honorable Michael Chertoff, February 7, 2008.

²¹ DHS Justifications, Departmental Management and Operations, Undersecretary for Management, Office of the Chief Human Capital Officer, pp. 7-8.

²² Prepared by Jennifer E. Lake, Analyst in Domestic Security, Domestic Social Policy Division.

perspective, there have been a number of changes to the information, intelligence analysis, and infrastructure protection functions at DHS. Pursuant to the Homeland Security Act of 2002, the Information Analysis and Infrastructure Protection (IAIP) Directorate was established. The act created an Undersecretary for IAIP to whom two Assistant Secretaries, one each for Information Analysis (IA) and Infrastructure Protection (IP), reported. The act outlined 19 functions for the IAIP Directorate, including the following, among others:

- To assess, receive, and analyze law enforcement information, intelligence information, and other information from federal, state, and local government agencies, and the private sector to (1) identify and assess the nature and scope of the terrorist threats to the homeland, (2) detect and identify threats of terrorism against the United States, and (3) understand such threats in light of actual and potential vulnerabilities of the homeland;
- To develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States;
- To review, analyze, and make recommendations for improvements in the policies and procedures governing the sharing of law enforcement information, intelligence information, and intelligence-related information within the federal government and between the federal government and state and local government agencies and authorities.²³

Secretary Chertoff's Second Stage Review of the Department made numerous changes in the DHS intelligence structure. For example, the erstwhile IAIP disbanded, and the Office of Information Analysis was renamed the Office of Intelligence and Analysis and became a stand alone entity. The Office of Infrastructure Protection was placed within the Directorate for Preparedness. The Assistant Secretary for Intelligence Analysis was also provided the title of the Department's Chief Intelligence Officer.²⁴ Pursuant to the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53, signed August 3, 2007), a number of amendments to the Homeland Security Act of 2002 (codified at 6 U.S.C. 201) related to homeland security intelligence were made. Among these changes, the law provided statutory standing to the Office of Intelligence and Analysis and the Office of Infrastructure Protection. The Office of Intelligence and Analysis is to be headed by an Under Secretary for Intelligence and Analysis, who will also serve as the Department's Chief Intelligence Officer.²⁵

²³ See Title II, Subtitle A, Section 201(d), Responsibilities of the Undersecretary (of IAIP), codified at 6 U.S.C. §121. See also Department of Homeland Security, Office of the Inspector General, *Survey of the Information Analysis and Infrastructure Protection Directorate*, Office of Inspections, Evaluations, and Special Reviews, OIG-04-413, February 2004, p. 26.

²⁴ See DHS Management Directive 8110, *Intelligence Integration and Management*, January 30, 2006.

²⁵ See P.L. 110-53, Title V, "Improving intelligence and information sharing within the federal government, and with State, local and tribal governments," Subtitle D, "Homeland (continued...)"

President's FY2009 Request. The FY2009 request for the Analysis and Operations (AO) account is \$334 million, an increase of \$28 million (+9%) over the enacted FY2008 amount. It should be noted that funds included in this account support both the Office of Intelligence and Analysis (OIA) and the Office of Operations Coordination. The Office of Intelligence and Analysis, the successor to the "IA" element of the erstwhile IAIP, has as its primary responsibility the integration and analysis of information from DHS, state and local stakeholders, and the intelligence community into finished intelligence products such as threat assessments and other indications and warning documents. As a member of the Intelligence Community, the Office of Intelligence and Analysis's budget is classified. The Office of Operations Coordination formally houses the National Operations Center which, among other functions, disseminates OIA assessed threat information, provides domestic situational awareness, and performs incident management on behalf of the Department.

Title II: Security Enforcement and Investigations

Title II contains the appropriations for the Bureau of Customs and Border Protection (CBP), the Bureau of Immigration and Customs Enforcement (ICE), the Transportation Security Administration (TSA), the US Coast Guard, and the US Secret Service. **Table 8** shows the FY2007 enacted and FY2008 appropriation action for Title II.

²⁵ (...continued)
security intelligence offices reorganization.”

Table 8. Title II: Security, Enforcement, and Investigations
(budget authority in millions of dollars)

Operational Component	FY2008 Appropriation				FY2009 Appropriation			
	FY2008 Enacted ^a	FY2008 Supp.	FY2008 Resc.	FY2008 Total	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
Customs & Border Protection								
Salaries and expenses	6,803			6,803	7,309			
Automation modernization	477			477	511			
Air and Marine Operations	570			570	528			
Border Security Fencing, Infrastructure, and Technology	1,225			1,225	775			
Construction	348			348	364			
Fee accounts ^b	1,409 ^c			1,409 ^c	1,448			
Gross total	10,832			10,832	10,935			
Offsetting collections	-1,409			-1,409	-1,448			
Net total	9,423			9,423	9,487			
Immigration & Customs Enforcement								
Salaries and expenses	4,688			4,688	4,691			
Federal Protective Services (FPS)	613			613	616			
Automation & infrastructure modernization	31			31	57			
Construction	17			17	—			
Fee accounts ^d	234			234	312			
Gross total	5,581			5,581	5,676			
Offsetting FPS fees	-613			-613	-616			
Offsetting collections	-234			-234	-312			
Net total	4,735			4,735	4,748			
Transportation Security Administration								
Aviation security (gross funding)	4,809			4,809	5,290			
Surface Transportation Security	47			47	37			

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Operational Component	FY2008 Appropriation				FY2009 Appropriation			
	FY2008 Enacted ^a	FY2008 Supp.	FY2008 Resc.	FY2008 Total	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
Transportation Threat Assessment and Credentialing	83			83	133			
Credentialing Fees ^c	89			89	40			
Transportation Security Support	524			524	926			
Federal Air Marshals	770			770	—			
Aviation security capital fund ^f	250			250	676			
Checkpoint screening security fund	250			250	—			
Rescission	—			—	—			
Gross total	6,820			6,820	7,102			
Offsetting collections	-2,113			-2,113	-2,329			
Credentialing/Fee accounts	-89			-89	-40			
Aviation security capital fund (mandatory spending)	-250			-250	-676			
Checkpoint screening security fund	-250			-250	—			
Net total	4,118			4,118	4,057			
U.S. Coast Guard								
Operating expenses	6,001			6,001	6,213			
Environmental compliance & restoration	13			13	12			
Reserve training	127			127	131			
Acquisition, construction, & improvements	988 ^g			988	1,205			
Alteration of bridges	16			16	—			
Research, development, tests, & evaluation	25			25	16			
Retired pay (mandatory, entitlement)	1,185			1,185	1,237			
Health care fund contribution	272			272	257			
Gross total	8,627			8,627	9,071			
U.S. Secret Service								
Salaries and expenses	1,382			1,382	1,411			
Investigations and field operations	—			—	—			

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Operational Component	FY2008 Appropriation				FY2009 Appropriation			
	FY2008 Enacted ^a	FY2008 Supp.	FY2008 Resc.	FY2008 Total	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
Acquisition, construction, improvements, and related expenses	4			4	4			
Gross total	1,385			1,385	1,414			
Gross Budget Authority: Title II	33,245			33,245	34,199			
Offsetting collections:	-4,458			-4,958	-5,421			
Net Budget Authority: Title II	28,287			28,287	28,778			

Source: CRS Analysis of the DHS *FY2009 Congressional Budget Justifications*, and the FY2009 Budget-in-Brief.

Note: Tables may not add due to rounding.

- a. Column "FY2008 Enacted" includes emergency funding for DHS enacted by Division E of P.L. 110-161.
- b. Fees include COBRA, Land Border, Immigration Inspection, Immigration Enforcement, and Puerto Rico.
- c. The President's FY2009 Budget Request includes a re-estimate of the FY2008 fees.
- d. Fees include Exam, Student Exchange and Visitor Fee, Breached Bond, Immigration User, and Land Border.
- e. Fees include TWIC, HAZMAT, Registered Traveler, and Alien Flight School Checks.
- f. Aviation Security Capital Fund, used for installation of Explosive Detection Systems at airports.
- g. FY2008 request and House-passed H.R. 2638 include a proposed rescission of \$49 million. Senate-passed H.R. 2638 includes a proposed rescission of \$57 million of funds previously appropriated by P.L. 109-90 and P.L. 109-295. Division E of P.L. 110-161 includes a rescission of \$133 million in funds previously appropriated by P.L. 108-334, P.L. 109-90, and P.L. 109-295.

Customs and Border Protection (CBP)²⁶

CBP is responsible for security at and between ports-of-entry along the border. Since September 11, 2001, CBP's primary mission is to prevent the entry of terrorists and the instruments of terrorism. CBP's ongoing 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, now known as CBP Air and Marine (CBPAM); and the U.S. Border Patrol (USBP). See **Table 8** for account-level detail for all of the agencies in Title II, and **Table 9** for sub-account-level detail for CBP Salaries and Expenses (S&E) for FY2008 and FY2009.

President's FY2009 Request. The Administration requested an appropriation of \$10,935 million in gross budget authority for CBP for FY2009, amounting to an \$103 million, or 1%, increase over the enacted FY2008 level of \$10,832 million. The Administration requested \$9,847 million in net budget authority for CBP in FY2009, which amounts to a \$424 million, or 4%, increase over the net FY2008 appropriation of \$9,423 million.

Table 9. CBP S&E Sub-account Detail
(budget authority in millions of dollars)

Activity	FY2008 Enacted ^a	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
Headquarters Management and Administration	1,221	1,267			
Border Security Inspections and Trade Facilitation @ POE	2,279	2,273			
Inspections, Trade & Travel Facilitation @ POE	1,854	1,835			
Container Security Initiative (CSI)/ International Cargo Screening (ICS)	156	149			
Other International Programs	11	11			
C-TPAT	62	64			
FAST/NEXUS/SENTRI	11	11			
Inspection and Detection Technology	105	117			
Systems for Targeting	28	33			
National Targeting Center	24	24			

²⁶ Prepared by Jennifer E. Lake and Blas Nuñez-Neto, Analysts in Domestic Security, Domestic Social Policy Division.

Activity	FY2008 Enacted ^a	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
Training at POE	25	25			
Harbor Maintenance Fee	3	3			
Border Security and Control Between POE	3,075	3,515			
Border Security and Control Between POE	3,022	3,441			
Training Between the POE	53	75			
Air and Marine Operations - Salaries	227	254			
CBP Salaries and Expenses Total:	6,803	7,309			

Source: CRS Analysis of the DHS *FY2009 Congressional Budget Justifications*, and the FY2009 Budget-in-Brief.

Note: Tables may not add due to rounding.

a. Column “FY2008 Enacted” includes emergency funding for DHS enacted by Division E of P.L. 110-161.

Issues for Congress. Issues that may be of interest to Congress during the FY2009 appropriations cycle include funding for and deployment of the border fence and the Secure Border Initiative (SBI); Border Patrol hiring and staffing levels; the Western Hemisphere Travel Initiative (WHTI); the designation of CBP Officers as law enforcement officers for retirement purposes; and the declining request for appropriations for some cargo security initiatives.

Fencing, Infrastructure, and Technology. The Administration requested \$775 million for the deployment of SBInet²⁷ related technologies and infrastructures in FY2009, a decrease of \$450 million over the FY2008 enacted level of \$1,225 million.²⁸ Within the FY2009 request, the Administration is proposing to allocate \$275 million for developing and deploying additional technology and infrastructure solutions to the southwest border. An additional \$410 million is requested for operations and maintenance of the cameras, sensors, and fencing that will have been

²⁷ SBInet is the technological and infrastructure component of the Secure Border Initiative (SBI), a multifaceted approach to securing the border. In its FY2007 budget submission, DHS asserted that it had “developed a three-pillar approach under the SBI that will focus on controlling the border, building a robust interior enforcement program, and establishing a Temporary Worker Program.” *DHS FY2007 Justification*, p. CBP S&E 4.

²⁸ The FY2008 total enacted appropriation of for SBInet was \$1,225 million; this total included an emergency appropriation of \$1,053 million. However this may be somewhat misleading because the FY2008 request for the account, which had been fully funded by both the House and Senate Committees on Appropriation, was \$1,000 million. The amount of additional funding (above the request) provided in FY2008 was thus \$225 million and not \$1,053 million.

constructed by the end of calendar year 2008 with prior-year funding.²⁹ The Administration notes that this funding will cover the costs associated with operating and maintaining the technologies that have been deployed to the border as part of the SBInet program as well as the 370 miles of fencing and 300 miles of vehicle barriers, which are scheduled to be completed by the end of calendar year 2008 with funding appropriated in FY2007 and FY2008. Recent Government Accountability Office (GAO) testimony noted that CBP's goal for fencing and vehicle barrier deployment in 2008 "will be challenging because of factors that include difficulties acquiring rights to border land and an inability to estimate costs for installation."³⁰ GAO also noted that the Border Patrol was not consulted early enough in the process of developing the technology solutions that would be used by SBInet, and that this fact, combined with some challenges relating to the integration of the technologies deployed by Boeing, led to an eight-month delay in the initial pilot program's deployment in the Tucson Sector.³¹ Oversight of the SBInet program's continuing deployment of technology, fencing, and infrastructure at the border, including whether DHS is on track to meet its goals for fencing and vehicle barriers at the border, will likely be an issue of concern to Congress as it considers the FY2009 request.

Hiring U.S. Border Patrol (USBP) Agents. The Administration requested an increase of \$363 million to hire 2,200 new USBP agents in order to bring the total number of agents to 20,019 by the end of FY2009.³² CBP is also proposing to transfer "up to" 440 veteran agents to the northern border in FY2009. This is the first time that DHS' budget request has complied with the P.L. 108-458 mandate requiring DHS to augment the northern border staffing by 20% of any annual increases to the USBP workforce each year between FY2006 and FY2010. A potential issue for Congress may involve whether incentives should be offered to help DHS recruit additional agents or keep existing agents from leaving the agency; in FY2007 the USBP experienced a 10% attrition rate.³³

Western Hemisphere Travel Initiative (WHTI). The Administration requested an increase of \$107 million for CBP to continue the implementation of WHTI. WHTI will require U.S. citizens, and Canadian, Mexican, and some island nation nationals to present a passport, or some other document or combination of documents deemed sufficient to denote identity and citizenship status by the Secretary of Homeland Security, as per P.L. 108-458 §7209. DHS has already required all U.S. citizens entering the country at air and sea POE to present passports as of January 18, 2007. P.L. 110-161, the Consolidated Appropriations Act, 2008,

²⁹ *DHS FY2009 Justification*, p. CBP BSFIT 11.

³⁰ Testimony of GAO Director of Homeland Security and Justice Issues Richard Stana, in U.S. Congress, Committee on Appropriations, Subcommittee on Homeland Security, *DHS Has Taken Actions to Strengthen Border Security Programs and Operations, But Challenges Remain*, 110th Cong., 2nd Sess., March 6, 2009. Hereafter referred to as *GAO Border Security Testimony*.

³¹ *GAO Border Security Testimony*.

³² *DHS FY2008 Justification*, p. CBP S&E 49.

³³ From CBP Congressional Affairs, December 18, 2007.

prohibited DHS from implementing WHTI, which requires U.S. citizens to provide proof of identity and citizenship at the land border, before the *later* of the following two dates: June 1, 2009, or three months after the Secretaries of State and Homeland Security certify that a series of implementation requirements have been met. Despite this legislation, as of January 31, 2008 DHS has ended the practice of accepting oral declarations of citizenship at the land border and is requiring U.S. citizens to present a passport, some other accepted biometric document, or the combination of a driver's license and a birth certificate, in order to re-enter the country. As of June 1, 2009, DHS will require U.S. citizens to present an approved document that denotes both identity and citizenship, including passport books, passport cards, frequent traveler cards, or certain enhanced state driver's licenses, in order to enter the country at the land border. The FY2009 request for WHTI will include funding to hire 89 CBP officers and to deploy radio frequency technologies to the 39 busiest land POE which cover 95% of the incoming traffic at the land border, including "facility modifications and the build out of primary lanes as operationally necessary."³⁴ Possible issues for Congress may include whether DHS's implementation of new documentary requirements conflicts with the extension enacted by P.L. 110-161, whether the proposed staffing increases and infrastructure modifications are adequate to meet the needs associated with the WHTI program, and whether the program to develop enhanced state driver's licenses that may be used to cross the land-border adequately addresses security concerns.³⁵

Covered Law Enforcement Officer Status for CBP Officers. The 110th Congress addressed concerns that CBP was losing valuable officers to other agencies due to disparities in retirement pay in FY2008 by extending federal law enforcement officer status to CBP officers for retirement purposes in P.L. 110-161. The FY2009 request would retract the law enforcement officer status that was enacted in FY2008. During testimony given before the House Committee on Appropriations, CBP Commissioner Basham noted that: "I cannot think of one thing in my 37 years in law enforcement that has been more positive for the people, the men and women out there at our ports of entry, than what you have done by recognizing them as law enforcement officers."³⁶ Given the concerns that led to the measure's enactment in FY2008 and its support within CBP, DHS' proposal to retract this status may be an issue of concern to Congress in FY2009.

Secure Freight Initiative (SFI). The Secure Freight Initiative (SFI) is the next stage in the Department's effort to secure cargo containers in-bound to the U.S. from foreign countries. According to DHS, SFI is now being characterized as a

³⁴ *DHS FY2009 Congressional Budget Justifications*, p. CBP S&E 4.

³⁵ DHS entered into an agreement to with Washington State to develop driver's licenses that would be considered WHTI-compliant. These enhanced driver's licenses (EDL) have been issued as of January 22, 2008 and several other states have expressed interest in developing their own EDLs.

³⁶ Testimony of CBP Commissioner Ralph Basham, in U.S. Congress, House Committee on Appropriations, Subcommittee on Homeland Security, *Hearing on Border Security Programs and Operations*, 110th Congress, 2nd Sess, March 6, 2008.

“three-pronged approach to enhance supply chain security.”³⁷ The three prongs of this approach are: the International Container Security project (ICS), the Security Filing (SF); and the Global Trade Exchange (GTX). The ICS is the component of the strategy whereby *all* U.S.-bound maritime containers are subject to an integrated scan (image and radiation detection) at the participating overseas port *before* being loaded on the U.S.-bound vessel. ICS is currently in operation at ports in the United Kingdom, Pakistan, and Honduras. According to DHS, operating the ICS at these ports fulfills the requirements set out in P.L. 109-347, the Safe Port Act of 2006. The SF initiative, also referred to as “10+2” by Customs and Border Protection (CBP), is the latest effort to collect additional data pertaining to U.S.-bound maritime shipments. The SF will allow CBP to collect additional data earlier in the supply chain to enhance risk assessment capabilities before cargo is loaded onto U.S.-bound vessels. CBP recently issued a Notice of Proposed Rulemaking (NPRM) on the SF.³⁸ The Global Trade Exchange (GTX) is being proposed as a “private sector owned and operated ... new business model for collecting and fusing disparate international cargo data, providing governments and other parties with greater visibility into that data.”³⁹

Congress may wish to explore why no additional funds were requested for SFI/ICS for FY2009 when one of the goals for the fiscal year is to expand the program to at least one additional port and to add more capacity at other designated ports. CBP Congressional Budget Justification materials, in fact, indicate that the \$149 million request for ICS in FY2009 includes an \$11 million *reduction* for Secure Freight.⁴⁰ It is unclear from the budget materials what this reduction represents. Congress may wish to explore what this reduction consists of, and what potential impacts the reduction will have on the SFI program.

Additionally, In FY2008 CBP listed as one of its goals the issuing of a Request for Quotation (RFQ) regarding GTX, the reviewing of these bids, and the development of a pilot GTX program. In FY2009, given that the GTX is being characterized by CBP and DHS as “private sector owned and operated,” Congress may wish to explore the details of the RFQ, what the pilot program will look like, and its goals.

It is important to note that CBP is currently describing the Secure Freight Initiative (SFI) as the next phase/iteration or future of the Container Security Initiative (CSI). CSI may also be referred to as a component of the International Container Security (ICS) project. The ICS, as noted above, is the new umbrella name for CBP’s international cargo security initiatives, which also includes CSI and SFI.

³⁷ DHS, *FY2009 Congressional Budget Justifications*, p. CBP-SE-26.

³⁸ See, CBP, “Customs issues Proposed Rule Requiring Additional Cargo Information,” at [http://www.cbp.gov/xp/cgov/newsroom/news_releases/archives/2008_news_releases/jan_2008/01022008.xml],

³⁹ *Ibid.* p. CBP-S&E-27.

⁴⁰ DHS, *FY2009 Congressional Budget Justification*, CBP-S&E-24, accessed at [http://www.dhs.gov/xlibrary/assets/budget_fy2009.pdf].

Container Security Initiative (CSI). CSI is a program by which CBP stations CBP officers in foreign ports to target high-risk containers for inspection before they are loaded on U.S.-bound ships. CSI is operational in 58 ports as of September, 2007. As noted above, the CBP Budget Justifications indicate a requested decrease of nearly \$7 million for the CSI/ICS program for FY2009. This year, the requested \$149 million for FY2009 includes funding for CSI/ICS, SFI, the Security Filing (SF), and the proposed Global Trade Exchange(GTX). Given that the request includes less funding for several programs, than has been appropriated for CSI alone in the past couple of years, this indicates a decline in requested funding for CSI. An issue for Congress might concern the reasoning behind the Administration's proposal to apparently decrease funding for CSI. Additionally, Congress may wish to explore why no additional funding was requested for the CSI/ICS given that DHS anticipates expanding CSI/ICS in FY2009 by deploying ICS at one additional site and expanding capacity at other designated ports.

Immigration and Customs Enforcement (ICE)⁴¹

ICE focuses on enforcement of immigration and customs laws within the United States. ICE develops intelligence to reduce illegal entry into the United States and is responsible for investigating and enforcing violations of the immigration laws (e.g., alien smuggling, hiring unauthorized alien workers). ICE is also responsible for locating and removing aliens who have overstayed their visas, entered illegally, or have become deportable. In addition, ICE develops intelligence to combat terrorist financing and money laundering, and to enforce export laws against smuggling, fraud, forced labor, trade agreement noncompliance, and vehicle and cargo theft. Furthermore, this bureau oversees the building security activities of the Federal Protective Service, formerly of the General Services Administration. The Federal Air Marshals Service (FAMS)⁴² was returned from ICE to TSA pursuant to the reorganization proposal of July 13, 2005. The Office of Air and Marine Interdiction was transferred from ICE to CBP in FY2005, and therefore the totals for ICE do not include Air and Marine Interdiction funding, which is included under CBP. See **Table 8** for account-level detail for all of the agencies in Title II, and **Table 10** for sub-account-level detail for ICE Salaries and Expenses (S&E) for FY2008 and FY2009.

President's FY2009 Request. The Administration requested \$5,676 million in gross budget authority for ICE in FY2009. This represented a 2% increase over the enacted FY2008 level of \$5,581 million. The Administration requested an appropriation of \$4,748 million in net budget authority for ICE in FY2009, representing a small increase over the FY2008 enacted level (including Division E of P.L. 110-161) of \$4,735 million. Notably, Division E of P.L. 110-161 included an appropriation of \$200 million for the comprehensive identification and removal of criminal aliens, which is not included in the FY2009 budget request. **Table 10** provides activity-level detail for the Salaries and Expenses account. The request included the following program increases:

⁴¹ Prepared by Alison Siskin, Specialist in Immigration Legislation, Domestic Social Policy Division.

⁴² FAMS transferred to ICE from TSA in August of 2003.

- \$46 million (39 FTE) for 725 additional detention beds and support personnel;⁴³
- \$12 million (36 FTE) for investigations related to national security and critical infrastructure;
- \$12 million for 287(g) agreements;
- \$12 million to co-locate ICE facilities (i.e., consolidating ICE offices in cities where ICE occupies more than one location);
- \$7 million (19 FTE) for the Office of Professional Responsibility to investigate allegations of criminal and serious misconduct involving ICE employees;
- \$6 million (20 FTE) for the Office of Cyber Crimes Center to increase investigations of cyber crimes related to document fraud, child exploitation, and money laundering;
- \$5 million (14 FTE) for additional positions in the Commercial Fraud, Intellectual Property Rights, and Trade Transparency Units to combat crimes such as trafficking in counterfeit merchandise and pharmaceuticals;
- \$3 million for new Visa Security Units in Istanbul, Turkey and Beirut, Lebanon;
- \$2 million (14 FTE) to consolidate and coordinate ICE training and oversight activities; and
- \$1 million to increase outbound enforcement to prevent arms and strategic technologies from leaving the United States.

Table 10. ICE S&E Sub-account Detail
(budget authority in millions of dollars)

Activity	FY2008 Enacted ^a	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
HQ & Administration	316	0			
Legal Proceeding	208	241			
Investigations - Domestic	1,422	1,679			
Investigations - International	108	128			
Investigations Total	1,530	1,807			
Intelligence	52	62			
DRO-Custody Operations	1,647	1,789			
DRO-Fugitive Operations	219	238			
DRO-Criminal Alien Program	179	204			
DRO-Alternatives to Detention	54	58			
DRO Transportation and Removal Program	282	290			

⁴³ According to the President's request, DHS would also fund 275 new beds through the breach bond fund.

Activity	FY2008 Enacted ^a	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
DRO Total	2,381	2,579			
Comprehensive Identification and Removal of Criminal Aliens	200	0			
ICE Salaries and Expenses	4,688	4,691			

Sources: CRS Analysis of the DHS *FY2009 Congressional Budget Justifications*, and the FY2009 Budget-in-Brief.

Note: Tables may not add due to rounding.

a. Column “FY2008 Enacted” includes emergency funding for DHS enacted by Division E of P.L. 110-161.

Issues for Congress. ICE is responsible for many divergent activities due to the breadth of the civil and criminal violations of law that fall under ICE’s jurisdiction. As a result, how ICE resources are allocated in order to best achieve its mission is a continuous issue. In addition, part of ICE’s mission includes locating and removing deportable aliens, which involves determining the appropriate amount of detention space as well as which aliens should be detained. Additionally, in recent years there has been debate concerning the extent to which state and local law enforcement should aid ICE with the identification, detention, and removal of deportable aliens.

Office of Investigations/Immigration Functions. The Office of Investigations (OI) in ICE focuses on a broad array of criminal and civil violations 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. 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 may be 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.⁴⁴ The President’s budget requested \$1,807 million total for OI for FY2009.

Detention and Removal Operations. Detention and Removal Operations (DRO) in ICE provide custody management of the aliens who are in removal

⁴⁴ Based on CRS discussions with ICE personnel in New York City, August 27, 2003.

proceedings or who have been ordered removed from the United States.⁴⁵ 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, whereas only 11% of those not detained, who were issued final orders of removal, left the country.⁴⁶ Concerns have been raised that decisions regarding which aliens to release and when to release them may be based on the amount of detention space, not on the merits of individual cases, and that 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 requested a total of \$2,579 million for DRO including an additional \$46 million for 725 detention beds and support personnel.⁴⁷

State and Local Law Enforcement⁴⁸. 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 state and local law enforcement officers to perform the functions 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. 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. The President's budget request included an increase of \$12 million for these agreements.

Federal Protective Service.⁴⁹ The Federal Protective Service (FPS), within ICE, is responsible for the protection and security of federally owned and leased

⁴⁵ 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.

⁴⁶ Department of Justice, Office of the Inspector General, *The Immigration and Naturalization Service's Removal of Aliens Issued Final Orders*, Report I-2003-004, February 2003.

⁴⁷ In addition, DHS would also fund 275 beds through the breach bond fund, increasing the total bed space by 1,000 to 33,000 beds.

⁴⁸ This section adapted from CRS Report RL32270, *Enforcing Immigration Law: The Role of State and Local Law Enforcement*, by Blas Nuñez-Neto, Michael John Garcia, and Karma Ester.

⁴⁹ This section authored by Shawn Reese, Government and Finance Division.

buildings, property, and personnel. It has two primary missions — basic security and building specific security. Basic security functions include daily monitoring of federal building entry and exit points; building specific security includes investigating specific threats to a federal facility or building. In general, FPS focuses on law enforcement and protection of federal facilities from criminal and terrorist threats.

In FY2007, the Administration made the following changes to FPS:

- transitioning to a new mission by realigning its workforce;
- improving the strategic methods used to identify and reduce real and perceived threats;
- continuing its intelligence and information sharing, hazardous materials response, and protective services; and
- strengthening security standards to reduce threat and vulnerability levels at federal facilities.⁵⁰

However, a newly released Government Accountability Office(GAO) report states that the FY2007 changes have resulted in the FPS not providing proactive patrols in and around many federal facilities, and that there is a greater reliance on local law enforcement.⁵¹ The report also states that at the end of FY2007, FPS had approximately 215 police officers, 541 inspectors, and about 15,000 contract guards to protect federal employees and facilities. These totals included a 20% reduction in police officers and inspectors from FY2004 levels.⁵² Because of the reduction in police officers, GAO states that the FPS may have difficulty determining how to allocate its limited resources effectively.⁵³ Additionally, the report states that some FPS officials are concerned about security guard contract oversight, and that it is unclear if local police have the authority to respond to an incident inside federal facilities.⁵⁴

In FY2008, the Administration expects to:

- improve methods used to identify and reduce real and perceived threats to federal facilities;
- continue intelligence and information sharing;
- provide law enforcement and security services at National Special Security Events (NSSE); and

⁵⁰ U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, Federal Protective Service, “Fiscal Year 2008 Congressional Justification,” p. 6.

⁵¹ U.S. Government Accountability Office, *Homeland Security: Preliminary Observations on the Federal Protective Service’s Efforts to Protect Federal Property* (Washington: February 2008), p. 2.

⁵² *Ibid.*, p. 3.

⁵³ *Ibid.*, p. 8.

⁵⁴ *Ibid.* pp. 13-14.

- strengthen federal facility security standards.⁵⁵

Finally, in FY2009, the Administration intends for the FPS to:

- provide law enforcement and security services at National Special Security Events (NSSE);
- complete risk-based security standards aligned with intelligence;
- continue federal facility security assessments;
- continue to monitor federal agency compliance with security standards;
- improve contract security guard management; and
- continue to strengthen business processes and the Service.⁵⁶

Transportation Security Administration (TSA)⁵⁷

The TSA was created by the Aviation and Transportation Security Act (ATSA, P.L. 107-71), and it was charged with protecting air, land, and rail transportation systems within the United States to ensure the 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). The 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. The TSA also has certain responsibilities for marine and land modes of transportation including assessing the risk of terrorist attacks to all non-aviation transportation assets, including seaports; issuing regulations to improve security; and enforcing these regulations to ensure the protection of these transportation systems. TSA is further charged with serving as the primary liaison for transportation security to the law enforcement and intelligence communities. See **Table 8** for account-level detail for all of the agencies in Title II, and **Table 11** for sub-account-level detail for TSA for FY2008 enacted levels and supplemental appropriations and FY2009 amounts specified in the President's request, the House and Senate bills.

President's FY2009 Request. The President's requested funding level for the TSA in FY2009, totaling \$7,102 million, comprises about 14% of the DHS gross budget authority. The President's FY2009 request estimates receipts totaling \$2,369 million in offsetting collections, mostly through the collection of passenger security fees and security fees paid by the airlines. These estimated offsetting collections for FY2009 are \$216 million over FY2008 projected levels, yielding a net total requested amount for TSA of \$4,057 million, to be paid for out of the Treasury General Fund.

⁵⁵ U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, Federal Protective Service, "Fiscal Year 2009 Congressional Justification," p. 5.

⁵⁶ Ibid.

⁵⁷ Prepared by Bart Elias, Specialist in Aviation Safety, Security, and Technology, Resources, Science, and Industry Division.

New funding initiatives include an additional \$426 million to the Aviation Security Capital Fund (ASCF) for explosives detection equipment purchase and installation. Proposed discretionary funding for the purchase and installation of Explosive Detection Systems (EDS) and Explosive Trace Detection (ETD) equipment would be reduced by \$140 million compared to FY2008 levels, however this reduction would be more than offset by the proposed increase to the ASCF. A proposed increase of \$47 million for Screening Technology (Maintenance and Utilities) reflects increasing costs of checked baggage and checkpoint screening equipment maintenance as these systems age and approach their useful service life. Also, a funding increase of \$32 million is proposed for the Secure Flight program. The Checkpoint Screening Security Fund — a one-time mandatory funding vehicle that provided \$250 million in FY2008 for checkpoint screening technologies — would be replaced by a requested appropriation of \$128 million for Checkpoint Support. The President's FY2009 request provides for 800 additional full-time equivalent (FTE) Transportation Security Officers (TSOs) and other aviation security job functions. These additional slots would mainly be filled by more Behavioral Detection Officers (BDOs, 330 additional FTEs) and additional screeners to conduct random screening of airport workers.

The President's FY2009 request includes a proposal to realign several TSA programs. Most notably, the request proposes to place the Federal Air Marshal Service (FAMS) under the Aviation Security account, rather than maintaining it as a separate entity. The budget also seeks to realign several regulatory functions, including air cargo security, under the Aviation Regulation program, and several law enforcement programs, including airport law enforcement support; canine teams; Visible Intermodal Protective Response (VIPR) teams; and Federal Flight Deck Officers (FFDOs), under the Law Enforcement program. The proposal also seeks to establish a single Human Resource Services within the Aviation Security account, to support both field and headquarters staff. Also, the request proposes that information technology and support for Aviation Security be realigned with the Information Technology function housed within the Transportation Security Support account.

Table 11. TSA Gross Budget Authority, by Budget Activity
(budget authority in millions of dollars)

Budget Activity	FY2008 Enacted ^a	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
Aviation Security	4,809	5,290			
Screening Partnership Program (SPP)	143	151			
Passenger & Baggage Screening (PC&B)	2,636	2,716			
Screener Training & Other	224	197			
Human Resource Services	182	—			
Checkpoint Support	—	128			
EDS/ETD Purchase/Installation	294	154			
Screening Technology	264	311			
Operation Integration	25	21			
Aviation Regulation (and Other Enforcement)	256	210			
Airport Management, IT, and Support	652	373			
FFDO & Crew Training	25	—			
Air Cargo Security	73	—			
Federal Air Marshals Service	— ^b	786			
Law Enforcement	—	242			
Airport Perimeter Security	4	—			
Implementing P.L. 110-53	30	—			
Aviation Security Capital Fund	250	676			
Checkpoint Screening Security Fund	250	—			
Federal Air Marshal Service	770	—^b			
Management and Administration	674	—			
Travel and Training	95	—			
Threat Assessment and Credentialing (TTAC)	83	133			
Secure Flight	50	82			
Crew Vetting	15	—			
Other/ TTAC Admin. & Ops.	10	51			

Budget Activity	FY2008 Enacted ^a	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
TWIC Appropriation	8	—			
Credentialing Fees	89	40			
Registered Traveler Program	4	10			
TWIC	64	9			
Alien Flight School	3	3			
HAZMAT Commercial Driver	18	18			
Surface Transportation Security	47	37			
Operations and Staffing	24	25			
Security Inspectors	22	11			
Transportation Security Support	524	926			
Intelligence	21	22			
Headquarters Administration	293	213			
Human Capital Services	—	218			
Information Technology	209	473			
Rescission of Prior Year Funds	-5	—			
TSA Total	6,815	7,102			

Source: CRS Analysis of the DHS *FY2009 Congressional Budget Justifications*, and the FY2009 Budget-in-Brief.

Notes: Subtotals do not sum to functional area totals and TSA total due to rounding. PC&B: Personnel Compensation and Benefits; EDS: Explosive Detection Systems; ETD: Explosive Trace Detection equipment; IT: Information Technology; FFDO: Federal Flight Deck Officer program; TWIC: Transportation Worker Identification Credential; HAZMAT: Hazardous Materials.

- a. Column “FY2008 Enacted” includes emergency funding for DHS enacted by Division E of P.L. 110-161.
- b. The President’s FY2009 request contains a proposal to place FAMS under the Aviation Security Account rather than maintaining it as a separate entity.

TSA Issues for Congress. Issues that may arise during congressional appropriations debate may include the passenger security fee surcharge proposal, the adequacy of checkpoint technology investment, and the appropriateness of proposed program realignments.

Passenger Security Fee Surcharge. The Administration has requested a four-year temporary passenger surcharge beginning in FY2009 of \$0.50 per flight, not to exceed \$1.00 per one-way trip, in addition to the current passenger security

fees of \$2.50 per flight with a cap of \$5.00 per one-way trip. Under the proposal, these additional fees would be deposited in the Aviation Security Capital Fund (ASCF). The surcharge is intended to offset the \$426 million in new budget authority for the Aviation Security Capital Fund that the Administration is seeking. These funds would be used to finance the acquisition and installation of checked baggage explosives detection equipment. The Administration regards this new budget authority it is seeking as being subject to PAYGO rules, and it has recommended the collection of the passenger security fee surcharge as an offsetting collection.

If the increased budget authority for the ASCF is subject to PAYGO rules, as the Administration maintains, then questions regarding the need for, and possibly the adequacy of, the proposed \$0.50 surcharge may be raised during congressional appropriations debate. The Administration projects an increase of \$216 million in offsetting security fee collections in FY2009 compared to FY2008, and it is requesting additional budget authority totaling \$426 million for the ASCF. Current authorization for the ASCF consists of a mandatory appropriation of \$250 million derived solely from passenger security fee collections. In addition, the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53) authorizes an additional \$450 million annually through FY2011 for these same purposes, but as a discretionary appropriation and not through the ASCF. Congress may debate whether the direct appropriation is a preferable alternative to supplementing the ASCF as the Administration proposes. Congress may also debate whether the \$0.50 surcharge is adequate to offset the proposed ASCF funding increase, particularly if economic conditions were to worsen and lead to a slowdown in passenger volume and lower-than-expected security fee revenue.

Checkpoint Technology Investment and Deployment. At the President's requested funding level, the TSA anticipates deploying advanced technology (AT) x-ray systems at 60% of checkpoints at Category X and Category I airports, whole-body imaging (WBI) systems at 15% of checkpoints at such airports, bottle liquids scanners at 65% of checkpoints at such airports, and cast and prosthesis screening systems at 25% of checkpoints at such airports. Additionally, the TSA intends to fund the deployment of additional video cameras and electronic surveillance monitoring systems at checkpoints, and devote \$13.5 million to mitigating various safety hazards at passenger and baggage screening areas.

Congress may question whether the \$128 million requested for Checkpoint Support will be adequate to address advanced screening technology initiatives throughout the aviation system along with these other competing efforts. This may be an area of particular interest given that last year Congress provided \$250 million for advanced checkpoint technologies through the creation of the Checkpoint Screening Security Fund. As many of these advanced checkpoint screening technologies are now moving beyond the pilot testing phase to full-scale operational deployment, Congress may seek to more closely examine and reevaluate the TSA's existing checkpoint screening technology plan in light of what is now known about the capabilities and limitations of these various technologies as well as the current risk environment. Congress may debate whether the deployment strategy should be modified to either accelerate, or perhaps even scale back, the fielding of various advanced checkpoint screening technologies.

Program Consolidation Proposals. Congress may debate the realignment of functions as proposed in the President's budget request. Most notably, placing air cargo security — which has been a priority issue for legislation and appropriations over the past five year — within the Aviation Regulation function may be of particular concern. Critics may argue that air cargo security should remain a separate function because of its unique characteristics and in recognition of statutory requirements to screen 50% of all cargo placed on passenger aircraft by February 2009 and 100% of such cargo by August of 2010 (see P. L. 110-53, Sec. 1602).

While the TSA's budget justification contends that aligning air cargo security under Aviation Regulation would emphasize the regulatory aspects of the program and provide greater flexibility in assigning regulatory inspectors to air cargo details, these air cargo screening mandates arguably suggest a broader scope to the overall air cargo program. The TSA has maintained that its roles and responsibilities in meeting these statutory requirements will largely be met through promulgating regulations and conducting stepped-up regulatory oversight to ensure air carrier, freight forwarder, and shipper compliance with screening requirements and other security regulations. However, some in Congress view the TSA's role as being much larger, including testing and evaluating screening technologies, the acquisition and deployment of such equipment, and the training and deployment of canine teams to assist in cargo screening operations. The TSA has indicated that it intends to significantly expand canine team involvement in air cargo screening, making these teams available for air cargo screening 42.5% of the time by FY2009 compared to the current availability level of 25%. Since a formal plan for meeting statutory cargo screening requirements has not yet been presented by the TSA, viewing the TSA role in air cargo security and screening as a regulatory function may arguably be taking an overly narrow perspective (see CRS Report RL34390, *Aviation Security: Background and Policy Options for Screening and Securing Air Cargo*, by Bart Elias).

Other proposed realignment options may not be as seemingly controversial, but may nonetheless raise questions during congressional debate. The proposed alignment of the Federal Air Marshal Service (FAMS) into the Aviation Security function may allow better integration of FAMS operations with screening operations and may provide more streamlined career advancement opportunities for screeners to enter FAMS, as the TSA budget justification argues. However, some may question why FAMS, the largest law enforcement unit within the TSA, is not instead aligned with the Law Enforcement program, which could potentially provide better integration with other law enforcement functions, including airport law enforcement presence and the FFDO program.

Secure Flight. The President's request proposes a funding increase of \$32 million for the Secure Flight program in order to achieve initial operational deployment in the second quarter of FY2009, with a goal of fully implementing Secure Flight in early FY2010. This long-delayed and highly controversial initiative to develop a system for government prescreening of airline passengers against terrorist watchlists remains an issue. Prior appropriations acts, including the FY2008 Consolidated Appropriations Act (P.L. 110-161), have imposed restrictions on deploying Secure Flight or any other follow-on prescreening system until the DHS certifies, and the GAO reports to Congress, that specific issues regarding privacy

protection, data security and integrity, and redress procedures have been adequately addressed. The Administration has long maintained that this requirement for GAO review and certification of the Secure Flight system constitutes a “legislative veto” of Administration decisions and actions and therefore, in the Administration’s view, violates the constitutional framework of separation of powers.

United States Coast Guard⁵⁸

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

President’s FY2009 Request. For FY2009, the President requested a total of \$9,071 million for the Coast Guard, which accounts for about 19% of DHS’s requested budget. The President requested \$6,213 million for operating expenses (an increase of 4% over FY2008), \$1,205 million for acquisition, construction, and improvements (an increase of 22% over FY2008), \$131 million for reserve training (an increase of 3% over FY2008), \$16 million for research, development, tests, and evaluation (a decrease of 36% from FY2008), \$12 million for environmental compliance and restoration (a decrease of 8% from FY2008), and zero funding for the bridge alteration program. **Table 12** provides more detail regarding the Coast Guard’s Operating Expenses (OE) account and its Acquisition, Construction, and Improvements (ACI) account.

**Table 12. Coast Guard Operating (OE) and Acquisition (ACI)
Sub-account Detail**

(budget authority in millions of dollars)

	FY2008 Enacted ^a	FY2009 Request	FY2009 House- Passed	FY2009 Senate- Passed	FY2009 Enacted
Operating Expenses	6,001	6,213			
Military pay and allowances	2,939	3,077			
Civilian pay and benefits	604	693			
Training and recruiting	189	196			

⁵⁸ Prepared by John Frittelli, Specialist in Transportation, Resources, Science and Industry Division.

	FY2008 Enacted ^a	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
Operating funds and unit level maintenance	1,164	1,170			
Centrally managed accounts	233	263			
Intermediate and depot level maintenance	762	815			
DOD Transfer	110	—			
Acquisition, Construction, and Improvements	988	1,205			
Vessels and Critical Infrastructure	40	69			
Aircraft	—	—			
Other Equipment	173	95			
Integrated Deepwater System	651	990			
Shore facilities and Aids to Navigation	41	50			
Personnel and Related Support	83	1			

Source: CRS Analysis of the DHS *FY2009 Congressional Budget Justifications*, and the FY2009 Budget-in-Brief.

Note: Tables may not add due to rounding.

a. Column “FY2008 Enacted: includes emergency funding for DHS enacted by Division E of P.L. 110-161.

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. Members of Congress have expressed concern with how the agency is operationally responding to these demands, including Coast Guard plans to replace many of its aging vessels and aircraft.

Deepwater. The Deepwater program is a \$24 billion, 25-year acquisition program to replace or modernize 91 cutters, 124 small surface craft, and 244 aircraft. The Coast Guard’s management and execution of the program has been strongly criticized and several hearings were held on the program in 2007. The GAO and DHS IG have been very active in reviewing Deepwater and in 2007 the Coast Guard decided to phase out an outside system integrator (a team led by Lockheed Martin and Northrup Grumman) to execute the program. For FY2009, the President requests \$990 million for the program (to be made available through the end of FY2013) which includes \$541 million for vessels and \$231 million for aircraft. The FY2009 request includes \$9 million to add 65 new positions for the new Acquisition

Directorate that will be responsible for major acquisition projects; most notably the Deepwater program. For FY2008 (P.L. 110-161), Congress appropriated \$651 million for Deepwater which included rescissions for unmanned aerial vehicles and offshore patrol cutters and was \$137 million less than the President requested. Last fiscal year, Congress called for a detailed program expenditure plan from the Coast Guard, and requested that the GAO review the plan. Issues for Congress include the Coast Guard's management of the program, which is the largest and most complex acquisition effort in Coast Guard history, the overall cost of the program, and the program's time-line for acquisition. These issues are discussed in CRS Report RL33753, *Coast Guard Deepwater Program: Background, Oversight Issues, and Options for Congress*, by Ronald O'Rourke.

Security Mission. Some Members of Congress have expressed strong concerns that the Coast Guard does not have enough resources to carry out its homeland security mission. A GAO audit raised this concern with respect to the security of energy tankers,⁵⁹ and at a Senate hearing the GAO testified that Coast Guard resources were being challenged by a number of security requirements.⁶⁰ About 28% of the Coast Guard's FY2009 budget request is for its "port, waterways, and coastal security" (PWCS) mission.⁶¹ The DHS Inspector General reports that the resource hours devoted to the PWCS mission has increased by a factor of 13 compared to pre-9/11 levels and that in FY2005 (the most recent year data is available), the PWCS mission consumed almost as many resources as all of its non-homeland security missions combined.⁶²

For monitoring harbor traffic, the President's FY2009 request includes \$26 million to continue deployment of a nationwide system to detect, identify, track, and communicate with ships in U.S. harbors, called the Automatic Identification System (AIS). This system is currently able to track ships, but not to communicate with them, in 55 ports and nine coastal waterways.⁶³ Tracking receivers are installed on land as well as on sea buoys, aircraft, and satellites. The FY2009 funding request is for extending tracking capability out to 50 nautical miles from shore and being able to communicate with ships out to 24 nautical miles from shore for Coast Guard

⁵⁹ GAO, *Maritime Security: Federal Efforts Needed to Address Challenges in Preventing and Responding to Terrorist Attacks on Energy Commodity Tankers*, GAO-08-141, December 2007.

⁶⁰ GAO, *Coast Guard: Deepwater Program Management Initiatives and Key Homeland Security Missions*, March 5, 2008, GAO-08-531T, see specifically pp. 12-16.

⁶¹ *DHS Budget in Brief*, p. 58.

⁶² DHS, Office of Inspector General, *Annual Review of Mission Performance: United States Coast Guard (FY2005)*, OIG-06-50, July 2006. "Resource hours" is measured by the number of flight hours (for aircraft) and underway hours (for vessels) dedicated to a specific mission. Because the marine safety and marine environmental protection missions are personnel intensive rather than asset intensive, these two missions are not included in the Inspector General's analysis.

⁶³ *DHS Budget in Brief*, p. 57.

sectors Hampton Roads, Delaware Bay, and Mobile.⁶⁴ By FY2014, the Coast Guard expects to extend this capability to all remaining Coast Guard sectors.

An unresolved issue is the usefulness of tracking smaller vessels, such as recreational boats, to counter the threat posed by suicide bombers or smugglers. There are too many smaller boats for the Coast Guard to track and recreational boaters oppose tracking because of cost and privacy concerns.

Non-Homeland Security Missions. Some Members of Congress have expressed concern that with the Coast Guard's emphasis on its maritime security mission, the agency may have difficulty sustaining its traditional, non-homeland security missions such as fisheries enforcement or marine environmental protection.⁶⁵ In the wake of an oil spill by a container ship in San Francisco Bay on November 7, 2007, the Coast Guard was criticized for delays in its rulemaking requiring oil spill response plans for non-tank vessels.⁶⁶

The latest annual review of the Coast Guard's mission performance by the DHS Inspector General found that in FY2005 the Coast Guard's resource hours for its non-homeland security missions increased for the first time since September 11, 2001, due in large part to its response to Hurricane Katrina.⁶⁷ The IG reported that in FY2005, the Coast Guard's total non-homeland security resource hours were within 3% of pre-9/11 levels. The GAO reported that over the past five years, Coast Guard performance trends showed that increased homeland security activities have not prevented the agency from meeting its non-homeland security mission goals.⁶⁸

Marine Safety. A congressional hearing was held on August 2, 2007 to examine the performance of the Coast Guard's Marine Safety Program.⁶⁹ Witnesses from the maritime industry complained about Coast Guard delays in documenting mariners and vessels and a lack of technical expertise and experience by Coast Guard marine inspectors. In response to these criticisms, the Commandant announced a plan to increase civilian positions in the marine safety program and strengthen their

⁶⁴ Coast Guard FY2009 Budget Justification, p. CG-AC&I-122.

⁶⁵ For information on Coast Guard environmental protection issues, see CRS Report RS22145, *Environmental Activities of the U.S. Coast Guard*, by Mark Reisch and Jonathan L. Ramseur.

⁶⁶ For further information, see CRS Report RL33705, *Oil Spills in U.S. Coastal Waters: Background, Governance, and Issues for Congress*, by Jonathan L. Ramseur.

⁶⁷ DHS, Office of Inspector General, *Annual Review of Mission Performance: United States Coast Guard (FY2005)*, OIG-06-50, July 2006.

⁶⁸ GAO, *Coast Guard: Observations on the Fiscal Year 2008 Budget, Performance, Reorganization, and Related Challenges*, April 18, 2007, GAO-07-489T, p. 2.

⁶⁹ House Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation, "Challenges Facing the Coast Guard's Marine Safety Program," August 2, 2007.

career paths to foster professional continuity in this area.⁷⁰ The FY2009 budget request notes that “the Coast Guard is encountering serious stakeholder concern about our capacity to conduct marine inspections, investigations, and rulemaking.”⁷¹ The budget requests an additional \$20 million in operating expenses in order to: add 276 marine inspector positions; increase LNG vessel calls; conduct examinations of 5,200 towing vessels mandated in the FY2004 Coast Guard Authorization Act; review non-tank vessel oil spill response plans; and conduct oversight of ballast water management.⁷² The FY2009 budget also requests \$2.6 million to fund 25 rulemaking projects involving safety, security, and environmental protection.

Rescue-21. During the FY2007 appropriations process, Congress expressed strong concern with the Coast Guard’s management of the Rescue 21 program, the Coast Guard’s new coastal zone communications network that is key to its search and rescue mission and which replaces its National Distress and Response System. A 2006 GAO audit of the program found a tripling of project cost from the original estimate and likely further delays in project completion, which was already five years behind schedule.⁷³ The GAO’s FY2008 Coast Guard budget review noted that while Rescue-21 was originally intended to limit gaps to 2% of coverage area, that target has now expanded to a less than 10% coverage gap.⁷⁴ In the FY2008 Appropriations Act (P.L. 110-161), Congress expressed concern for the number of outages that have been recorded with the system, and requested that the Coast Guard provide quarterly briefings on its plans to address the outages.

The President’s FY2009 budget requests \$88 million for Rescue 21 for further deployment of the system’s infrastructure at seven Coast Guard sectors⁷⁵ and additional watchstanders at 15 sectors receiving the most rescue traffic.⁷⁶

LORAN-C. The LORAN (Long-Range Aids to Navigation) -C system helps boaters (including commercial fishermen) and airplane pilots determine their location using radio signals from 24 tower stations in the United States. The Coast Guard has argued that this system is no longer needed in light of GPS (Global Positioning System) technology which is more precise than LORAN, and in recent budget submissions requested that the LORAN-C system be terminated. In FY2007, Congress funded continuation of the LORAN-C system and required the Coast Guard, among other things, to first notify the public before terminating the system.

⁷⁰ U.S. Coast Guard, “Enhancing the Coast Guard’s Marine Safety Program,” September 25, 2007.

⁷¹ Coast Guard FY2009 Budget Justification, p. CG-SC-5.

⁷² Coast Guard FY2009 Budget Justification, p. CG-OE-52 and *DHS Budget in Brief*, p. 60-61.

⁷³ GAO, *United States Coast Guard: Improvements Needed in Management and Oversight of Rescue System Acquisition*, GAO-06-623, May 2006.

⁷⁴ GAO, *Coast Guard: Observations on the Fiscal Year 2008 Budget, Performance, Reorganization, and Related Challenges*, April 18, 2007, GAO-07-489T, p. 3.

⁷⁵ Coast Guard FY2009 Budget Justification, p. CG-AC&I-128.

⁷⁶ Coast Guard FY2009 Budget Justification, p. CG-OE-33 and 34.

On January 8, 2007, DHS and the Department of Transportation issued a Federal Register notice seeking public comment on whether to decommission LORAN, maintain it, or upgrade it.⁷⁷ Proponents of maintaining the ground-based LORAN system argue that it is valuable as a backup to the satellite-based GPS system. They argue that terrain can sometimes block the line of sight needed for GPS. For FY2008, Congress denied the Administration's request to terminate LORAN-C and noted that an Administration policy decision on the future of LORAN-C was expected to be completed by March 1, 2008. On February 7, 2008, the DHS announced that an enhanced LORAN system (eLoran) will be used as a backup system to GPS. The Coast Guard FY2009 budget requests that the administration of the eLoran system be transferred to the National Preparedness and Programs Directorate (NPPD) of DHS (a transfer equating to \$35 million) while the Coast Guard continues to operate the system on a reimbursable basis.⁷⁸

Bridge Alteration Program. The bridge alteration program is a program to alter or remove road or railroad bridges that are obstructing navigation. Consistent with prior requests, the President requests no new funding for this program. In FY2008, Congress appropriated \$16 million.

U.S. Secret Service⁷⁹

The U.S. Secret Service (USSS) has two broad missions — criminal investigations and protection.⁸⁰ Criminal investigations activities encompass financial crimes, identity theft, counterfeiting, computer fraud, and computer-based attacks on the nation's financial, banking, and telecommunications infrastructure, among other areas. The protection mission is the most prominent, covering the President, Vice President, their families, and candidates for those offices, along with the White House and the Vice President's residence (through the Service's Uniformed Division). Protective duties extend to foreign missions in the District of Columbia and to designated individuals, such as the DHS Secretary and visiting foreign dignitaries. Separate from these specific mandated assignments, the Secret Service is responsible for security activities at National Special Security Events (NSSEs), which include the major party quadrennial national conventions as well as international conferences and events held in the United States.⁸¹ The NSSE designation by the President gives the Secret Service authority to organize and coordinate security arrangements involving various law enforcement units from other federal agencies and state and local governments, as well as from the National Guard. **Table 13** displays sub-account detail for Secret Service funding.

⁷⁷ *Federal Register*, vol. 72, no. 4, January 8, 2007, pp. 796-797.

⁷⁸ Coast Guard FY2009 Budget Justification, p. CG-OE-18 and 19.

⁷⁹ Prepared by Shawn Reese, Analyst in Emergency Management and Homeland Security Policy, Government and Finance Division.

⁸⁰ U.S. Office of Management and Budget, *United States Secret Service, Fiscal Year 2009, Congressional Justification*.

⁸¹ Congress appropriated \$100 million for the FY2008 presidential nominating conventions in Division B, Title II of P.L. 110-161.

Table 13. U.S. Secret Service Appropriations
(budget authority in millions of dollars)

Programs and Activities	FY2008 Enacted ^a	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
Protection of persons and facilities	\$694	\$710			
Protective intelligence activities	\$58	\$60			
National Special Security Events	\$1	\$1			
Presidential candidate nominee protection	\$85	\$41			
White House mail screening	\$16	\$37			
Management and administration	\$176	\$182			
Rowley Training Center	\$52	\$53			
Domestic field operations	\$220	\$243			
International field operations	\$26	\$28			
Electronic crimes program	\$45	\$48			
Forensic support grants for the National Center for Missing and Exploited Children (NCMEC)	\$8	\$8			
Acquisition, construction, and improvements	\$4	\$4			
Total	\$1,385	\$1,414			

Sources: CRS Analysis of the DHS *FY2009 Congressional Budget Justifications*, and the FY2009 DHS Budget-in-Brief.

a. Column “FY2008 Enacted” includes emergency funding for DHS enacted by Division E of P.L. 110-161.

President’s FY2009 Request. For FY2009, the President’s budget submission requests an appropriation of \$1,414 million for the protection and criminal investigation missions of the Secret Service.⁸² This reflects an increase of \$29 million or nearly 2% over the FY2008 total of \$1,385 million for the Service.

Secret Service Issues for Congress. Federal funding for National Special Security Events (NSSE) costs incurred by federal, state, and local entities is one issue Congress may wish to address. In FY2008, Congress appropriated \$1 million for

⁸² OMB, *Budget of the US Government, Fiscal Year 2009*, p. 482.

NSSE costs within the Secret Service.⁸³ In addition, the 110th Congress appropriated a total of \$100 million for the 2008 presidential nominating conventions' security. This \$100 million is to be administered through Department of Justice's (DOJ) Office of Justice Programs, and this appropriation is to be used for security and related costs incurred by state and local governments, including overtime, associated with these two NSSEs.⁸⁴

In FY2008, Congress appropriated \$1 million for NSSE costs within the Secret Service.⁸⁵ This appropriation is used to fund the Secret Service's development and implementation of security operations at NSSEs, however, it can not be used to reimburse state and local law enforcement's NSSE costs — specifically the overtime costs incurred by state and local governments. In addition this funding, Congress appropriated a total of \$100 million for the 2008 presidential nominating conventions' security through the Department of Justice's (DOJ) Office of Justice Programs. The DOJ appropriation is to be used for security and related costs incurred by state and local governments, including overtime, associated with these two NSSEs.⁸⁶

In FY2009, the Secret Service requested \$1 million for NSSEs. One issue that Congress may wish to address concerns whether this amount is sufficient to cover multiple or unexpected NSSE costs, although the Secret Service has never requested supplemental funding to support NSSE operations. In addition to the NSSE funding through the Secret Service and DOJ, state and local jurisdictions can use DHS grants, such as the State Homeland Security Grant Program (SHSGP) and the Urban Area Security Initiative (UASI), for NSSE-related security activities. However, the grant approval process for these programs is not flexible, so the programs have limited application to NSSEs in that states and localities would need to include SHSGP and UASI funding for NSSE security in their grant applications. For unexpected NSSEs, states and localities are unable to plan ahead and therefore cannot use SHSGP or UASI funds to cover these unexpected security costs. DHS does authorize states and localities to reprogram SHSGP and UASI funding with the DHS Secretary's approval; however, that may result in states and localities not funding other planned homeland security activities. An issue that Congress may wish to consider could include whether more coordination of NSSE funding is needed at the federal level; currently the Secret Service, DOJ, and the Office of Grant Programs each have separate funding streams that can be used to fund different components of NSSEs but there is no overarching coordinating mechanism in place to oversee this funding.

Title III: Preparedness and Response

Title III includes appropriations for the Federal Emergency Management Agency (FEMA), the National Protection and Programs Directorate (NPPD), and the

⁸³ P.L. 110-161, Div. E.

⁸⁴ P.L. 110-161, Div. B, Title II.

⁸⁵ P.L. 110-161, Div. E.

⁸⁶ P.L. 110-161, Div. B, Title II.

Office of Health Affairs (OHA). Congress expanded FEMA's authorities and responsibilities in the Post-Katrina Emergency Reform Act (P.L. 109-295) and explicitly kept certain DHS functions out of the "new FEMA."⁸⁷ In response to these statutory exclusions, DHS officials created the NPPD to house functions not transferred to FEMA, and the OHA was established for the Office of the Chief Medical Officer. **Table 14** provides account-level appropriations detail for Title III.

President's FY2009 Request. In FY2008 Congress appropriated \$11,020 million to DHS for activities related to emergency preparedness and response. For FY2009, the President's request for emergency preparedness and response activities is \$7,020 million. This is a decrease of \$4,000 million (-36%). The President's FY2009 request includes \$1,286 million for NPPD, an increase of \$109 million (+9%) over FY2008, \$161 million for OHA which is an increase of \$44 million (+38%), and \$5,573 million for FEMA, representing a decrease of \$4,153 million (-43%) from the previous year.

⁸⁷ P.L. 109-295, 120 Stat. 1400.

Table 14. Title III: Preparedness and Response
(budget authority in millions of dollars)

Operational Component	FY2008 Appropriation				FY2009 Appropriation			
	FY2008 Enacted ^a	FY2008 Supp.	FY2008 Resc.	FY2008 Total	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
National Protection & Programs Directorate								
Administration	47			47	55			
Infrastructure Protection and Information Security	655			655	841			
US-VISIT	475			475	390			
Net total	1,177			1,177	1,286			
Office of Health Affairs	117			117	161			
Counter Terrorism Fund	—			—	—			
Federal Emergency Management Agency								
Management and Administration	724			724	957			
Office of Grant Programs	3,498			3,498	1,900			
Firefighter Assistance Grants	750			750	300			
U.S. Fire Administration	43			43	—			
Public health programs	—			—	—			
Disaster relief	1,324 ^b	2,900 ^c		4,224	1,900			
Disaster readiness and support activities	—			—	200			
Flood map modernization fund	220			220	150			
National flood insurance fund (NFIF) ^d	—			—	—			
National flood mitigation ^e	—			—	—			
Pre-disaster mitigation fund	114			114	75			
Emergency food and shelter	153			153	100			
Disaster assistance direct loan account	1			1	1			

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Operational Component	FY2008 Appropriation				FY2009 Appropriation			
	FY2008 Enacted ^a	FY2008 Supp.	FY2008 Resc.	FY2008 Total	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
Rescission	—			—	-9			
Net total	6,826^b	2,900^c		9,726	5,573			
Net budget authority subtotal: Title III	8,120^b	2,900^c		11,020	7,020			

Source: CRS Analysis of the DHS *FY2009 Congressional Budget Justifications*, and the FY2009 Budget-in-Brief.

Note: Tables may not add due to rounding.

- a. Column “FY2008 Enacted” includes emergency funding for DHS enacted by Division E of P.L. 110-161.
- b. *Does not* include \$2,900 million in FY2008 emergency supplemental funding for Disaster Relief enacted by P.L. 110-28.
- c. Per P.L. 110-28, \$2,900 million in FY2008 emergency supplemental funding for Disaster Relief.
- d. Funds derived from premium payments or transfers from the U.S. Treasury.
- e. Funds derived from NFIF transfers.

Federal Emergency Management Agency (FEMA)⁸⁸

In the aftermath of Hurricane Katrina, Congress passed the Post-Katrina Emergency Management Reform Act (Title VI of P.L. 109-295, the FY2007 DHS appropriations legislation) to address shortcomings identified in the reports published by congressional committees and the White House. Based on those reports and oversight hearings on many aspects of FEMA's performance during the hurricane season of 2005, the Post-Katrina Act expanded FEMA's responsibilities within the Department of Homeland Security and the agency's program authorities relevant to preparing for and responding to major disaster events.⁸⁹ The FY2009 Administration request represents the Administration's attempt to focus on the growth of the FEMA workforce rather than discrete programs. While Congress has shown increasing interest in FEMA's plans to implement a strategic approach to disaster housing and other disaster response, recovery, and mitigation capabilities reflected in the provisions of the Post-Katrina Reform Act, the FY2009 request places its greatest emphasis on expanding the FEMA workforce as shown in the increase for Management and Administration. How closely FEMA's expanded capacity addresses areas of congressional interest may be the central discussion of the 2009 budget season for the Agency. **Table 14** provides account-level funding details for FY2008 and FY2009.

President's FY2009 Request. FEMA's net budget authority of \$5,573 million for FY2009 is \$4,153 million below the FY2008 level. Most of this difference is in the Disaster Relief Fund account which, during FY2008, received an emergency supplemental appropriation of \$2,900 million. The other substantial reductions are in the Office of Grant Programs which would receive a cut of \$1,598 million. Also, within FEMA's program areas there are requests below the FY2008 level for programs such as the flood map modernization fund and the Emergency Food and Shelter Program (EFSP).

FEMA's FY2009 budget requests an increase of \$233 million to the Management and Administration account. Parts of this increase are dedicated to a series of improvements in information technology and logistical support. However, the great majority of the increase (\$184 million) would add 118 new positions in FEMA as well as transitioning 149 CORE (Cadre On-call Response Employees) positions into permanent slots. The CORE's are the multi-year temporary positions at FEMA dedicated to disaster-related work.

FEMA Issues for Congress. Both FY2007 and FY2008 were relatively quiet hurricane seasons. During this time, Congress looked to FEMA for an assessment of priority areas, matched with suggested resource levels, that would improve FEMA's preparedness for, response to, and recovery from major disaster events. Most prominent among the issues that have drawn the interest of Congress

⁸⁸ Prepared by Keith Bea, Specialist in American National Government and Fran McCarthy, Analyst in American National Government, Government and Finance Division.

⁸⁹ For more information, see CRS Report, CRS Report RL33729, *Federal Emergency Management Policy Changes After Hurricane Katrina: A Summary of Statutory Provisions*, Keith Bea, coordinator.

is the quality and safety of FEMA's temporary housing that has been provided to disaster victims.⁹⁰ With regard to a more effective immediate response to a major disaster, the Congress has sought the improvement of the FEMA logistics chain that supports that response. An overarching theme of all these issues is the quality and depth of the FEMA work force and whether it is commensurate, in size and skill, with its missions.

Disaster Temporary Housing. Thousands of disaster victims from the Gulf Coast hurricane season of 2005 remain in temporary housing — some in rental units, and some in manufactured housing in the Gulf region. At the hearing of the House Appropriations DHS Subcommittee on the FY2009 budget, Members expressed much interest in FEMA's implementation, or lack thereof, of new housing authorities provided to the agency in the Post-Katrina Emergency Management Reform Act (P.L. 109-295).⁹¹ Congress has been particularly interested in the problem of the levels of formaldehyde found in travel trailers and some mobile homes used for housing following the Gulf Coast disasters of 2005.

Congress requested in P.L. 109-295 a disaster housing strategy from FEMA to inform the overall approach to housing following a catastrophic disaster. Though the report on a housing strategy was due in July of 2007, it has not yet been produced. In a Senate hearing on the topic, the need for this report to serve as both a guide and an indication of Administration intent was underlined.⁹² The Administration's budget request for FY2009 notes that it will improve and expand the agency work force devoted to disaster assistance in general (both the programs addressing help to households and those dedicated to infrastructure repair) but does not specifically address temporary housing nor the correlated health and safety issues. The absence of information in the budget request may reflect statements by the FEMA Administrator indicating a desire for an increased role for the Department of Housing and Urban Development in disaster housing.⁹³

Disaster Logistics. Logistics represents FEMA's ability to get the necessary resources (food, water and other supplies) to the disaster area as rapidly as possible. In its investigation of the response to Hurricane Katrina, Congress had concentrated much of its attention on the logistics chain. As was noted in the aftermath: "Katrina overwhelmed the Federal Emergency Management Agency (FEMA) management

⁹⁰ For more information, see CRS Report RL34087, *FEMA Disaster Housing and Hurricane Katrina: Overview, Analysis, and Congressional Options*, by Francis X. McCarthy.

⁹¹ U.S. House of Representatives, Committee on Appropriations, Subcommittee on Homeland Security, "*Federal Emergency Management Agency: Is the Agency on the Right Track?*", 110th Cong. 2nd Sess., March 13, 2008.

⁹² U.S. Senate, Homeland Security and Governmental Affairs Committee, Ad Hoc Subcommittees on Disaster Recovery and on State, Local, and Private Sector Preparedness and Integration, "*Is Housing too Much to Hope for? FEMA's disaster housing strategy*," 110th Cong. 2nd Sess., March 4, 2008.

⁹³ Testimony of FEMA Administrator David Paulison, House Committee on Appropriations, Subcommittee on Homeland Security, "*Federal Emergency Management Agency: Is the agency on the Right Track?*," 110th Cong. 2nd Sess. March 13, 2008.

and overloaded its logistics system.”⁹⁴ As a result, Members of Congress continue to insist on an improved logistics process that includes the concerns of state and local governments in the planning.

In its budget presentation, FEMA notes that logistics has been taken out of the Operations Directorate within its organizational structure and now is a stand alone Logistics Management Directorate, giving logistics more visibility and prominence within the agency. In support of this new Directorate, FEMA is requesting an increase of \$10 million to create 30 new positions that will be placed at headquarters and in the regional offices. In describing its initiative, FEMA has referred in the budget justification to “best practices” by private industry as a model for how it will improve its performance.

FEMA Work Force. The most substantial increase in the FEMA budget for FY2009 is in the expansion of the work force. FEMA has requested an increase of \$184 million to support an additional 118 new permanent positions for the Agency and to transition 149 temporary positions (known as CORE appointments) into permanent slots.

The CORE positions traditionally have been used by FEMA to accomplish ongoing disaster tasks at the regional and headquarters levels (such as closing out old disasters or working in the telephone and online registration centers). CORE appointments can be for a maximum of up to four years and receive benefits similar to a career employee (e.g., health benefits). The CORE’s status stands in contrast to the Disaster Assistance Employees (DAEs). The DAEs are the temporary employees, usually working on renewable 30 to 90 day appointments (without benefits), who are recruited, trained, and hired in large numbers to provide the staff support across a disaster. DAEs are often aligned into cadres of expertise. For example, there is a Public Assistance Cadre that employs engineers and other program experts to help manage the PA program in the field. Similarly there are DAEs trained to work in Individual Assistance, Mitigation, Congressional Affairs, Community Relations, and many other functional areas during a disaster response and recovery operation. The DAEs work on an as needed basis, often with interruptions in service based on the level of disaster activity. CORE’s are also separate and distinct from private contractor employees and consultants who may also work in a supporting role within different FEMA program areas.

Since CORE appointments have been multi-year rather than measured in months, the CORE employees have acquired organizational experience and programmatic skills that the Agency wants to retain. The retention of quality employees has been a recurring challenge for FEMA since the lack of continuity is disruptive to FEMA’s state and local partners in the consistent interpretation of program policy and overall customer service.

⁹⁴ U.S. House of Representatives, “A Failure of Initiative: Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina,” February 19, 2006, Government Printing Office, p. 319.

FEMA describes the additional employees requested in the FY2009 budget as “enhancements” in several areas of the agency and mentions the improvement of plans for many programs. In the past, Congress has been supportive of FEMA expanding its base of employees and their skill levels, particularly at the regional level to “help state and local governments prepare for and respond to disasters.”⁹⁵ However, Congress may also wish to see greater specificity on how these new positions will be apportioned throughout the agency and whether those choices correspond to congressional direction and interest.

Office of Grant Programs⁹⁶

The Office of Grant Programs within the Federal Emergency Management Agency (FEMA) is responsible for facilitating and coordinating DHS state and local assistance programs. The office administers formula and discretionary grant programs to further state and local homeland security capabilities. As a result of the reorganization mandated by the Post-Katrina Emergency Management Reform Act of 2006 (P.L. 109-295), the work of the Office of Grant Programs was separated from FEMA training activities. FEMA’s National Integration Center within the agency’s National Preparedness Directorate administers training, exercises, and technical assistance for states and localities. Presently, DHS’s assistance programs for states and localities include:

- State Homeland Security Grant Program (SHSGP);
- Urban Area Security Initiative (UASI);
- Port Security Program;
- Transit Security Program;
- Bus Security Program;
- Trucking Security Program;
- Buffer Zone Protection Program (BZPP);
- Assistance to Firefighters (FIRE);
- Emergency Management Performance Grants (EMPG);
- Citizen Corps Program (CCP);
- Metropolitan Medical Response System (MMRS);
- Training, technical assistance, exercises, and evaluations;
- Commercial Equipment Direct Assistance Program (CEDAP);
- Public Safety Interoperable Communications Grant Program (PSIC);
- Real ID Grants;
- Emergency Operations Centers (EOC); and
- Regional Catastrophic Preparedness Grants.

⁹⁵ U.S. House of Representative, Committee on Appropriations, “FY2008 Omnibus Summary: Homeland Security Committee”, [<http://appropriations.house.gov/pdf/HomelandOmnibus.pdf>].

⁹⁶ This section prepared by Shawn Reese, Government and Finance Division.

Table 15. State and Local Homeland Security Programs
(budget authority in millions of dollars)

Program	FY2008 Enacted ^a	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
State Homeland Security Grant Program (SHSGP)	\$950 ^b	\$200			
Urban Area Security Initiative (UASI)	\$820 ^c	\$825			
Law Enforcement Terrorism Prevention Program (LETPP)	—	—			
Port Security Program	\$400	\$210			
Transit Security Program	\$400	\$175			
Intercity Bus Security Program	\$12	\$12			
Trucking Industry Security Program	\$16	\$8			
Emergency Operation Centers	\$15	—			
Buffer Zone Protection	\$50	—			
Assistance to Firefighters (FIRE)	\$750	\$300 ^d			
Emergency Management Performance Grants (EMPG)	\$300	\$200			
Citizen Corps Programs (CCP)	\$15	\$15			
Metropolitan Medical Response System (MMRS)	\$41	—			
Training, Technical Assistance, Exercises, and Evaluation	\$299 ^e	\$145 ^f			
Commercial Equipment Direct Assistance Grants	\$25	—			
Interoperable Communications Grants	\$50	[\$7] ^g			
Real ID Grants	\$50	—			
Regional Catastrophic Preparedness Grants	\$35	—			
National Security and Terrorism Prevention Program ^h	—	\$110			
Total	\$4,228	\$2,200			

Source: CRS Analysis of the P.L. 110-161, DHS *FY2009 Congressional Budget Justifications*, and the FY2009 Budget-in-Brief.

Note: Tables may not add due to rounding.

a. Column “FY2008 Enacted” includes emergency funding for DHS enacted by Division E of P.L. 110-161.

- b. Not less than 25% of the \$950 million for SHSGP is to be used for law enforcement terrorism prevention activities, in accordance with P.L. 110-53, Implementing Recommendations of the 9/11 Commission Act of 2007.
- c. Not less than 25% of the \$820 million for UASI is to be used for law enforcement terrorism prevention activities, in accordance with P.L. 110-53.
- d. The \$300 million for FIRE grants is a separate line item in the Title III table.
- e. Of this \$299 million: \$88 million is for the National Domestic Preparedness Consortium; \$63 million is for the Center for Domestic Preparedness; \$50 million is for the National Exercise Program; \$12 million is for technical assistance; \$27 million is for Demonstration Training Grants; \$31 million is for Continuing Training Grants; \$19 million is for evaluations and assessments; and \$9 million is for the Rural Domestic Preparedness Consortium.
- f. Of this \$145 million: \$40 million is for the National Exercise Program; \$79 million is for the National Domestic Preparedness Consortium and the Center for Domestic Preparedness; \$10 million is for technical assistance; and \$16 million for evaluations and assessments.
- g. The Administration proposes to fund the Public Safety Interoperable Communications Grant program through the Department of Commerce.
- h. The National Security and Terrorism Prevention Grant Program, newly requested for FY2009, would provide competitive grants to state and local jurisdictions that address homeland security vulnerabilities, and for Real ID proposals and buffer zone protection of critical infrastructure.

President's Request. The Administration proposes \$2,200 million for FY2009 Department of Homeland Security assistance programs for states and localities. Additionally, the Administration proposes to reduce funding on most of the programs, except the Urban Area Security Initiative (UASI), the Citizen Corps Program, and its program for bus security. Because of this, the Administration requests \$2,028 million less than the \$4,228 million Congress appropriated in FY2008.

Office of Grant Programs Issues for Congress. In FY2009, Congress might elect to address two issues when appropriating funds for DHS's state and local assistance programs. The first issue is the reduction in state and local assistance funding, and the second issue is the reduction in appropriations for the Assistance to Firefighters Program.

Reduction in State and Local Assistance Funding. The issue that appears to dominate the Administration's FY2009 budget request is the reduction in appropriations for state and local homeland security programs. The Administration has proposed significant reductions in state and local homeland security assistance programs or the consolidation of programs in prior fiscal years. In FY2003 and FY2004, the Administration proposed a homeland security block grant; this year the Administration proposes to reduce funding for all programs except UASI, CCP, and Bus Security. UASI is the only program for which the Administration requested an increase in funding. Additionally, the Administration proposes to consolidate the Real ID Grant program and the Buffer Zone Protection Program (BZPP) within the National Security and Terrorism Prevention Program. These two programs would be eligible activities under a grant program that would be competitive, and would allow states and localities to apply for grants that address homeland security vulnerabilities.⁹⁷

⁹⁷ U.S. Office of Management and Budget, *Fiscal Year 2009 Budget for the United States Government* (Washington: GPO, February 2009), Appendix, pp. 514-516.

In the past, Congress has funded the majority of these grant programs individually and at a higher level than the Administration has requested. In FY2008, however, Congress consolidated the Law Enforcement Terrorism Prevention Program with SHSGP and UASI.⁹⁸

Reduction in Assistance to Firefighter Program Funding. In previous years, the Administration's budget proposals have typically recommended significant cuts for fire grants, used to fund training and equipment, as well as zero funding for Staffing for Adequate Fire and Emergency Response (SAFER) grants, used for hiring, recruitment, and retention. Opponents of the cuts have argued that the reduced levels are inadequate to meet the needs of fire departments, while the Administration has argued that reduced levels are sufficient to enhance critical capabilities in the event of a terrorist attack or major disaster. For FY2009, the Administration proposes \$300 million for fire grants, a 46% cut from the FY2008 level. No funding is proposed for SAFER grants, and the total request for Assistance to Firefighters Grants (AFG) is 60% below the FY2008 level for fire and SAFER grants combined. The FY2009 budget proposal eliminated grants for wellness/fitness activities and modifications to facilities for firefighter safety. The budget justification requested funding for "applications that enhance the most critical capabilities of local response to fire-related hazards in the event of a terrorist attack or major disaster." The budget justification also stated that the requested level of funding is "an appropriate level of funding given the availability of significant amounts of funding for first responder preparedness missions from other DHS grant programs which are coordinated with state and local homeland security strategies and, unlike AFG, are allocated on the basis of risk."

Office of Health Affairs⁹⁹

The Office of Health Affairs (OHA) coordinates public health and medical programs throughout DHS, and administers several of them, including the BioWatch program, the National Biosurveillance Integration Center (NBIC), certain functions of Project BioShield, and the department's occupational health and safety programs.¹⁰⁰ Dr. Jeffrey Runge was confirmed as the first DHS Assistant Secretary for Health Affairs in December 2007.

President's FY2009 Request. The Administration requested \$161 million for OHA for FY2009, including \$112 million for the BioWatch program, \$8 million

⁹⁸ P.L. 110-161 (FY2008 Consolidated Appropriations), Div. E, Title III.

⁹⁹ Prepared by Sarah A. Lister, Specialist in Public Health and Epidemiology, Domestic Social Policy Division.

¹⁰⁰ For more information, see DHS, Office of Health Affairs, at [http://www.dhs.gov/about/structure/editorial_0880.shtm]. For a brief history of the office, see CRS Report RL34004, *Homeland Security Department: FY2008 Appropriations*, section on Office of Health Affairs.

for NBIC, \$3 million for the Rapidly Deployable Chemical System, \$10 million for planning and coordination, and \$29 million for salaries and expenses.¹⁰¹

Office of Health Affairs Issues for Congress. The upcoming presidential transition may prove challenging for OHA, which is in the midst of rapid growth. It began as the Office of the Chief Medical Officer (CMO) in 2005, and was funded at \$2 million in FY2006. As OHA, it grew to a funding level of \$117 million in FY2008. Of that amount, \$100 million was in existing programs transferred from elsewhere in the department, principally the BioWatch program, which was transferred from the Science and Technology Directorate. OHA plans to use contractors to meet some of the workforce needs associated with its rapid growth (particularly in support of BioWatch), but has also requested FY2009 funding to annualize salaries and expenses for 27 FTEs acquired in FY2008, and for eight new positions, bringing OHA's total positions to 84. Four of the requested new positions would be administrative, intended "to enhance the internal control function of [OHA]. In FY2008, these activities are extremely limited due to lack of personnel and in FY2009 we hope to correct these shortfalls. It is imperative that the positions are funded in order to meet GAO standards and Federal regulations and policies associated with contracting, budget formulation, budget execution, and internal controls."¹⁰²

In previous fiscal years, Congress has been interested in the effectiveness of OHA programs. In FY2008 appropriations, Congress provided funding for the National Academy of Sciences to study the effectiveness of the BioWatch program. In the Implementing Recommendations of the 9/11 Commission Act of 2007 (PL-110-53), Congress called on the Comptroller General to evaluate implementation of the NBIC. These reviews are pending.

National Protection and Programs Directorate¹⁰³

The National Protection and Programs Directorate (NPPD) was formed by the Secretary for Homeland Security in response to the Post-Katrina Emergency Management Reform Act of 2006. The Directorate includes the Office of Infrastructure Protection, the Office of Cybersecurity and Communications, the Office of Intergovernmental Programs, the Office of Risk Management and Analysis, and the U.S. Visitor and Immigrant Status Indicator Technology Program (US-VISIT). The programs and activities of the Office of the Undersecretary for National Protection and Programs, along with the activities of the Office of Intergovernmental Programs and the Office of Risk Management and Analysis, are supported within the Directorate's Management and Administration Program. The programs and activities of the Office of Infrastructure Protection and the Office of Cybersecurity and Communications are supported through the Infrastructure Protection and Information Security Program.

¹⁰¹ FY2009 Congressional Budget Justification, pp. 3051-3141 of the pdf document.

¹⁰² Ibid, p. OHA-44 (p. 3094 of the pdf document).

¹⁰³ Prepared by John Moteff, Specialist in Science and Technology Policy, Resources, Science and Industry Division.

Management and Administration. The programs and activities of the Office of the Undersecretary are aggregated in Directorate Administration and support the other offices and programs within the Directorate. This support includes budget formulation and financial management, contract and program management, information technology, business culture (i.e. employee relations), and communications, among other things.

The Office of Intergovernmental Programs (IPG) was established by the Homeland Security Act of 2002 to act as both an advocate for State, local, tribal, and territorial officials within the department and as the primary liaison between these officials, the Secretary of Homeland Security, and other senior level officials within the department. In this role, the IPG manages communications and helps coordinate activities among these stakeholders.

The Office of Risk Management and Analysis (RMA) was established as part of the Post-Katrina Emergency Reform Act of 2006. It had formerly been a division within the Office of Infrastructure Protection. The RMA now reports directly to the Undersecretary. The responsibility of this office is to help develop and implement a common risk management framework¹⁰⁴ and to leverage risk management expertise throughout the entire department.

President's FY2009 Request. The President requested a total of \$54 million for the NPPD Management and Administration appropriation. This included \$43 million for Directorate Administration, \$2 million for Intergovernmental Programs, and \$9 million for Risk Management and Analysis. The budget request included a programmatic increase for additional personnel (including increases in recruitment and retention bonuses and training) for both the Office of the Undersecretary (24 positions, 12 FTEs) and the Office of Intergovernmental Programs (17 positions, 17 FTEs). The primary reason for the increase was to reduce dependence on outside contractors. The IPG received no funds in FY2008. The request for the Office of Risk Management and Analysis supports current services.

Issues for Congress. One potential issue in this appropriation cycle is whether the FY2009 budget justification documents sufficiently address Congress's concerns about the quality of the NPPD's budget requests. In the FY2008 appropriations, both the House and the Senate criticized the level of detail and clarity of the NPPD budget justification documents and the apparent transfer of funds without the Committees' knowledge. The Omnibus Appropriations Act ordered \$5 million of the NPPD Management and Administration account to be put on hold until the Committees' receive and approve an expenditure plan that has been reviewed by the Government Accountability Office.

Another possible issue is the location of the Office of Risk Management and Analysis (RMA) and the Office of Intergovernmental Programs. Both of these offices oversee activities that cut across the entire department. Some observers have

¹⁰⁴ This framework includes the development of a risk management lexicon, risk performance metrics, a risk communication strategy, and support for the development and vetting of new risk management tools and techniques.

expressed concern that the RMA, in particular, may be located too low in the organization to accomplish its goals.

Table 16. FY2009 Budget Activity for the Management and Administration Appropriation
(budget authority in millions of dollars)

Program Project Activity	FY2008 Total	FY2009 Request	FY2009 House	FY2009 Senate	FY2009 Enacted
Directorate Administration	38	43			
Intergovernmental Programs	—	2			
Risk Management and Analysis	9	9			
Total	47	54			

Sources: CRS Analysis of the DHS *FY2009 Congressional Budget Justifications*, and the FY2009 Budget-in-Brief.

Note: Tables may not add due to rounding.

U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT)¹⁰⁵

Until FY2006, US-VISIT was coordinated out of the Directorate of Border and Transportation Security (BTS). DHS Secretary Chertoff's second stage review, among other things, eliminated BTS and proposed placing US-VISIT within a new Screening Coordination Office (SCO) that would have combined a number of programs within DHS¹⁰⁶ and that would have reported directly to the Secretary. The appropriators did not provide funding for the SCO, however, and US-VISIT became a stand-alone office within Title II of the DHS appropriation in FY2006.¹⁰⁷ In FY2008, DHS transferred US-VISIT into a new entity, the National Protection Programs Directorate (NPPD). In its Section 872 letter, DHS stated that it was relocating US-VISIT to the NPPD "to support coordination for the program's protection mission and to strengthen DHS management oversight."¹⁰⁸

¹⁰⁵ Prepared by Blas Nuñez-Neto, Analyst in Domestic Security, Domestic Social Policy Division.

¹⁰⁶ Programs proposed for transfer to the Screening Coordination Office included the US Visitor and Immigrant Status Indicator Project (US-VISIT); Free and Secure Trade (FAST) and NEXUS/SENTRI, from CBP; and Secure Flight, Transportation Worker Identification Credential (TWIC), Registered Traveler, Hazardous Materials (HAZMAT) background checks, and the Alien Flight School background checks program from TSA.

¹⁰⁷ H.Rept. 109-241.

¹⁰⁸ U.S. Department of Homeland Security, letter from Secretary Michael Chertoff to the Honorable Joseph I. Lieberman, Chairman, Committee on Homeland Security and (continued...)

President's Request. The Administration requested \$390 million for US-VISIT in FY2009, a decrease of \$85 million from the FY2009 enacted level of \$475 million.¹⁰⁹ Included in the Administration's request is an increase of \$43 million to conduct testing of potential exit solutions at the land POE, and an increase of \$4 million to help US-VISIT deal with increased demand for services from other government entities as the system expands to 10-fingerprints.

Issues for Congress. There are a number of issues that Congress may face relating to the implementation of the US-VISIT system. These issues may include whether the Administration's proposed pilot project for deploying the exit component at land POE is appropriate, whether the current plan to deploy the exit component at air POEs is adequate, and whether the current POE infrastructure can support the added bandwidth that a 10 fingerprint system would likely require.

10 Fingerprint Entry. In FY2008, US-VISIT has been operating a pilot program of the 10 fingerprint enrollment system to assess the impact of the program's expansion on the infrastructure at POE and wait times for travelers entering the United States. During FY2009, US-VISIT plans to deploy 3,000 new 10 fingerprint scanners to the 292 POE where the US-VISIT system is currently operational. Issues for Congress could include whether the current information technology infrastructure at POEs can support the enhanced bandwidth that a 10 fingerprint system will require, whether the 10 fingerprint technology that gets implemented can produce fast and accurate results, what kind of an impact the system's deployment to airports will have on the travel and wait times for individuals entering the country, and the potential economic impacts that delays may have on airlines due to missed connections.

Exit Component at Air and Sea Ports. Deployment of a biometric exit system has been of concern to Congress for a number of years. Without verifying the identity of travelers who leave the United States, DHS has no easy way of identifying individuals who overstay their visas and remain in the country illegally. After being heavily criticized during FY2008 for appearing to move away from the deployment of an exit system, US-VISIT is requesting \$56 million for the exit component of the system in FY2009. According the DHS, US-VISIT will "finalize a biometric exit strategy and complete implementation of a biometric air and sea exit system by the end of calendar year 2008."¹¹⁰ The exact nature of this strategy will likely be an issue that Congress will closely examine, given the intense congressional interest on this topic in the past.

¹⁰⁸ (...continued)

Government Affairs, U.S. Senate, Washington, DC, January 18, 2007, p. 8.

¹⁰⁹ While the FY2008 enacted total included \$275 million in emergency appropriations, the total appropriation for US-VISIT in FY2008 was in line with the President's FY2008 request of \$462 million.

¹¹⁰ *FY2009 DHS Congressional Budget Justifications*, p. NPPD US-VISIT 21.

Infrastructure Protection and Information Security¹¹¹

The Infrastructure Protection and Information Security Program (IPIS) supports the activities of the Office of Infrastructure Protection (OIP), which manages the Infrastructure Protection Program (IP), and the Office of Cybersecurity and Communications, which includes the National Computer Security Division (NCSD), the National Communication System (NCS), and the Office of Emergency Communications (OEC). OIP coordinates the national effort to reduce the risks associated with the loss or damage to the nation's critical infrastructure due to terrorist attack or natural events. This effort is a cooperative one between the federal government, state, local and tribal governments, and the private sector to identify critical elements of the nation's infrastructure, their vulnerabilities, the potential consequences of their loss or damage, and ways to mitigate those losses. The NCSD performs a similar function, but specifically focuses on the nation's information networks. The NCS also performs similar function, but specifically focuses on the nation's communication systems, in particular the communications systems and programs that ensure the President can communicate with selected federal agencies, state, local, and tribal governments, and certain private sector entities during times of national emergencies. The OEC is responsible for promoting the ability of state, local and federal emergency response providers to communicate with each other during an emergency through the development and distribution of interoperable communication equipment.

President's FY2009 Request. The President requested a total of \$841 million for IPIS in FY2009. This is an increase of approximately \$186 million above the amount enacted for FY2008. Each of the four Program/Project Activities (PPAs) requested increased funding (see **Table 16**). Of the total increase, \$44 million is the result of changes to baseline funding, including pay increases (plus one large baseline increase associated with the transfer of a program from the Coast Guard to the NCS). The balance, \$142 million, is the net result of expanded or reduced programmatic activity, including the hiring of additional personnel.

The National Communication System request is \$101 million above last year's enacted amount. The request included an increase of nearly \$35 million for the Next Generation Network. This program aims to migrate the Telecommunications Priority Services program from legacy circuit-switched technology to industry's new IP-based packet technology. In FY2008, Congress chose not to fully fund the President's request for this program, stating that DHS had not justified the need for the level of funding requested at that time. Another large programmatic increase in the NCS request, \$57 million, would support the National Command and Coordination Capability (NCCC). NCCC is an effort to integrate existing and future networks that share classified as well as sensitive-but-unclassified information (voice, video, and data) between the President, Vice-President, federal agencies, state Emergency Operation Centers, and selected local fusion centers. The Secretary of DHS is the Executive Agent of the NCCC, and he has delegated this authority to the NCS. The \$57 million increase goes toward standing up the NCCC Management Coordination

¹¹¹ Prepared by John Moteff, Specialist in Science and Technology Policy, Resources, Science and Industry Division.

Office and to extend and integrate the necessary interoperable hardware and software. The NCS also requested a \$35 million increase to its baseline funding to take over the Coast Guard's Long Range Navigation (LORAN) system.

The NCSD requested an increase of \$83 million above the FY2008 enacted amount. Expansion of the Division's Einstein program, and its role in the Office of Management and Budget's (OMB's) Trusted Internet Connections initiative, accounts for nearly \$70 million of this increase. The Einstein program monitors network traffic on federal information networks and acts as an intrusion detection system. OMB's Trusted Internet Connections initiative seeks to deploy the Einstein system to all federal departments and agencies (current involvement had been voluntary). The increased funding would be spent on the acquisition and deployment of additional and upgraded hardware and software, the expansion of facilities, and the hiring of additional personnel and contractor services. Some of the increases are to handle the additional incident handling and data analysis the expansion will generate.

The net budget increase requested for the IP is less than a million dollars. Increases would include \$11 million to increase staff and support for chemical facility security compliance. It also would include \$1 million for additional Protective Security Advisors. Proposed decreases included -\$14 million for NIPP management, -\$4 million for the National Infrastructure Simulation and Analysis Center, and -\$1 million for the Bomb Prevention Program. Congress had appropriated funds above what the President requested for these programs in FY2008.

Table 17. FY2009 Budget Activity for the Infrastructure Protection and Information Security Appropriation
(budget authority in millions of dollars)

Program Project Activity	FY2008 Total	FY2009 Request	FY2009 House	FY2009 Senate	FY2009 Enacted
IP	273	273			
NCSD ^a	210	293			
NCS ^b	136	237			
OEC	36	38			
Total	655	841			

Source: CRS Analysis of the DHS *FY2009 Congressional Budget Justifications*, and the FY2009 Budget-in-Brief.

Notes: Tables may not add due to rounding. IP=Infrastructure Protection; NCSD=National Computer Security Division; NCS=National Communications System; OEC=Office of Emergency Communications.

a. Account formerly called Computer Security.

b. Account formerly called National Security/Emergency Preparedness.

IPIS Issues for Congress. The budget request might raise congressional concerns given the apparent disagreement between Congress and the President over levels of funding for certain projects for FY2008. As mentioned above, the President's FY2009 budget proposes increased funding in areas that Congress reduced in FY2008, and reduced programs that Congress had increased, although the dollar amounts are relatively small.

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

Title IV includes appropriations for U.S. Citizenship and Immigration Services (USCIS), the Federal Law Enforcement Training Center (FLETC), the Science and Technology Directorate (S&T), and the Domestic Nuclear Detection Office (DNDO). **Table 18** provides account-level details of Title IV appropriations.

Table 18. Title IV: Research and Development, Training, Assessments, and Services
(budget authority in millions of dollars)

Operational Component	FY2008 Appropriation				FY2009 Appropriation			
	FY2008 Enacted ^a	FY2008 Supp.	FY2008 Resc.	FY2008 Total	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
Citizenship and Immigration Services								
Total available budget authority	2,620			2,620	2,690			
Offsetting fees ^b	-2,539			-2,539	-2,539			
Net subtotal (Direct appropriation)	81			81	151			
Federal Law Enforcement Training Center	289			289	274			
Science and Technology								
Management and Administration	139			139	132			
Research, Development, Acquisition, and Operations	692			692	737			
Net Subtotal	830			830	869			
Domestic Nuclear Detection Office								
Management and Administration	32			32	39			
Research, Development, and Operations	324			324	334			
Systems Acquisition	130			130	191			
Net Subtotal	485			485	564			
Gross budget authority: Title IV	4,224			4,224	4,396			
Offsetting collections: Title IV	-2,539			-2,539	-2,539			
Net budget authority: Title IV	1,685			1,685	1,857			

Source: CRS Analysis of the DHS *FY2009 Congressional Budget Justifications*, and the FY2009 Budget-in-Brief.

Note: Tables may not add due to rounding.

a. Column "FY2008 Enacted" includes emergency funding for DHS enacted by Division E of P.L. 110-161.

b. Fees include Immigration Examination Fund; H-1b Visa Fee; and the Fraud Prevention and Detection fee.

U.S. Citizenship and Immigration Services (USCIS)¹¹²

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.¹¹³ USCIS funds the processing and adjudication of immigrant, nonimmigrant, refugee, asylum, and citizenship benefits largely through funds generated by the Examinations Fee Account.¹¹⁴ **Table 19** shows FY2008 appropriations and the FY2009 request.

President's FY2009 Request. USCIS is a fee supported agency. As part of the former Immigration and Naturalization Service (INS), USCIS was directed to transform its revenue structure with the creation of the Examinations Fee Account.¹¹⁵ Although the agency has received direct appropriations in the last decade, these appropriations have been largely directed towards specific projects such as backlog reduction initiatives. The vast majority of the agency's revenues, however, comes from the adjudication fees of immigration benefit applications and petitions. In the President's FY2009 budget request, the agency requested \$151 million in direct appropriations. The remaining \$2,539 million in gross budget authority requested would be funded by revenues from collected fees.

As **Table 19** below shows, the requested USCIS budget for FY2009 is approximately \$2,690 million. This requested amount constitutes an increase of \$70 million, or almost 3%, over the gross budget authority provided in FY2008. The requested direct appropriation of \$151 million would include \$100 million for the Employer Eligibility Verification Program (EEV, or E-Verify), \$50 million for REAL ID Act implementation, and roughly \$1 million for asylum and refugee program operating expenses. All other programs and operations would be fee funded. Of the requested funds for FY2009, \$1,979 million, or roughly 73.6%, would fund the USCIS adjudication services. A plurality of these adjudication funds would go towards pay and benefits with an allocation of \$780 million, while district operating

¹¹² Prepared by Chad C. Haddal, Analyst in Immigration Policy, Domestic Social Policy Division.

¹¹³ CRS Report RL32235, *U.S. Immigration Policy on Permanent Admissions*, by Ruth Ellen Wasem.

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

¹¹⁵ There are two other fee accounts at USCIS, known as the H-1B Nonimmigrant Petitioner Account and the Fraud Prevention and Detection Account. The revenues in these accounts are drawn from separate fees that are statutorily determined (P.L. 106-311 and P.L. 109-13, respectively). USCIS receives 5% of the H-1B Nonimmigrant Petitioner Account revenues and 33% of the Fraud Detection and Prevention Account revenues. In FY2007, the USCIS shares of revenues in these accounts were approximately \$13 million each, and the funds combined for a little less than 2% of the USCIS budget (U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *Fiscal Year 2009 Congressional Budget Justifications*).

expenses would receive \$535 million and service center operating expenses would be allocated \$346 million. Business transformation initiatives for modernizing systems and improving agency information sharing and efficiency would receive \$139 million. The President's budget request also includes requested funding levels of \$168 million for information and customer services, \$374 million for administration, and \$19 million for the Systematic Alien Verification for Entitlements (SAVE) Program.

Table 19. USCIS Budget Account Detail
(budget authority in millions of dollars)

Program/Project Activity	FY2008 Enacted	FY2009 Request	FY2009 House-Passed	FY2009 Senate-Passed	FY2009 Enacted
<i>Appropriations</i>					
Appropriations	81	151			
REAL ID Act Implementation	—	50			
Asylum/Refugee Operating Expenses	—	1			
EEV	60	100			
FBI Background Check	21	—			
<i>Fee Accounts</i>					
Adjudication Services	2,000	1,979			
Pay & Benefits	758	780			
District Operating Expenses	567	535			
Service Center Operating Expenses	353	346			
Asylum/Refugee Operating Expenses	95	93			
Records Operating Expenses	88	86			
Business Transformation	139	139			
Information and Customer Services	162	168			
Administration	375	374			
SAVE	22	19			
Total USCIS Funding	2,620	2,690			

Sources: CRS Analysis of the DHS *FY2009 Congressional Budget Justifications*, and the FY2009 Budget-in-Brief.

Notes: Tables may not add due to rounding. Column "FY2008 Enacted" includes emergency funding for DHS enacted by Division E of P.L. 110-161.

USCIS Issues for Congress. USCIS issues for Congress include the surge in immigration benefit applications that occurred in FY2007 and which resulted in an increase in the agency's backlog, and the use of the Federal Bureau of Investigation's (FBI's) National Name Check program to vet immigration benefit applications.

Surge in Benefit Applications and Resulting Backlog. According to the testimony of USCIS Director Emilio T. Gonzalez, USCIS experienced an increase in its backlog of naturalization applications in the second half of FY2007.¹¹⁶ From May through July of 2007 USCIS received three and a half times more applications than during the same three months in the previous year.¹¹⁷ Consequently, published accounts indicate that processing time for applications filed during the FY2007 “surge” would be between 16-18 months, as compared to 6-7 months for applications filed in the same period during FY2006.¹¹⁸ For all immigration benefits, the USCIS director testified that the agency received over 1.2 million more applications during the FY2007 surge than in the same period during FY2006, for a total of over 3 million applications.¹¹⁹ According to media reports, USCIS officials believe that the backlog created by the application surge could take close to three years to clear.¹²⁰

Although citizenship campaigns and a contentious national immigration debate have been cited as contributing factors, many observers believe most of the surge in applications may be attributed to the USCIS fee increase of July 30, 2007.¹²¹ These fee adjustments followed an internal cost review and they increased application fees by a weighted average of 96% for each benefit.¹²² The cost of naturalization, for

¹¹⁶ Testimony of USCIS Director Emilio T. Gonzalez, in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *Naturalization Delays: Causes, Consequences and Solutions*, 110th Cong., 2nd sess., January 17, 2008.

¹¹⁷ *Ibid.*

¹¹⁸ For example, see Muzaffar Chishti and Claire Bergeron, “USCIS: Backlog in Naturalization Applications Will Take Nearly Three Years to Clear,” Migration Policy Institute, February 15, 2008, at [file:///C:/Documents%20and%20Settings/chaddal/Application%20Data/Mozilla/Firefox/Profiles/q4pkbndw.default/zotero/storage/11212/display.html], visited March 4, 2008.

¹¹⁹ Testimony of USCIS Director Emilio T. Gonzalez, in U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, *Naturalization Delays: Causes, Consequences and Solutions*, 110th Cong., 2nd sess., January 17, 2008.

¹²⁰ Muzaffar Chishti and Claire Bergeron, “USCIS: Backlog in Naturalization Applications Will Take Nearly Three Years to Clear,” Migration Policy Institute, February 15, 2008, at [file:///C:/Documents%20and%20Settings/chaddal/Application%20Data/Mozilla/Firefox/Profiles/q4pkbndw.default/zotero/storage/11212/display.html], visited March 4, 2008.

¹²¹ Chris Nelson, “Delay Debacle,” *IndUS Business Journal Online*, February 15, 2008, at [http://www.indusbusinessjournal.com/ME2/dirmod.asp?sid=&nm=&type=Publishing&mod=Publications%3A%3AArticle&mid=8F3A7027421841978F18BE895F87F791&ier=4&id=5AF6AC18B95142F39C890025700AFBC3], visited March 4, 2008.

¹²² This weighted average does not include the increases to the biometric fee. When combined with the biometric fee, the weighted average application fee increase would be reduced to 86%. (U.S. Department of Homeland Security, “U.S. Citizenship and Immigration Services, Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule; Proposed Rule,” *Federal Register*, vol. 72, no. 21 (February 1, 2007), p. 4888)

example, increased from \$330 to \$595.¹²³ Critics of this new naturalization backlog have mainly raised concerns that applicants would not naturalize in time to participate in the 2008 election.¹²⁴ USCIS did not include a request for direct appropriations to hire additional temporary personnel to adjudicate the backlog.

Use of FBI National Name Check Program. An additional potential issue for Congress concerns USCIS' use of the Federal Bureau of Investigation's (FBI) National Name Check Program. USCIS officials have estimated that roughly 44% of 320,000 pending name checks for immigration benefit applications have taken more than six months to process, including applications for legal permanent residence¹²⁵ (LPR) and naturalization.¹²⁶ As a result, the White House has authorized USCIS to grant approximately 47,000 LPR applicants their immigration benefits without requiring completed FBI name checks.¹²⁷ Critics of this decision believe it could expose the United States to more security threats.¹²⁸ The USCIS ombudsman, however, has argued that USCIS employment of the FBI name check process is of limited value to public safety or national security because in most cases the applicants are living and working in the United States without restriction.¹²⁹

Federal Law Enforcement Training Center (FLETC)¹³⁰

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 more than 1,000 employees.

¹²³ U.S. Department of Homeland Security, "U.S. Citizenship and Immigration Services, Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule," *Federal Register*, vol. 72, no. 103 (May 30, 2007), p. 29854.

¹²⁴ Chris Nelson, "Delay Debacle," *IndUS Business Journal Online*, February 15, 2008, at [<http://www.indusbusinessjournal.com/ME2/dirmod.asp?sid=&nm=&type=Publishing&mod=Publications%3A%3AArticle&mid=8F3A7027421841978F18BE895F87F791&tie r=4&id=5AF6AC18B95142F39C890025700AFBC3>], visited March 4, 2008.

¹²⁵ Legal permanent residence is more commonly known as being issued a "green card."

¹²⁶ Spencer S. Hsu, "U.S. to Skirt Green-Card Check: Action Will Help Applicants Lacking Final FBI Clearance," *Washington Post*, February 12, 2008, p. A03.

¹²⁷ Susan Carroll, "Green Cards Will Go Out, Background Check or Not," *Houston Chronicle*, February 12, 2008.

¹²⁸ *Ibid.*

¹²⁹ U.S. Department of Homeland Security, Citizenship and Immigration Service Ombudsman, *Annual Report 2007*, June 11, 2007, p. 40.

¹³⁰ Prepared by Blas Nuñez-Neto, Analyst in Domestic Security, Domestic Social Policy Division.

President's Request. The overall request for FLETC in FY2009 is \$274 million, a decrease of \$15 million from the FY2008 appropriation. The Administration is requesting an increase of 55 positions to assist in the training of the additional Border Patrol agents, CBP officers, ICE detention personnel, and ICE investigators requested by DHS in its FY2009 budget submission. DHS is also proposing to transfer the office of Federal Law Enforcement Training Accreditation to the Chief Human Capital Office in Title I.¹³¹

Science and Technology (S&T)¹³²

The Directorate of Science and Technology (S&T) is the primary DHS organization for research and development (R&D).¹³³ Headed by the Under Secretary for Science and Technology, it performs R&D in several laboratories of its own and funds R&D performed by the national laboratories, industry, universities, and other government agencies. See **Table 20** for details of the directorate's appropriation.

President's FY2009 Request. The Administration requested a total of \$869 million for the S&T Directorate for FY2009. This was 5% more than the FY2008 appropriation of \$830 million. A proposed increase of \$18 million for the Explosives program would fund R&D on countering improvised explosive devices (IEDs), with an emphasis on basic research to complement shorter-term R&D being conducted by other agencies. A proposed increase of \$43 million for the Laboratory Facilities program included \$29 million for startup costs at the National Biodefense Analysis and Countermeasures Center (NBACC) as well as \$14 million for laboratory employee salaries previously budgeted in another account. A proposed \$27 million reduction in the Infrastructure and Geophysical program was largely the result of reducing funding for local and regional initiatives previously established or funded at congressional direction.

¹³¹ *DHS FY2009 Congressional Budget Justifications*, p. FLETC S&E 2 and 11.

¹³² Prepared by Daniel Morgan, Analyst in Science & Technology, Resources, Science, and Industry Division.

¹³³ Two other DHS organizations also conduct R&D: the Domestic Nuclear Detection Office (see next section) and the U.S. Coast Guard. Funding for the Coast Guard's Research, Development, Testing, and Evaluation account was as follows: FY2008 enacted, \$25 million; FY2009 request, \$16 million.

Table 20. Directorate of Science and Technology Accounts and Activities, FY2008-FY2009
(budget authority in millions of dollars)

	FY2008 Enacted	FY2009 Request	FY2009 House- Passed	FY2009 Senate- Passed	FY2009 Enacted
Directorate of Science and Technology	830	869			
Management and Administration ^a	139	132			
R&D, Acquisition, and Operations	692	737			
<i>Border and Maritime</i>	25	35			
<i>Chemical and Biological</i>	208	200			
<i>Command, Control, and Interoperability</i>	57	62			
<i>Explosives</i>	78	96			
<i>Human Factors</i>	14	12			
<i>Infrastructure and Geophysical</i>	64	38			
<i>Innovation</i>	33	45			
<i>Laboratory Facilities^a</i>	104	147			
<i>Test and Evaluation, Standards</i>	29	25			
<i>Transition^b</i>	25	32			
<i>Homeland Security Institute^b</i>	5	—			
<i>University Programs</i>	49	44			

Source: CRS analysis of the FY2009 DHS congressional budget justification.

Note: Totals may not add because of rounding.

- a. Reflects transfer of \$14 million for salaries of DHS laboratory employees from Management and Administration in FY2008 to Laboratory Facilities in FY2009.
- b. Congress appropriated \$5 million for the Homeland Security Institute as a separate line item in FY2008. The FY2009 budget justification incorporated this amount into Transition. The FY2009 request for Transition included \$5 million for the Homeland Security Institute.

Issues for Congress. Among the issues facing Congress are the S&T Directorate's priorities and how they are set, its relationships with other federal R&D organizations both inside and outside DHS, its budgeting and financial management, and the allocation of its R&D resources to national laboratories, industry, and universities. The directorate announced five new university centers of excellence in February 2008. Some existing centers are expected to be terminated or merged over the next few years to align with the directorate's division structure. For more information, see CRS Report RL34356, *The DHS Directorate of Science and Technology: Key Issues for Congress*.

Domestic Nuclear Detection Office¹³⁴

The Domestic Nuclear Detection Office (DNDO) is the primary DHS organization for combating the threat of nuclear attack. It is responsible for all DHS nuclear detection research, development, testing, evaluation, acquisition, and operational support. See **Table 21** for details of the appropriation for DNDO.

President's FY2009 Request. The Administration requested a total of \$564 million for DNDO for FY2009. This was a 16% increase from the FY2008 appropriation of \$485 million. Most of the growth was in the Systems Acquisition account, where an increase of \$68 million for procurement of Advanced Spectroscopic Portals (ASPs) was partly offset by a decrease of \$10 million for the Securing the Cities initiative in the New York City area.

Table 21. Domestic Nuclear Detection Office Accounts and Activities, FY2008-FY2009
(budget authority in millions of dollars)

	FY2008 Enacted	FY2009 Request	FY2009 House- Passed	FY2009 Senate- Passed	FY2009 Enacted
Domestic Nuclear Detection Office	485	564			
Management and Administration	32	39			
Research, Development, and Operations	324	334			
<i>Systems Engineering and Architecture</i>	22	25			
<i>Systems Development</i>	118	108			
<i>Transformational Research and Development</i>	96	113			
<i>Assessments</i>	38	32			
<i>Operations Support</i>	34	38			
<i>National Technical Nuclear Forensics Center</i>	15	18			
Systems Acquisition	130	191			
<i>Radiation Portal Monitoring Program</i>	90	158			
<i>Securing the Cities</i>	30	20			
<i>Human Portable Radiation Detection Systems</i>	10	13			

Source: CRS analysis of the FY2009 DHS congressional budget justification.

Note: Totals may not add because of rounding.

¹³⁴ Prepared by Daniel Morgan, Analyst in Science and Technology, Resources, Science, and Industry Division.

Issues for Congress. Congressional attention has focused on the testing and analysis DNDO conducted to support its decision to purchase and deploy ASPs, a type of next-generation radiation portal monitor.¹³⁵ The Consolidated Appropriations Act, 2008 prohibits full-scale procurement of ASPs until the Secretary of Homeland Security has certified their performance.¹³⁶ DHS states that it expects the Secretary to make that certification in late FY2008. The relative roles of DNDO and the S&T Directorate in research, development, testing, and evaluation also remain an issue of congressional interest.

FY2009-Related Legislation

Budget Resolution

The President's FY2009 budget request included nearly \$992 billion in discretionary, non-emergency, budget authority. On March 6, 2008, the House and Senate Budget Committees each reported budget resolutions. The House budget resolution (H.Con.Res. 312) was passed in the House on March 13, 2008. While the budget resolution does not identify specific amounts for DHS, it does note that:

this resolution assumes funding above the President's requested level for 2009, and additional amounts in subsequent years, in the four budget functions — Function 400 (Transportation), Function 450 (Community and Regional Development), Function 550 (Health), and Function 750 (Administration of Justice) — that fund most nondefense homeland security activities.¹³⁷

¹³⁵ See, for example, Government Accountability Office, *Combating Nuclear Smuggling: Additional Actions Needed to Ensure Adequate Testing of Next Generation Radiation Detection Equipment*, GAO-07-1247T, testimony before the House Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, September 18, 2007.

¹³⁶ P.L. 110-161, Division E, Title IV, under the heading "Systems Acquisition."

¹³⁷ H.Con.Res. 312, §603.

Appendix A. Emergency Funding for Border Security in The Consolidated Appropriations Act, 2008 (P.L. 110-161)

This appendix describes the distribution of \$3,000 million (\$3.0 billion) in emergency funds for border security throughout the Consolidated Appropriations Act, 2008 (P.L. 110-161).¹³⁸ Division E of P.L. 110-161 includes \$2,710 million (\$2.7 billion) in emergency funding for border security purposes. This funding is disbursed throughout several DHS funding accounts including Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT); State and Local Programs (S&L); the U.S. Coast Guard, US Citizenship and Immigration Services (USCIS), and the Federal Law Enforcement Training Center (FLETC). P.L. 110-161 also includes another \$40 million in Division B — Commerce, Justice, Science; the remaining \$250 million is included in Division D — Financial Services.

Distribution of FY2008 Emergency Border Security Funding in Division E — DHS of P.L. 110-161

As noted above, \$2,710 million (\$2.7 billion) in emergency funding was distributed among several accounts in Division E of P.L. 110-161. The funds are distributed as follows: \$1,531 million (\$1.5 billion) for CBP; \$527 million for ICE; \$166 million for the U.S. Coast Guard; \$275 million for USVISIT; \$110 million for S&L programs; \$80 million for USCIS; and \$21 million for FLETC.

CBP FY2008 Emergency Border Security Appropriations. The \$1,531 million (\$1.5 billion) in FY2008 emergency funding for CBP is disbursed as follows, by account and amount:

- Salaries and Expenses — \$323 million
 - \$40 million for the Model Ports of Entry program and includes funding to hire at least 200 additional CBP officers at the 20 U.S. international airports with the highest number of foreign visitors arriving annually;
 - \$45 million for terrorist prevention system enhancements for passenger screening - to develop system infrastructure needed to support a real-time capability to process advanced passenger information for passengers intending to fly to the U.S.;
 - \$36 million to implement the electronic travel authorization program for visa waiver countries;
 - \$150 million for the Western Hemisphere Travel Initiative (WHTI);
 - \$25 million for a ground transportation vehicle contract (Border Patrol);
 - \$13 million for Border Patrol vehicles;

¹³⁸ Figures in this memorandum are rounded to the nearest million.

- \$14 million for Air and Marine Personnel Compensation and Benefits for 82 positions to support the establishment of 11 new marine enforcement units.
- Border Security Fencing, Infrastructure, and Technology (BSFIT) — \$1,053 million:
 - \$1,053 million (\$1.1 billion) for development and deployment of systems and technology.
- Air and Marine Interdiction, Operations, Maintenance, and Procurement:
 - \$94 million for procurement.
- Construction — \$61 million:
 - \$61 million for Border Patrol Construction.

ICE FY2008 Emergency Border Security Appropriations. The \$527 million in FY2008 emergency funding for ICE is disbursed as follows, by account and amount:

- Salaries and Expenses — \$516 million
 - \$4 million for ICE vehicle replacements;
 - \$50 million for domestic investigations;
 - \$186 million for custody operations;
 - \$33 million for fugitive operations;
 - \$10 million for alternatives to detention;
 - \$33 million for transportation and removal;
 - \$200 million for the comprehensive identification and removal of criminal aliens.
- Construction — \$11 million
 - \$11 million for construction.

U.S. Coast Guard FY2008 Emergency Border Security Appropriations. The \$166 million in FY2008 emergency funding for the U.S. Coast Guard is disbursed as follows, by account and amount:

- Operating Expenses — \$70 million
 - \$70 million for port and maritime security enhancements.
- Acquisition, Construction, and Improvements — \$96 million
 - \$36 million for medium response boat replacement;
 - \$60 million for interagency operational centers for port security.

U.S. Visitor and Immigrant Status Indicator Technology (USVISIT) FY2008 Emergency Border Security Appropriations. The \$275 million in FY2008 emergency funding for US-VISIT is provided in the main US-VISIT account.

State and Local Programs FY2008 Emergency Border Security Appropriations. The \$110 million in FY2008 emergency funding for State and Local Programs is disbursed as follows:

- \$60 million for Law Enforcement Terrorism Prevention Grants — Operation Stonegarden;¹³⁹
- \$50 million for REAL ID¹⁴⁰ grants.

USCIS FY2008 Emergency Border Security Appropriations. The \$80 million in FY2008 emergency funding for USCIS is disbursed as follows:

- \$60 million for the E-Verify¹⁴¹ program;
- \$20 million for the FBI background check backlog.

FLETC FY2008 Emergency Border Security Appropriations. The \$21 million in FY2008 emergency funding for FLETC is disbursed as follows, by amount and account:

- Salaries and Expenses — \$17 million
 - \$17 million for law enforcement training
- Acquisition, Construction, Improvements, and Related Expenses — \$4 million
 - \$4 million for construction.

Distribution of FY2008 Emergency Border Security Funding in Division B — Commerce, Justice, Science of P.L. 110-161

Division B — the Commerce, Justice, Science portion of P.L. 110-161 contains border security-related emergency funding to provide additional resources that will be required as a result of an anticipated increase in immigration enforcement actions.

Department of Justice (DOJ) FY2008 Emergency Border Security Appropriations. The \$40 million in FY2008 emergency funding for DOJ is disbursed as follows, by amount and account:

- General Administration - Salaries and Expenses — \$8 million
 - \$8 million for the Executive Office for Immigration Review (EOIR) to provide additional attorneys and judges for the Board of Immigration Appeals

¹³⁹ Operation Stonegarden provides funds (awarded on a competitive basis) to state and local law enforcement in counties along the land border in support of ongoing law enforcement operations along the border.

¹⁴⁰ Grants to assist states in implementing the requirements of the REAL ID Act of 2005 regarding the issuance of state driver's licenses and state identification cards.

¹⁴¹ The E-Verify program was previously referred to as the Employment Eligibility Verification program and is administered by USCIS.

- Legal Activities — Salaries and Expenses, General Legal Activities - \$10 million
 - \$10 million for the Civil Division Office of Immigration Litigation to provide 86 additional attorneys to address appeals resulting from increased immigration enforcement actions
- Legal Activities — Salaries and Expenses, United States Attorneys — \$7 million
 - \$7 million for United States Attorneys for criminal and civil litigation resulting from increased immigration enforcement actions.
- US Marshals Service — Salaries and Expenses — \$15 million.
 - \$15 million for prisoner transportation, defendant productions and courthouse security resulting from increased immigration-related Federal court proceedings.

Distribution of FY2008 Emergency Border Security Funding in Division D — Financial Services

Division D — the Financial Services portion of P.L. 110-161 contains border security-related emergency funding to provide additional resources that will be required as a result of an anticipated increase in immigration enforcement actions. This funding is found within the General Services Administration (GSA), and within the Judiciary, Courts of Appeals, District Courts and Other Judicial Services.

General Services Administration (GSA) FY2008 Emergency Border Security Appropriations. There is \$225 million in emergency border security funding included in the Construction and Acquisition account of the Federal Buildings Fund under the GSA:

- Federal Buildings Fund — Construction and Acquisition — \$225 million
 - \$225 million to expedite construction at select land ports of entry, including one of the nation’s most congested sites.

Courts of Appeals, District Courts and Other Judicial Services, FY2008 Emergency Border Security Appropriations. P.L. 110-161 provides \$25 million¹⁴² in emergency funding for border security initiatives within Courts of Appeals, District Courts and Other Judicial Services:

- Salaries and Expenses — \$15 million

¹⁴² The overall total appropriated for this account was \$25 million because the total for Salaries and Expenses was actually \$14.5 million and the total for defender services was actually \$10.5 million.

- \$15 million to address the understaffed workload associated with increased immigration enforcement along the Southwest border
- Defender Services — \$11 million
 - \$11 million to address the expected increased workload of attorneys appointed to represent persons under the Criminal Justice Act of 1964 as a result of increased immigration enforcement along the Southwest border.

Appendix B. DHS Appropriations in Context

Federal-Wide Homeland Security Funding

Since the terrorist attacks of September 11, 2001, there has been an increasing interest in the levels of funding available for homeland security efforts. The Office of Management and Budget, as originally directed by the FY1998 National Defense Authorization Act, has published an annual report to Congress on combating terrorism. Beginning with the June 24, 2002 edition of this report, homeland security was included as a part of the analysis. In subsequent years, this homeland security funding analysis has become more refined, as distinctions (and account lines) between homeland and non-homeland security activities have become more precise. This means that while **Table 22** 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 FY2009 accounts for approximately 49.5% of total federal funding for homeland security. The Department of Defense comprises the next highest proportion at 26.6% of all federal spending on homeland security. The Department of Health and Human Services at 6.7%, the Department of Justice at 5.7% and the Department of State at 3.7% round out the top five agencies in spending on homeland security. These five agencies collectively account for nearly 92.2% 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 FY2009 request included total *homeland security* budget authority of \$32.8 billion for DHS, the requested *total gross budget authority* was \$46.8 billion. The same is true of the other agencies listed in the table.

Table 22. Federal Homeland Security Funding by Agency, FY2003-FY2009
(budget authority in millions of dollars)

Department	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009 Request	FY2009 as % of total
Department of Homeland Security (DHS)	23,063	22,923	24,549	26,571	29,554	32,740	32,817	49.5%
Department of Defense (DOD) ^a	8,442	7,024	17,188	17,510	16,538	17,374	17,646	26.6%
Department of Health and Human Services (HHS)	4,144	4,062	4,229	4,352	4,327	4,301	4,457	6.7%
Department of Justice (DOJ)	2,349	2,180	2,767	3,026	3,518	3,523	3,795	5.7%
Department of State (DOS)	634	696	824	1,108	1,242	1,962	2,466	3.7%
Department of Energy (DOE)	1,408	1,364	1,562	1,702	1,719	1,829	1,943	2.9%
Department of Agriculture (AG)	410	411	596	597	541	570	691	1.0%
National Science Foundation (NSF)	285	340	342	344	385	374	379	0.6%
Department of Veterans Affairs (VA)	154	271	249	298	260	272	348	0.5%
Department of Commerce	112	125	167	181	205	207	262	0.4%
Other Agencies	1,445	1,437	1,910	1,429	1,545	1,772	1,500	2.3%
Total Federal Budget Authority	42,447	40,834	54,383	57,118	59,833	64,923	66,303	100%

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

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Notes: 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.

- a. FY2002, FY2003, and FY2004 do not include re-estimates of DOD homeland security funding. For FY2007 DOD changed the manner in which they calculate their homeland security activities. This new method of estimation has been applied for FY2005 and forward. Re-estimates of FY2002-FY2004 DOD funding using this new method of calculation were not available for inclusion.