

# CRS Report for Congress

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## **Appropriations for FY2004: Transportation, Treasury, Postal Service, Executive Office of the President, General Government, and Related Agencies**

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Appropriations are one part of a complex federal budget process that includes budget resolutions, appropriations (regular, supplemental, and continuing) bills, rescissions, and budget reconciliation bills. The process begins with the President's budget request and is bound by the rules of the House and Senate, the Congressional Budget and Impoundment Control Act of 1974 (as amended), the Budget Enforcement Act of 1990, and current program authorizations.

This report is a guide to one of the 13 regular appropriations bills that Congress considers each year. It is designed to supplement the information provided by the Subcommittee on Transportation, Treasury and Independent Agencies of the House Committee on Appropriations the Subcommittee on Transportation, Treasury and General Government of the Senate Committee on Appropriations. It summarizes the current legislative status of the bill, its scope, major issues, funding levels, and related legislative activity. The report lists the key CRS staff relevant to the issues covered and related CRS products.

This report is updated as soon as possible after major legislative developments, especially following legislative action in the committees and on the floor of the House and Senate.

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# Appropriations for FY2004: Transportation, Treasury, Postal Service, Executive Office of the President, General Government, and Related Agencies

## Summary

This year Congress begins providing in a single bill appropriations for the Departments of Transportation and the Treasury, the United States Postal Service, the Executive Office of the President, and Related Agencies, as well as General Government provisions.

On February 4, 2003, President Bush presented his FY2004 budget request to Congress. It requested \$85.9 billion. On September 9, the House passed H.R. 2989, the FY2004 Transportation, Treasury and Independent Agencies Appropriations bill, which provides \$85.8 billion. The Committee's major change from the Administration's request was to recommend an additional \$4.4 billion in highway spending (another major change, the deletion of the \$3.4 billion for grants-in-aid to airports, was a procedural change; funding may be restored in conference). On September 4, the Senate Appropriations Committee marked up its version of the bill (S. 1589); the Committee recommended \$90.0 billion, adding \$4.5 billion in highway funding to the Administration's request.

Key issues in transportation appropriations include highway funding (both Houses provide \$4+ billion more than the Administration requested) and Amtrak funding (the House provides \$900 million, as requested by the Administration; the Department of Transportation's Inspector General says Amtrak cannot survive on that amount).

Key issues in treasury and related agencies appropriations include Internal Revenue Service efforts to enforce compliance with tax laws, particularly the earned income tax credit, and the proposed pay increase for federal civilian employees (the White House opposes while both Houses support a 4.1% pay raise for federal civilian employees, in line with the military pay raise). Other key issues include two provisions in the House bill that have drawn veto threats: a provision that would prohibit the use of funds in the bill to enforce travel restrictions to Cuba and a provision that would block the Administration's plan to increase the outsourcing of federal work by prohibiting the use of funds in the bill to enforce new federal outsourcing rules.

With the end of the fiscal year approaching, and several appropriations bills still being worked on, a Continuing Resolution is likely. This report will be updated as warranted by events.

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Division abbreviations:

DSP = Domestic Social Policy

G&F= Government & Finance

RSI = Resources, Science, and Industry Division.

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# Appropriations for FY2004: Transportation, Treasury, Postal Service, Executive Office of the President, General Government, and Related Agencies

## Most Recent Developments

On September 9, 2003, the House of Representatives passed H.R. 2989, the FY2004 Transportation, Treasury and Independent Agencies Appropriation bill. The bill provides \$85.8 billion. Key financial differences from the Administration request include an additional \$4.4 billion in highway funding; another major difference, the deletion of the \$3.4 billion for grants-in-aid to airports, was the result of a point of order against funding the administrative expenses of the program from contract authority. Funding for the program is likely to be restored in conference.

On September 4, the Senate Committee on Appropriations marked up its version of the FY2004 Transportation, Treasury and Independent Agencies Appropriation bill. The Committee recommended \$90.0 billion, \$4.1 billion more than the Administration requested. The major financial change from the Administration request was an additional \$4.5 billion in highway funding.

## Overview

### Legislative Status

**Table 1. Status of FY2004 Departments of Transportation and Treasury and Independent Agencies Appropriations**

Subcommittee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
7/11/03	8/3/03	7/30/03 H.Rept. 108-243	9/9/03 381-39	9/8/03 S.Rept. 108-146					

**Data note.** Prior to FY2004, appropriations for the Department of Transportation and the Department of the Treasury were in separate bills. Beginning with the FY2004 budget, Congress is considering appropriations for the Department of Transportation (DOT) and its related agencies, and the Department of the

Treasury, the Postal Service, the Executive Office of the President, and General Government provisions, in a single appropriations bill. This change is a result of the creation of a new federal department, the Department of Homeland Security, and the reorganization of the subcommittee structure of the House and Senate Committees on Appropriations, creating new subcommittees for Homeland Security and combining the former Transportation and Treasury subcommittees into one committee.

As part of the creation of the Department of Homeland Security (DHS), the United States Coast Guard and the Transportation Security Administration were transferred from the Department of Transportation to DHS. Also, the Bureau of Alcohol, Tobacco, and Firearms, the Customs Service, and the United States Secret Service were transferred from the Department of the Treasury to DHS, and the Office of Homeland Security was transferred from the Executive Office of the President to DHS. Budget numbers for years prior to FY2004 have been adjusted for comparing previous years' appropriations and FY2004 requested funding.

The House divides its appropriation bill into six titles, the Senate division has only five titles (the Senate includes the Postal Service under its Independent Agencies title, while the House gives the Postal Service its own title). This report follows the House practice.

## **FY2003 Appropriations**

The FY2003 Consolidated Appropriations Resolution (P.L. 108-7) included a 0.65% across-the-board rescission which applied to most accounts in the Department of Transportation and Department of the Treasury and General Government appropriations. The FY2003 figures in this report reflect the rescission, and so differ slightly from the figures in P.L. 108-7.

## **FY2004 Budget Request**

The Administration's FY2004 budget request for the Departments of Transportation and Treasury, the Executive Office of the President, and Related Agencies was \$85.9 billion, \$740 million below the final comparable FY2003 enacted figure (less than 1%). **Table 2** shows the allocation of funding within the overall request.

**Table 2. Transportation/Treasury Appropriations, by Title, FY2003-FY2004**  
(millions of dollars)

Title	Final FY2003 Enacted	FY2004 Request	FY2004 House Passed	FY2004 Senate Reported	FY2004 Enacted
Title I: Department of Transportation	55,674	54,266	*54,940	58,947	
Title II: Department of the Treasury	10,849	11,343	11,273	11,196	
Title III: Postal Service	107	97	97	97	
Title IV: Executive Office of the President	777	791	777	735	
Title V: Related Agencies	19,151	19,555	19,021	19,180	
Title VI: General Provisions	279	—	15	—	
<b>Total, Transportation/Treasury Appropriations</b>	<b>86,588</b>	<b>85,863</b>	<b>85,819</b>	<b>90,028</b>	

**Source:** House Committee on Appropriations, House Report 108-243, Table: *Comparative Statement of Budget Authority*, except "Senate Reported" from Senate Committee on Appropriations, Senate Report 108-146, Table: *Comparative Statement of Budget Authority*. "Total" is from "Net grand total budgetary resources" line in table and reflects scorekeeping adjustments.

**Note:** The Senate divides the budget differently from the House, putting the Postal Service into the "Related Agencies" ("Independent Agencies" in the Senate report) Title.

\*During House deliberations on H.R. 2989, funding for two programs was struck on points of order, reflecting a dispute over some aspect of the way the funds were being provided, rather than the funding itself: FAA's Grants-in-Aid to Airports program (\$3.425 billion) and the Federal Motor Carrier Safety Administration's Border Enforcement program (\$47 million). This reduced total transportation funding in the bill by those amounts, from \$58.4 billion to \$54.9 billion, and thus total funding in the bill dropped from \$89.3 billion to \$85.8 billion. Funding for those programs may be restored in conference.

## Major Funding Trends

**Table 3: Funding Trends for Transportation/Treasury Appropriations, FY1999-FY2004**  
(billions of current dollars)

Department	FY1999	FY2000	FY2001 <sup>d</sup>	FY2002	FY2003 <sup>e</sup>	FY2004 Admin. Request
Title I: Transportation <sup>a</sup>	43.9	46.2	51.9	57.4	55.7	54.3
Title II: Treasury <sup>b</sup>	9	9	9.9	10.5	10.8	11.3
Title III: Postal Service	0.1	0.1	0.1	0.7	0.1	0.1
Title IV: Executive Office of the President	0.7	0.7	0.7	0.8	0.8	0.8
Title V: Related Agencies <sup>c</sup>	14.6	15	15.8	16.8	19.2	19.6

**Source:** United States House of Representatives, Committee on Appropriations, Comparative Statement of Budget Authority tables from fiscal years 1999 through 2004.

- Figures for Department of Transportation appropriations for FY1999-FY2003 have been adjusted for comparison with FY2004 figures by subtracting the United States Coast Guard, the Transportation Security Administration, the National Transportation Safety Board, and the Architectural and Transportation Barriers Compliance Board, and by adding the Maritime Administration.
- Figures for Department of the Treasury appropriations for FY1999-FY2003 have been adjusted for comparison with FY2004 figures by subtracting the Bureau of Alcohol, Tobacco, and Firearms, the Customs Service, the United States Secret Service, and the Law Enforcement Training Center.

- c. Figures for Related Agencies appropriations for FY1999-FY2003 have been adjusted by adding the National Transportation Safety Board and the Architectural and Transportation Barriers Compliance Board.  
d. FY2001 figures include 0.22% across-the-board rescission.  
e. FY2003 figures include 0.65% across-the-board rescission.

## Title I: Transportation Appropriations

### Overview

The Administration's FY2004 budget proposes a DOT budget of \$54.3 billion —2.6% below FY2003's comparable enacted level of \$55.7 billion.<sup>1</sup> The budget request conformed to the basic outline of both the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21; P.L. 105-178) which authorizes spending on highways and transit, and the aviation funding authorized in the Wendell Ford Aviation Investment and Reform Act of the 21<sup>st</sup> Century (FAIR21 or AIR21; P.L. 106-181), although both acts will expire before FY2004 begins (see Appendix 1 for more information on these authorizing acts). However, the request did propose a few changes to the highway and transit funding structure, in line with the Administration's reauthorization proposal; see the sections on the Federal Highway Administration and Federal Transit Administration for details.

**Table 4. Title I: Department of Transportation Appropriations**  
(in millions of dollars — totals may not add)

Department or Agency (Selected Accounts)	Final FY2003 Enacted <sup>a</sup>	FY2004 Request	FY2004 House Passed	FY2004 Senate Reported	FY2004 Enacted
Office of the Secretary of Transportation	173	177	159	172	
Essential Air Service <sup>b</sup>	52	50	63	52	
Federal Aviation Administration	13,510	14,007	10,600	13,971	
Operations (trust fund & general fund)	7,023	7,591	7,532	7,536	
Facilities & Equipment (F&E) (trust fund)	2,942	2,916	2,900	2,916	
Grant-in-aid Airports (AIP) (trust fund) (limit. on oblig.)	3,378	3,400	—	3,400	
Research, Engineering & Development (trust fund)	147	100	108	119	
Federal Highway Administration	32,417	30,225	34,579	34,768	
(Limitation on Obligations)	31,593	29,294	33,385	33,843	
(Exempt Obligations)	893	931	931	931	

<sup>1</sup> This report relies on figures from tables provided by the House and Senate Committees on Appropriations. Because of differing treatment of offsets, rescissions, and the structure of appropriations bills, the totals will at times vary from those provided by the Administration. The total FY2004 budget number for DOT is not directly comparable to those of previous years due to the transfer of the Coast Guard and Transportation Security Administration to the Department of Homeland Security during FY2003, as well as other changes.

Department or Agency (Selected Accounts)	Final FY2003 Enacted <sup>a</sup>	FY2004 Request	FY2004 House Passed	FY2004 Senate Reported	FY2004 Enacted
Additional funds (trust fund)	—	—	400		
Additional funds <sup>c</sup> (general fund)	187	—	—	150	
Federal Motor Carrier Safety Administration	313	447	427	483	
National Highway Traffic Safety Administration <sup>d</sup>	434	665	435	449	
Federal Railroad Administration <sup>j</sup>	1,261	1,089	1,087	1,568	
Amtrak <sup>e</sup>	1,043	900	900	1,346	
Federal Transit Administration	7,179	7,226	7,231	7,305	
Formula Grants (general fund)	763	—	768	768	
Formula Grants (trust fund)	3,051	5,615	3,071	3,071	
Capital Investment Grants. (general fund)	603	1,214	599	628	
Capital Investment Grants (trust fund)	2,413	321	2,507	2,512	
St. Lawrence Seaway Development Corporation	14	14	15	14	
Maritime Administration	230	219	219	228	
Research and Special Programs Administration <sup>f</sup>	105	118	111	110	
Office of Inspector General	55	55	55	56	
Surface Transportation Board	18	18	18	18	
<b>Total, Department of Transportation <sup>g</sup></b>	55,674	54,266	*54,940	58,947	

**Note:** Figures were taken from House Committee on Appropriations, House Report 108-243, Table: *Comparative Statement of Budget Authority*, except “Senate Reported” from Senate Committee on Appropriations, Senate Report 108-146, Table: *Comparative Statement of Budget Authority*. Because of differing treatment of offsets, the totals will not always match the Administration’s totals. The figures within this table may differ slightly from those in the text due to supplemental appropriations, rescissions, and other funding actions. Columns may not add due to rounding or exclusion of smaller program line-items.

\*During House deliberations on H.R. 2989, funding for two programs was struck on points of order, which reflected a dispute over some aspect of the way the funds were being provided, rather than the funding itself: FAA’s Grants-in-Aid to Airports program (\$3.425 billion) and the Federal Motor Carrier Safety Administration’s Border Enforcement program (\$47 million). This reduced total transportation funding in the bill by those amounts. Funding for these programs may be restored in conference.

- a. These figures reflect the 0.65% across-the-board rescission included in P.L. 108-7.
- b. These amounts are in addition to the \$50 million annual authorization for the Essential Air Service program; thus, the total FY2003 funding was \$102 million (\$50 million + \$52 million).
- c. For Appalachian Development Highway System (\$187 million).
- d. NHTSA’s FY2004 request includes \$100 million transferred from FHWA; this funding was previously provided through the FHWA but administered by NHTSA. Therefore, the difference between budgetary resources available to NHTSA for FY2003 and its FY2004 request is \$131 million, not \$231 million.
- e. In addition to Amtrak’s FY2003 appropriation, Congress postponed Amtrak’s repayment of a \$100 million loan from the DOT.
- f. The figures do not reflect \$14 million in permanent appropriations. Therefore, the total resources for RSPA for FY2003 may be seen as \$119 million, and the total request for FY2004 as \$132 million.
- g. Rescissions of unobligated previous years’ contract authority have been subtracted from this total. Because rescissions of prior years’ contract authority have no impact on the budgetary resources available for the current fiscal year, the total resources available could be seen as \$55.9 billion for FY2003 enacted.

## Federal Aviation Administration (FAA)

[<http://www.faa.gov/>]

H.R. 2989 as passed by the House, would provide just over \$14 billion for FAA activities in FY2004. This is \$21 million more than the Bush Administration proposal and a \$518 million increase over the FY2003 enacted level of \$13.5 billion (this amount reflects a 0.65% rescission to which some parts of the FAA budget were subjected). The majority of the increased funding proposed by H.R. 2989 and the Bush Administration submission would be used for Operations & Maintenance (O&M) expenses. S. 1589 as approved by the Senate Committee on Appropriations provides the FAA with a similar amount, \$13.97 billion. With the exception of some program adjustments there are essentially no major new initiatives in any of the FY2004 legislative proposals.

The vast majority of FAA funding is provided from the Airport and Airway Trust Fund. Only O&M funding uses a mix of trust fund and Treasury general fund monies. In FY2002 a Treasury general fund contribution of \$1.1 billion was provided for O&M funding. The Administration proposed a general fund contribution of almost \$3.3 billion for FY2003. Whereas the general fund contribution for FY2002 was on the low side historically, the Administration was trying to return to a higher contribution level. In this effort they were successful, with both the House and the Senate agreeing ultimately on \$3.4 billion. For FY2004 the House Appropriations Committee initially suggested that \$1.5 billion be provided from the general funds. During Floor debate the bill was amended to raise the general fund contribution to approximately \$3.5 billion. The Senate Appropriations bill, however, currently provides general funds at the \$1.5 billion level. Historically, this funding split has been an important part of the annual FAA budget debate. The rationale behind the general fund contribution has been that the public at large realizes some benefit from aviation whether it uses the system or not.<sup>2</sup>

**Operations and Maintenance (O&M).** H.R. 2989 provides \$7.5 billion for FY2004 O&M spending. The Senate Appropriations bill also provides \$7.5 billion. These compare with an Administration request of almost \$7.6 billion. Each proposal represents a major increase over the \$7.1 billion level for FY2003 agreed to in P.L. 108-7. The majority of funding in this category is for the salaries of FAA personnel engaged in air traffic control, certification, and safety-related activities. Much of the increased funding called for in the FY2004 request is for increased air traffic control system costs and safety-related activities.

**Facilities and Equipment (F&E).** P.L. 108-7 provided \$2.96 billion for this activity. The FY2004 Administration request was essentially unchanged from this level. The House bill, however, provides for a decrease of \$61.6 million from the FY2003 level, whereas the Senate Appropriations bill provides for a decrease of

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<sup>2</sup> General fund appropriations have varied substantially, both in dollar terms and as a percentage of FAA appropriations as a whole, from year to year. Over the last 12 years the share has ranged from 0% to 47%. See table 1 in CRS Report RS20177, *Airport and Airway Trust Fund Issues in the 106<sup>th</sup> Congress*, by John W. Fischer.

\$45.6 million. The Senate Appropriations bill, however, transfers \$100 million of its appropriation to the Airport Improvement Program making the actual Senate bill reduction from last year's level significantly greater. F&E funding is used primarily for capital investment in air traffic control and safety. There are no significant new F&E spending initiatives in the House, Senate Appropriations, or Administration proposals.

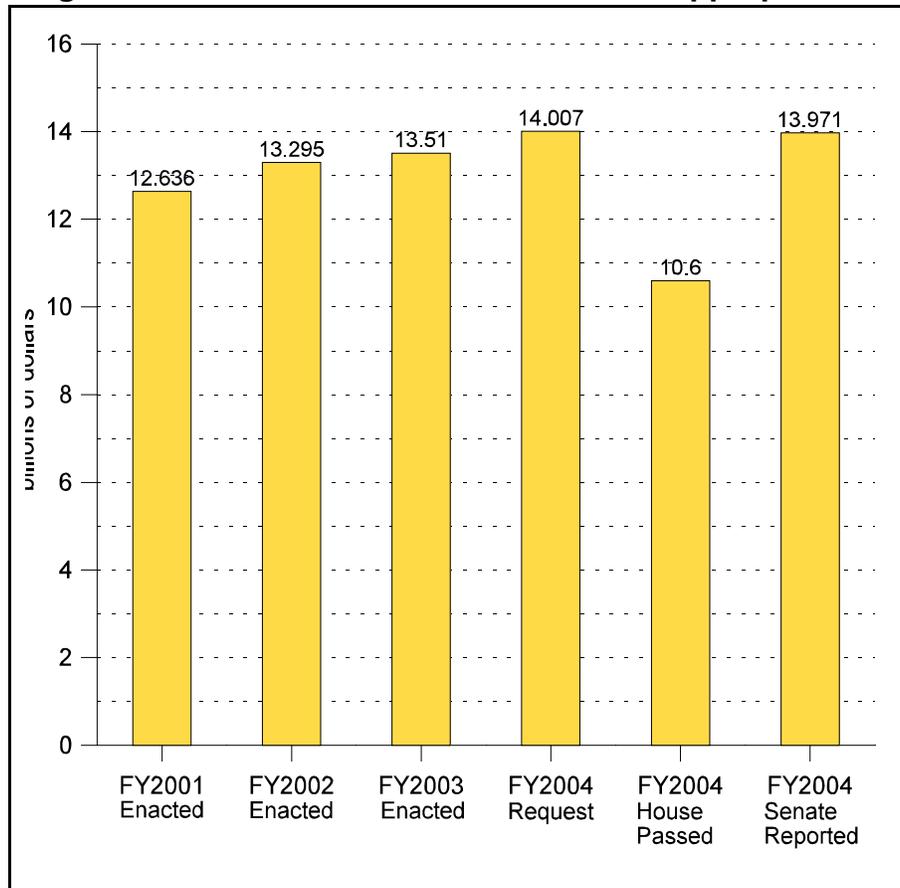
**Research, Engineering, and Development (RE&D).** H.R. 2989 proposes spending of \$108 million for this activity in FY2004. The Senate Appropriations bill provides almost \$119 million. These compare with an Administration suggested funding level of \$100 million. All of these proposals are well below the \$148.5 million enacted in FY2003.

**Essential Air Service (EAS).** The EAS program is operated through the Office of the Secretary of Transportation (OST), and receives its funding from designated user fees collected from overflights of United States territory by foreign aircraft. EAS has had an annual authorized funding level of \$50 million for the last several years. The overflight funding mechanism, however, has never provided this much annual funding, so additional funding has been provided from other sources. The EAS program continues to enjoy significant support in Congress. As a result, \$102 million was provided for this program in FY2003.

For FY2004 the Bush Administration is proposing \$50 million in spending for the program. Of this, \$33 million is to come from overflight fees and the remaining \$17 million is to be provided by unspent prior year funding. In addition, the Administration is proposing major changes in the operation of the EAS program by requiring greater local financial support for EAS service and by changing the eligibility of certain communities based on their proximity to airports with non-EAS service.

The House bill provides EAS with \$113 million in FY2004 funding. As proposed by the House Appropriations Committee, \$50 million would have come from EAS's standing authorization and an additional \$63 million would have been taken from the airport and airway trust fund. In making its proposal the Appropriations Committee assumed that the overflight fee mechanism would fail to provide adequate funding for the program. During floor debate the House bill was modified so that the additional \$63 million is no longer taken from the trust fund. The House bill does not include the Administration's proposed structural changes but does require that DOT ask each community receiving EAS assistance to report by March 1, 2004 on how program coordination and funding could be improved. DOT is to compile and provide this information to Congress.

The Senate Appropriations Committee proposal provides \$102 million for the program. Its bill is predicated on providing an existing level of service to all points currently receiving EAS service. The bill does not include any of the structural changes proposed by the Administration.

**Figure 1. Federal Aviation Administration Appropriations**

**Grants-in-Aid for Airports.** The Airport Improvement Program (AIP) provides grants for airport development and planning. The Bush Administration FY2004 budget proposal requested \$3.4 billion for AIP, roughly the same as enacted for FY2003.

The House Committee on Appropriations recommended \$3.425 billion for AIP, \$25 million above the Administration's proposal. The bill would have provided \$20 million for the Small Community Air Service Program from AIP funds. The report language for AIP discretionary grants directs that the FAA give priority to projects at 171 listed airports, but does not set the grant amounts. During floor debate on the bill the entire AIP provision was struck from the bill on a point of order. Consequently, the House-passed bill, H.R. 2989, contains no funding for AIP.

The Senate-reported FY2004 appropriations bill (S. 1589; S.Rept. 108-146) recommends \$3.5 billion for AIP. This includes a \$100 million transfer from the facilities and equipment account. This transferred money is not subject to the \$3.4 billion obligation limitation. The report language for AIP discretionary grants directs the FAA to give priority to projects at 241 airports named in the report. The Senate bill includes a prohibition against using AIP grants for airport changes or improvements needed to install bulk explosive detection systems.

**Related AIP Reauthorization Issues.** AIP's existing authorization expires at the end of FY2003. If the program is not authorized by then it will go into abeyance (existing projects could continue but new projects would not be funded). The Bush Administration, as part of its FAA reauthorization proposal for FY2004-FY2007, would hold AIP's annual funding at the \$3.4 billion level for the life of the authorization. It would also restructure AIP to increase the program's discretionary funding from 34% to 46% of total program funding. This would require less generous funding of the popular airport "entitlements" which are distributed by formula. The conference report on FAA reauthorization (H.Rept. 108-240) would authorize AIP at \$3.4 billion for FY2004, \$3.5 billion for FY2005, \$3.6 billion for FY2006, and \$3.7 billion for FY2007.

## **Federal Highway Administration (FHWA)**

[<http://www.fhwa.dot.gov>]

The FHWA budget provides funding for the Federal-Aid Highway Program (FAHP), which is the umbrella term for nearly all the highway programs of the agency.

**The Administration Request.** For FY2004, the President requested \$30.2 billion for FHWA. This represented a decrease of \$2.2 billion (-7%) from the FY2003 appropriation of \$32.4 billion. The proposed obligation limitation, which supports most of the FAHP, was set at \$29.3 billion, significantly less than the \$31.6 billion enacted for FY2003. Funding for exempt programs (emergency relief and a portion of minimum guarantee funding) was set at \$931 million, up \$38 million from FY2003's \$884 million.

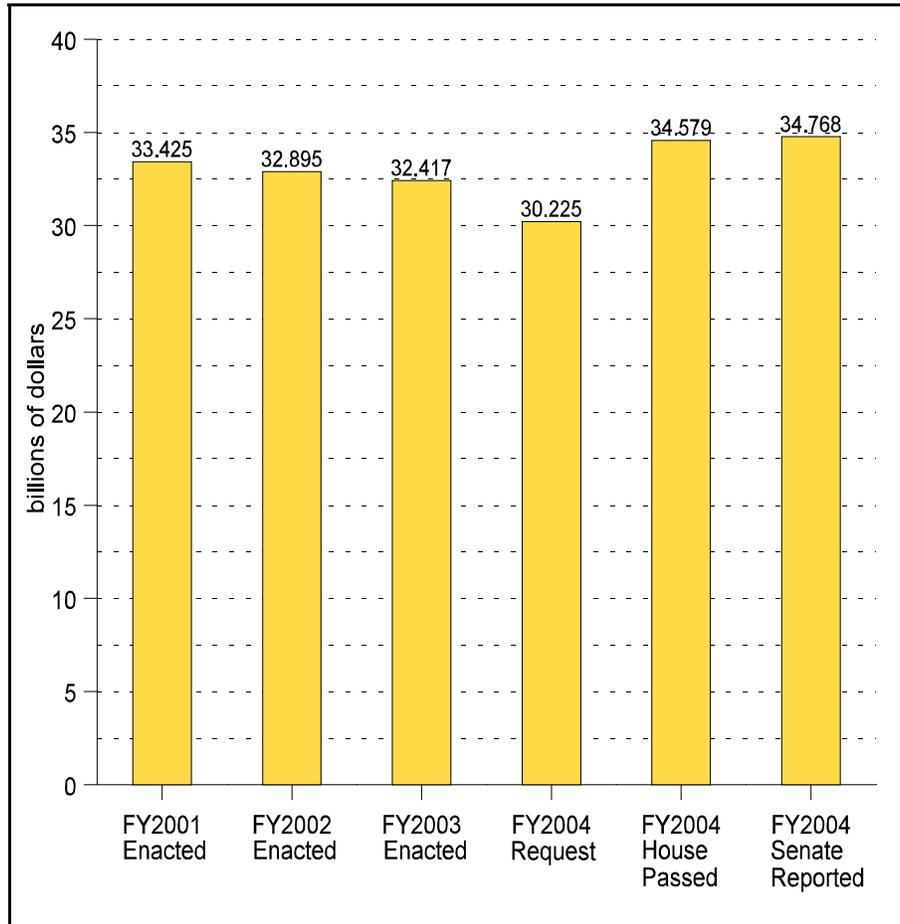
The budget would continue FHWA's major programs but also proposes some changes, which reflect the Administration's reauthorization proposal. A new \$1.0 billion Infrastructure Performance and Maintenance initiative is one of the proposed changes. The program's funds would be distributed, according to the Surface Transportation Program formula, for use on "ready-to-go" projects that address congestion and improve infrastructure conditions. States would have to commit these funds during the first six months of the fiscal year. Funds not obligated within this time frame would be reallocated among the states.

On the revenue side, the budget proposes to redirect revenues from the 2.5 cents-per-gallon excise tax on gasoline, that are now deposited in the Treasury's general fund, to the highway trust fund. This change is expected to add roughly \$600 million to highway trust fund revenues in FY2004. This change would require legislation in addition to the appropriations bill. The budget assumes no revenue aligned budget authority (RABA) adjustments for FY2004.

**The House Bill.** On July 30, 2003, the House Committee on Appropriations reported out a bill (H.R. 2989; H.Rept. 108-243) recommending a total of \$34.6 billion for FHWA. This would be \$2.2 billion over the FY2003 enacted level and \$4.4 billion above the President's request. The recommended obligation limitation was set at \$33.4 billion, \$1.8 billion above the FY2003 level and \$4.1 billion above the President's request. The overall total includes exempt obligations of \$931

million (the same as the requested amount) as well as an additional \$400 million. This \$400 million (available until expended and not subject to the obligation limitation) is to be distributed under the terms and conditions of RABA (23 U.S.C. Section 110) but only after \$133.5 million is set aside for the congressional earmarks listed in the bill's report language. As has been common in recent years, the federal-aid highway discretionary programs are also heavily earmarked.

**Figure 2. Federal Highway Administration Appropriations**



The bill included some provisions that were points of contention during debate on the House floor. Section 114 of the bill would have eliminated the mandatory 10% Surface Transportation Program (STP) set-aside for transportation enhancements (TE) but the section was eliminated by amendment. Some other highway provisions were dropped from H.R. 2989 as points of order against them were sustained, including: Section 110, which concerned distribution of the obligation limitation and the rescission provision that rescinded \$137 million in unobligated balances apportioned in prior years under the core formula programs to the states. The elimination of this rescission increased the House-passed total budget for FHWA to \$34.7 billion.

**The Senate Appropriations Committee Recommendation.** On September 8, 2003, the Senate Appropriations Committee reported out a bill (S1589; S.Rept. 108-146) recommending a total of \$34.8 billion for FHWA for FY2003. At

\$33.8 billion, the recommended obligation limitation is nearly \$500 million more than the House-passed bill. The \$931 million for exempt obligations is the same as in the House bill. As is true with the House bill, the discretionary programs have been heavily earmarked. The bill also directs that \$175 million under the limitation on administrative expenses be made available for surface transportation projects earmarked in the report language of the bill.

**The TEA-21 Funding Framework.** Authorizing legislation for surface transportation programs, the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) expires at the end of FY2003. The new authorization, which may or may not be enacted by the start of the fiscal year, is expected to at least retain a large part of the existing program funding framework. TEA-21 created the largest surface transportation program in U.S. history. For the most part, however, it did not create new programs. Rather, it continued most of the highway and transit programs that originated in its immediate predecessor legislation, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA, P.L. 102-240).

There are several sets of highway programs within FHWA. Most of the funding is reserved for the major federal aid highway programs, which can be thought of as the core programs. These programs are: National Highway System (NHS), Interstate Maintenance (IM), Surface Transportation Program (STP), Bridge Replacement and Rehabilitation (BRR), and Congestion Mitigation and Air Quality Improvement (CMAQ). All of these programs are subject to apportionment on an annual basis by formula and are not subject to program-by-program appropriation.

There is a second category of highway funding. This so called “exempt” category consists of two elements: an additional annual authorization of minimum guarantee funding (\$639 million per fiscal year) and emergency relief (\$100 million per fiscal year). These funds are not subject to the annual limitation on obligations.

There is a further set of programs, known as the “allocated” programs. These programs are under the direct control of FHA or other governmental entities. These programs include: the Federal Lands Highway Program, High Priority Projects (former demonstration project category), Appalachian Development Highway System roads, the National Corridor Planning and Border Infrastructure Program, and several other small programs.

At this point it appears that a long-term authorization for this program will not occur before spending authority for the program expires on October 1, 2003. Congress is currently considering extension legislation that will enable the program to continue to operate into next year (both 5- and 6-month extension legislation is under consideration).

## Federal Motor Carrier Safety Administration (FMCSA)

[<http://www.fmcsa.dot.gov/>]

The FMCSA was created by the Motor Carrier Safety Improvement Act of 1999 (MCSIA), P.L. 106-159.<sup>3</sup> This agency became operational on January 1, 2000, and assumed almost all of the responsibilities and personnel of DOT's Office of Motor Carrier Safety.<sup>4</sup> FMCSA issues and enforces the federal motor carrier safety regulations, which govern the operation and maintenance of interstate commercial truck and bus operations and specify requirements for commercial drivers. FMCSA also administers several grants and programs to help states conduct various truck and bus safety activities. Together with the states, FMCSA conducts inspections of Mexican-domiciled commercial drivers and vehicles entering the United States, advances Intelligent Transportation Systems for commercial operations, and reviews carriers transporting high hazard materials. Most of the funds used to conduct FMCSA activities are derived from the federal highway trust fund.

The FY2004 Administration request for the FMCSA is \$447 million. This is an increase of almost \$134 million (43%) over the FY2003 appropriation of \$313.1 million. The House bill includes \$426.8 million for FMCSA's appropriation, and the Senate Appropriations Committee recommended \$483 million. The FMCSA appropriation historically consists of two primary components: FMCSA administrative and operations expenses; and financial assistance to the states for the conduct of various truck and bus safety programs, including state border enforcement activities.

**Administrative and Operations Expenses.** The President's budget request for FMCSA's administrative and operations expenses in FY2004 is \$224 million (up from \$124 million in FY03), including funds for research and technology (R&T) and regulatory development. The House approved \$236.8 million, and the Senate Appropriations Committee recommended \$246 million. Some of the activities that would be funded include: enforcement to reduce the number of unsafe carriers and drivers; outreach efforts to help educate the motoring public on how to share the road with commercial vehicles; and the establishment of a medical review board to assist FMCSA.

**Grants to States and Other Activities.** The Administration's FY2004 request for these activities is \$223 million; the House approved \$190 million and the Senate Appropriations Committee recommended \$237 million. These funds are used primarily to pay for the Motor Carrier Safety Assistance Program (MCSAP), which

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<sup>3</sup> During various hearings held in the first session of the 106<sup>th</sup> Congress, a number of organizations, including DOT's Inspector General, the General Accounting Office, and many industry associations raised a variety of concerns regarding the effectiveness of the federal truck and bus safety program. In response to these concerns, Congress created the FMCSA.

<sup>4</sup> DOT's Office of Motor Carrier Safety, which operated from October 9 through December 31, 1999, replaced the Office of Motor Carriers of the Federal Highway Administration of the DOT.

provides grants to states to help them enforce commercial vehicle safety and hazardous materials transportation regulations. MCSAP grants cover up to 80% of the costs of a state's truck and bus safety program. Some 10,000 state and local law-enforcement officers conduct more than 2.6 million roadside inspections of trucks and buses annually under the program. The Senate Appropriations Committee recommendation included an additional \$47 million for construction of border inspection stations for trucks.

## **National Highway Traffic Safety Administration (NHTSA)**

[<http://www.nhtsa.dot.gov/>]

NHTSA supports behavioral (primarily driver and pedestrian actions) and vehicle (primarily crash worthiness and avoidance) programs that are intended to improve traffic safety. More specifically, NHTSA seeks to reduce impaired driving, increase occupant protection, improve police traffic services, enhance emergency medical responses to crashes, ensure compliance with its various vehicle safety regulations, and track and deal with emerging vehicle safety problems. NHTSA also provides grants to the states for the implementation of various highway traffic safety programs.

For FY2004, \$665 million is requested by the Administration to carry out the NHTSA mission. This Administration request reflects an increase of \$6 million above the FY2003 program level and the addition of funding previously allocated to the Federal Highway Administration for safety belt use and impaired-driving law incentive programs.<sup>5</sup> Of the total amount requested by the Administration for FY2004, \$447 million is designated to support traffic safety incentive and performance grants to states, primarily to encourage occupant protection measures and reduce impaired driving.

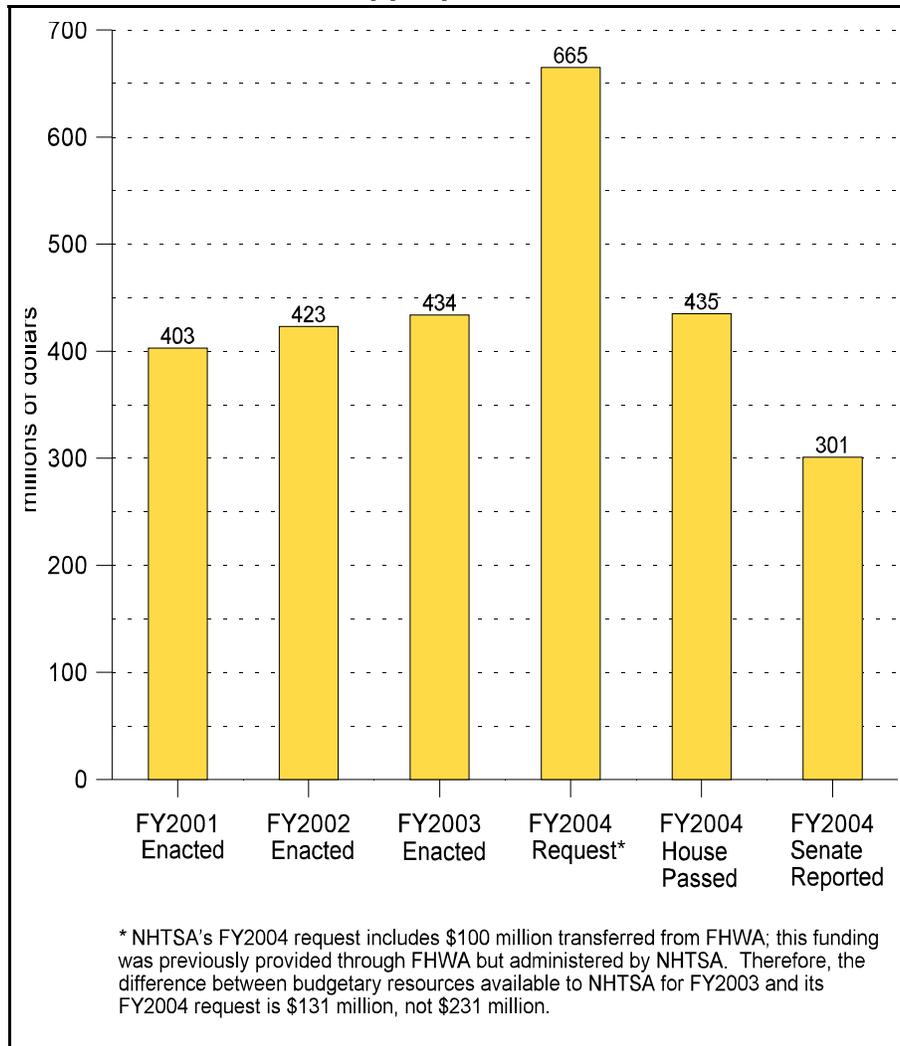
The FY2004 Administration request also includes \$218 million for NHTSA's own operations and research activities to reduce highway fatalities and prevent injuries. Included in the Administration's request is funding for these four major areas: research and analysis (e.g., collection of crash statistics and research on vehicle performance and occupant damage during these crashes), highway safety programs (e.g., developing improved countermeasures to combat impaired driving), safety assurance (e.g., testing of vehicles to ensure compliance with federal motor vehicle safety standards and maintaining a legislatively required database to track vehicle defects), and safety performance standards (e.g., conducting crash avoidance and crash-worthiness testing, and evaluating child safety seats). The House Appropriations Committee recommended and the House approved \$434.8 million for NHTSA, including \$225 million for highway traffic safety grants and \$206.2 million for operations and research. The Senate Appropriations Committee

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<sup>5</sup> <http://www.dot.gov/bib2004/nhtsa.html>. According to DOT, total funds requested for NHTSA for FY2004: "Includes \$222 million of TEA-21 resources for the Sections 157 and 163 grant programs formerly appropriated to FHWA. NHTSA has always administered these funds; therefore, the budget proposes that the funding be appropriated directly to NHTSA."

recommended \$448.7 million for NHTSA, including \$225 million for highway traffic safety grants and \$220.1 million for operations and research.<sup>6</sup>

**Figure 3. National Highway Traffic Safety Administration Appropriations**



## Federal Railroad Administration (FRA)

[<http://www.fra.dot.gov>]

For FY2004, the Administration requested \$1.09 billion in funding for the FRA. Most of this amount is for Amtrak. The Administration requested \$900 million for Amtrak, \$150 million less than provided in FY2003 and \$379 million more than the President requested in FY2003. Of the \$900 million requested, \$671 million is for operating costs and \$229 million is for infrastructure costs. The House agreed to \$900 million for Amtrak. The Senate Committee on Appropriations recommended \$1.346 billion for Amtrak.

<sup>6</sup> Excluding funds for the National Driver Register.

The Administration requested \$131 million for railroad safety and operations, which is \$14 million more than provided in FY2003 and \$13 million more than the President requested for FY2003. The House agreed to \$131 million; the Senate Committee on Appropriations also recommended \$131 million. For railroad research and development, the President requested \$35 million, which is \$6 million more than funding for FY2003. The House agreed to \$28 million; the Senate Committee on Appropriations recommended \$34 million. For next generation high-speed rail, the President requested \$23 million, \$7 million less than last year; the House agreed to \$28 million; the Senate Committee on Appropriations recommended \$29 million.

Although most of the debate involving the FRA budget centers on Amtrak, agency safety activities (which receive more detailed treatment following this section), Next Generation High-Speed Rail, and how states might obtain additional funds for high-speed rail initiatives are also issues.

**Railroad Safety and Research and Development.** The FRA is the primary federal agency that promotes and regulates railroad safety. Increased railroad traffic volume and density make equipment, employees, and operations more vulnerable to adverse safety impacts. The Administration proposes \$131.2 million in FY2004 for FRA's safety program and related administrative and operating activities. This represents about a 13% increase over the \$116.6 million provided in the FY2003 DOT appropriations for rail safety and operations. The House Committee on Appropriations recommended and the House approved \$130.9 million, and the Senate Committee recommended \$130.8 million. Most of the funds appropriated are used to pay for salaries as well as associated travel and training expenses for FRA's field and headquarters staff and to pay for information systems monitoring the safety performance of the rail industry.<sup>7</sup> The funds requested support FRA's goals of reducing rail accidents and incidents, reducing grade-crossing accidents, and contributing to the avoidance of serious hazardous materials incidents.

The railroad safety statute was last reauthorized in 1994. Funding authority for the program expired at the end of FY1998. FRA's safety program continues using the authorities specified in existing federal railroad safety law and funds provided by annual appropriations. Though hearings have been held since 1994, the deliberations have not resulted in agreement on funding for FRA's regulatory and safety compliance activities or change to any of the existing authorities used by FRA to promote railroad safety. A reauthorization statute changing the scope and nature of FRA's safety activities would most likely affect budgets after FY2004.

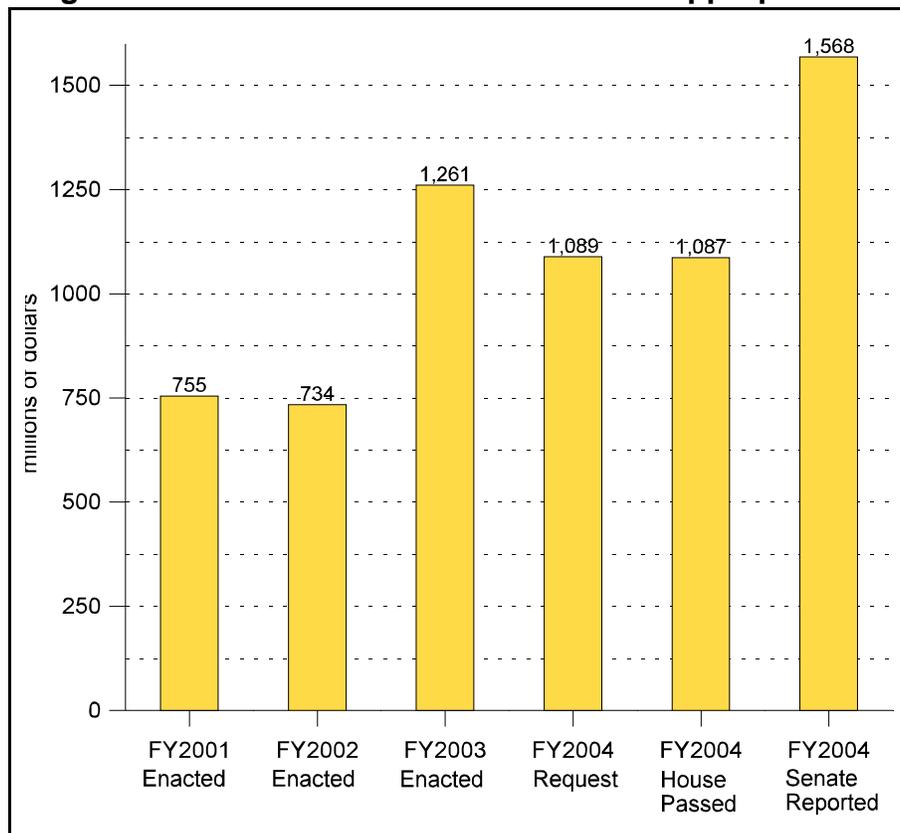
To improve its safety regulations and industry practices, the FRA conducts research and development (R&D) on an array of topics, including railroad employee fatigue, technologies to control train movements, and track dynamics. In reports

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<sup>7</sup> The funds also are used to conduct a variety of initiatives, including the Safety Assurance and Compliance Program (SACP), the Railroad Safety Advisory Committee (RSAC), and field inspections. SACP involves numerous partnerships forged by railroad management, FRA personnel, and labor to improve safety and compliance with federal railroad safety regulations. RSAC uses a consensus-based process involving hundreds of experts who work together to formulate recommendations on new or revised safety regulations for FRA's consideration.

accompanying House and Senate transportation appropriation bills and in annual conference reports, the appropriations committees historically have allocated FRA's R&D funds among various research categories pertaining to safety. The FY2003 DOT appropriation provided \$29.1 million for the R&D program. For FY2004, the Administration requests \$35 million for these activities. The House Committee recommended and the House approved \$28.2 million, and the Senate Committee recommended \$34.2 million.

**Figure 4. Federal Railroad Administration Appropriations**



**Next Generation High-Speed Rail R&D.** This program supports work on high-speed train control systems, track and structures technology, corridor planning, grade crossing hazard mitigation, and high-speed non-electric locomotives. The Administration requested \$23.2 for this program in FY2004; this is \$7.05 million (23%) less than the FY2003 appropriation of \$30.25 million. The House agreed to \$28.3 million. The difference is largely the House's support for establishing the compliance of diesel multiple units (a form of passenger rail car with its own engine which is used in other countries but is not currently used in this country) with FRA passenger safety regulations. The Senate Committee on Appropriations recommended \$29.3 million. The difference is largely the Committee's support for additional high-speed corridor planning (\$5 million for Florida's high-speed corridor, \$2.5 million for a few others) and for maglev (\$5 million for 4 maglev projects).

## Amtrak

[<http://www.amtrak.com>]

The President requested \$900 million for Amtrak for FY2004; this is \$150 million below Amtrak's FY2003 appropriation of \$1,050 million<sup>8</sup> and \$900 million less than the \$1.8 billion Amtrak has requested for FY2004. Amtrak has said that it cannot survive FY2004 on \$900 million. The House agreed to \$900 million, similar to the Administration request. It also added a provision allowing states to apply to FHWA to transfer a portion of their allocation of an appropriation of \$267 million from the Highway Trust Account to Amtrak.<sup>9</sup> The Senate Committee on Appropriations recommended \$1.346 billion for Amtrak, and extended to all Amtrak routes the requirement (begun for FY2003) that Amtrak's long-distance routes be funded through the grant request process.

In a change of policy, Congress stipulated (in P.L. 108-7) that Amtrak's FY2003 appropriation would not go directly to the corporation, but to the Secretary of Transportation, who will provide funding to Amtrak quarterly through the grant-making process. Congress also imposed several other requirements on Amtrak which have the effect of reducing Amtrak's discretion with its federal funding. Among these was a requirement that Amtrak submit a 5-year business plan to Congress, which it did on April 25, 2003. In this plan, Amtrak requests average annual federal support of \$1.6 billion for FY2004-FY2008 to maintain the current network and begin to address the \$5-6 billion in backlogged maintenance needs. The plan does not propose expansion of the existing rail network.

Amtrak's authorization expired at the end of FY2002; Congress is considering Amtrak reauthorization. Two bills have come out of committees that would reauthorize Amtrak in its current configuration: the House Transportation and Infrastructure Committee has reported out H.R. 2572 that would authorize Amtrak at \$2 billion annually for three years, and the Senate Commerce, Science, and Transportation Committee has approved a surface transportation safety bill, which has not yet been filed, that includes an amendment authorizing \$2 billion annually for Amtrak for six years. The Administration has submitted a plan for restructuring Amtrak and passenger rail service (S. 1501) which would shift much of the responsibility for passenger rail service to the states. Sen. Hutchinson and others have submitted a plan for restructuring Amtrak and passenger rail service (S. 1505) that would transfer responsibility for planning and implementing passenger rail service to the federal government, authorize \$2 billion annually for 6 years for Amtrak, and authorize \$48 billion in bonds to finance capital improvements to the nation's passenger rail system. See CRS Report RL31743, *Amtrak Issues in the 108<sup>th</sup> Congress*, for further information.

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<sup>8</sup> For FY2003, Congress also deferred Amtrak's repayment of a \$100 million loan to the DOT.

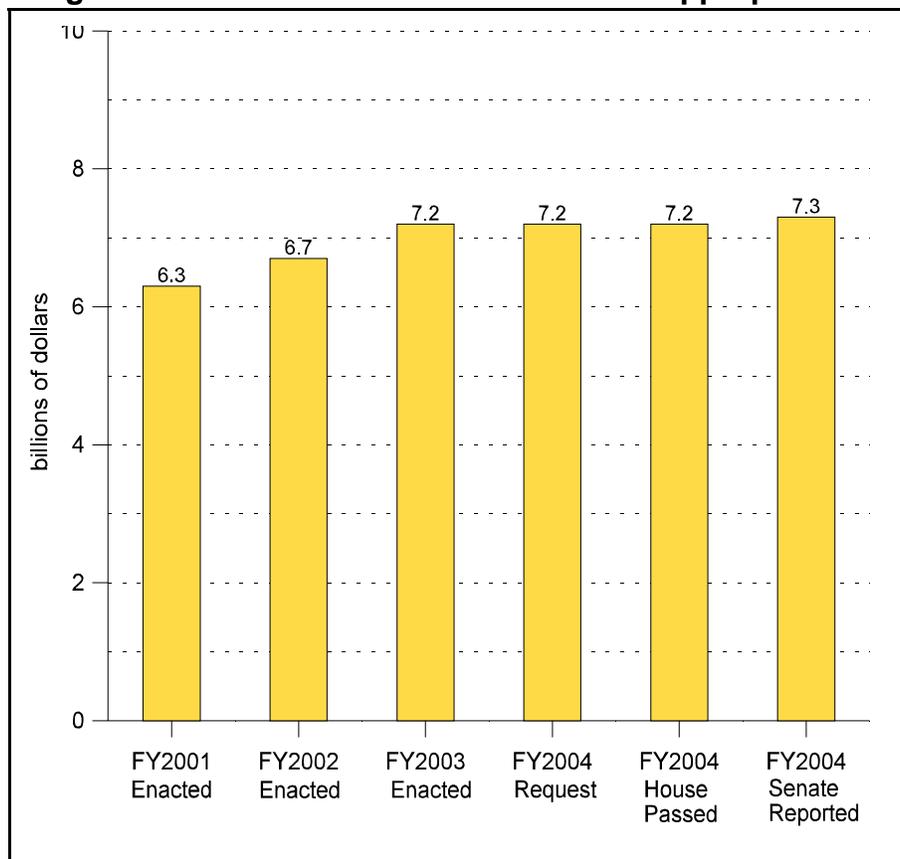
<sup>9</sup> The provision is in the House Committee on Appropriations report (p. 72), not the bill.

## Federal Transit Administration (FTA)

[<http://www.fta.dot.gov/>]

President Bush's FY2004 budget request for FTA is \$7.226 billion, virtually the same level as FTA's FY2003 appropriation (FTA's FY2003 \$7.226 billion final appropriation was reduced to \$7.179 billion after the 0.65% rescission).<sup>10</sup> The Administration's request also proposes changes to FTA's program structure, reflecting the Administration's reauthorization proposal (the proposed changes are described below). The House agreed to \$7.231 billion; the Senate Committee on Appropriations recommended \$7.305 billion. Since the Administration's reauthorization proposal has not been approved, the proposed program changes are not reflected in the FTA appropriations.

**Figure 5. Federal Transit Administration Appropriations**



**Table 5** presents the Administration request (and Congressional action) as it applies to the existing program structure. The Administration's proposed program changes include the following:

<sup>10</sup> These figures for FTA do not include any projections to account for possible flexible funding transfers from FHWA to FTA. In FY2002 such transfers amounted to \$1.1 billion.

### **Restructuring the Capital Investment Grants and Loans Program.**

This program consists of three component programs: New Starts, the Fixed Guideway Modernization formula program, and the Bus and Bus Facilities discretionary grant program. The Administration request renames the Capital Investment Grants and Loans Program “Major Capital Investment Grants,” eliminates the Bus and Bus Facilities program, groups the Fixed Guideway Modernization program with other formula programs, and groups funding for metropolitan and statewide planning under this newly renamed program. Thus, after these changes the program’s funding would support only New Starts and a portion of metropolitan and statewide planning spending. In addition, the budget proposes that 80% of the funding for the “Major Capital Investment Grants” program would come from General Fund appropriations and 20% from the Mass Transit Account of the Highway Trust Fund; currently, 80% of the funding for the Capital Investment Grants and Loans Program comes from the Mass Transit Account, and 20% from General Fund appropriations.

**Eliminating the Bus & Bus Facilities Program.** The Administration requests no funding for this program; funds previously allocated to this discretionary program (\$607 million in FY2003) are proposed to be divided among the Urbanized Areas Formula Program, the Non-Urbanized Areas Formula Program, and the New Starts program, in accordance with the Administration’s reauthorization proposal. Buses can be purchased under all three of these programs. The Bus and Bus Facilities Program is a discretionary grant program and was completely earmarked in FY2003. The Administration’s proposal would eliminate bus earmarks and distribute bus and bus facilities funds through two formula programs and the New Starts program.

**Proposed New Freedom Initiative.** The Administration’s request proposes to create a new formula program, the New Freedom Initiative, which seeks to use alternative methods to promote access to transportation for persons with disabilities (this program was also proposed in FY2003, but was not supported by Congress). The President’s budget requests \$145 million for this program in FY2004. Neither the House nor the Senate have supported funding for this program for FY2004.

**Table 5. FTA Appropriation, FY2003-FY2004**  
(millions of dollars)

<b>Program</b>	<b>FY2003 Enacted</b>	<b>FY2004 Request</b>	<b>FY2004 House Passed</b>	<b>FY2004 Senate Reported</b>	<b>FY2004 Conference</b>
Urbanized Areas Formula Program (Section 5307)	3,407	3,521	3,429	3,429	
Capital Investment Grants & Loans Program (Section 5309) Total	3,016	2,729	3,107	3,140	
New Starts Program	1,207	1,515	1,214	1,318	
Fixed Guideway Modernization Program	1,207	1,214	1,214	1,214	
Bus Discretionary Program	603	—	678	607	
Non-Urbanized Areas Formula Program (Section 5311)	237	359	239	239	

Program	FY2003 Enacted	FY2004 Request	FY2004 House Passed	FY2004 Senate Reported	FY2004 Conference
Job Access & Reverse Commute Program	149	—	85	125	
Elderly & Individuals with Disabilities Formula Program (Section 5310)	90	87	91	91	
Rural Transportation Accessibility Incentive Program (Section 3038), also known as the Over-the-Road Bus Accessibility program	7	7	7	7	
Planning & Research	121		122	122	
Other	145	108	151	152	
New Freedom Initiative	—	145	—	—	
<b>FTA Total</b>	<b>7,179</b>	<b>7,226</b>	<b>7,231</b>	<b>7,305</b>	

**Note:** numbers may not add due to rounding.

**Source:** *The Budget of the United States Government, Fiscal Year 2004, Appendix: "Federal Transit Administration,"* p. 740-747, with reference to House and Senate Committees on Appropriations, House Report 108-243 and Senate Report 108-146, "Federal Transit Administration" sections and Tables: *Comparative Statement of Budget Authority*.

For information on FTA's programs and funding structure, see CRS Report RL31854, *Transit Program Reauthorization in the 108<sup>th</sup> Congress*.

## Maritime Administration (MARAD)

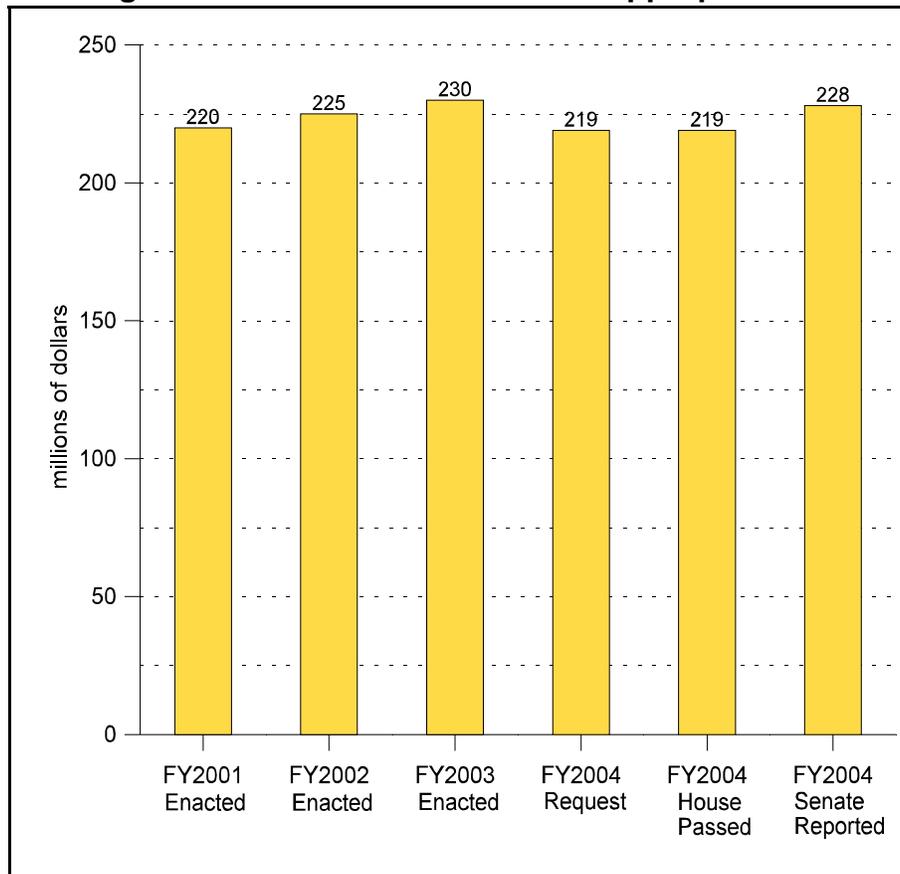
[<http://www.marad.dot.gov>]

MARAD's mission is to promote the development and maintenance of a U.S. merchant marine capable of carrying the Nation's waterborne domestic commerce, a portion of its waterborne foreign commerce, and to serve as a naval and military auxiliary in time of war. MARAD administers programs that benefit U.S. vessel owners, shipyards, and ship crews. For FY2004, the President requested a total of \$219 million for MARAD, which is about \$12 million more than the President requested, and about \$11 million less than Congress appropriated, for FY2003. The House passed bill provides \$218.6 million for MARAD for FY2004 while the Senate Appropriations Committee recommended \$227.6 million.

Much of the discussion concerning MARAD's budget focuses on the Maritime Guaranteed Loan Program (the "Title XI" program). This program provides guaranteed loans for purchasing ships from U.S. shipyards and for the modernization of U.S. shipyards. The purpose of the program is to promote the growth and modernization of U.S. shipyards. Consistent with its budget requests in prior years, the Administration has requested no funds for additional loans in FY2004, calling the program a "corporate subsidy." The Administration has, however, requested \$4.5 million for the administration of existing loans. For FY2003, in the Consolidated Appropriations Resolution (P.L. 108-7), Congress initially provided no funds for the program other than \$4 million for administrative expenses. However, in the Wartime Supplemental Appropriations bill (P.L. 108-11), Congress provided \$25 million for

the program. The House bill also provides no funds for additional Title XI loans in FY2004 and directs MARAD to use the \$25 million provided in P.L. 108-11 to cover the estimated \$4.5 million in administrative costs. The Senate Appropriations Committee recommended no funds for additional loans but provided \$4.5 million for administrative expenses.

**Figure 6. Maritime Administration Appropriations**



The DOT Inspector General recently issued a report on the Title XI program (CR-2003-031, March 27, 2003) calling on MARAD to review loan applications more effectively, exercise more rigorous financial oversight of borrowers, and use an external financial advisor in reviewing loan applications. The IG's investigation was prompted by the bankruptcy of American Classic Voyages, leaving MARAD with \$367 million in bad loans for the construction of two cruise ships. At a June 5, 2003 Senate Commerce Committee hearing on the Title XI program, the General Accounting Office also identified weaknesses in the program and made recommendations for improving the financial oversight of the program (GAO-03-728T).

For operations and training, the Administration requested \$104.4 million, about \$12 million more than Congress appropriated in FY2003. Of this amount, \$52.9 million is requested for the U.S. Merchant Marine Academy in Kings Point, New York; \$9.5 million for state maritime academies; and \$42 million for the operations of MARAD. The House passed bill provides \$105.9 million for operations and training and the Senate Appropriations Committee recommended \$106 million. For

the Maritime Security Program (MSP), the Administration requested \$98.7 million, virtually the same amount as Congress provided last year. The House passed bill and the Senate Appropriations Committee agrees with the President's request. MSP is a fleet of 47 privately-owned U.S. flag commercial vessels engaged in international trade that are available to support the Department of Defense in a national emergency.

For the disposal of obsolete vessels in the National Defense Reserve Fleet (NDRF), the Administration requested \$11.4 million, about the same amount Congress appropriated in FY2003. There are over 130 vessels in the NDRF that are awaiting disposal because of their age. These vessels have raised environmental concerns due to the presence of asbestos and other hazardous substances. MARAD has until 2006 to dispose of these surplus ships, most of which are located on the James River in Virginia and in Suisan Bay, California. The House passed bill provides \$14 million and the Senate Appropriations Committee recommended \$18.4 million for the disposal of these ships.

## **Research and Special Programs Administration (RSPA)**

[<http://www.rspa.dot.gov>]

The Research and Special Programs Administration (RSPA) includes a variety of operating entities, including the Office of Pipeline Safety and the Office of Hazardous Materials Safety. RSPA also conducts a multimodal research program, helps coordinate and plan for transportation research and technology transfer activities, sponsors educational activities to promote innovative transportation, and manages DOT's transportation-related emergency response and recovery responsibilities.

For FY2004, the Administration requests a budget of \$118 million for RSPA<sup>11</sup>; most of this funding would be allocated to activities that promote transportation safety. For RSPA's pipeline transportation safety program, \$67 million is proposed by the Administration (an increase of \$3 million over the FY2003 appropriation); for the hazardous materials transportation safety program, \$25 million is requested (an increase of \$2 million over the FY2003 appropriation). Much of the additional funding requested is intended to enhance RSPA's ability to ensure that the federal hazardous materials transportation pipeline safety regulations are complied with and to assist DOT in participating in the safety oversight of containment systems that will be used to ship spent nuclear fuel and high-level radioactive wastes. The House Appropriations Committee recommended and the House approved \$111.3 million for RSPA in FY2004, including \$23.6 million for hazardous materials transportation safety, and \$64.1 million for pipeline safety. The Senate Appropriations Committee recommended \$110.3 million for RSPA in FY2004, including \$22.8 million for hazardous materials transportation safety, and \$67.6 million for pipeline safety.

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<sup>11</sup> RSPA also receives \$14 million annually for emergency preparedness grants, so its total request could be seen as \$132 million.

## Title II: Treasury Appropriations

**Table 6. Title II: Department of the Treasury Appropriations**  
(in millions of dollars)

Program or Account	FY2003 Enacted	FY2004 Request	FY2004 House Passed	FY2004 Senate Reported	FY2004 Enacted
Departmental Offices	158	167	176	175	
Department-wide Systems and Capital Investments	37	37	37	37	
Office of Inspector General	11	—	13	13	
Treasury Inspector General for Tax Administration	124	—	128	128	
Treasury Inspector General	—	135	—	—	
Air Transportation Stabilization Program	6	3	3	3	
Treasury Building Repair and Restoration	29	25	25	25	
Financial Crimes Enforcement Network	51	58	58	58	
Interagency Crime and Drug Enforcement	107	—	—	—	
Financial Management Service	221	229	229	229	
Alcohol and Tobacco Tax and Trade Bureau	79	80	80	80	
Bureau of the Public Debt	189	174	174	174	
Internal Revenue Service, Total	9,835	10,437	10,352	10,276	
Processing, Assistance and Management	3,930	4,075	4,038	4,048	
Tax Law Enforcement	3,705	3,977	4,221	4,173	
Information Systems	1,622	1,670	1,629	1,591	
Business Systems Modernization	364	429	429	429	
Health Insurance Tax Credit Administration	70	35	35	35	
<b>Total, Department of the Treasury</b>	<b>10,840</b>	<b>11,343</b>	<b>11,273</b>	<b>11,196</b>	

**Source:** United States House of Representative, Committee on Appropriations, House Report 108-243, Table: *Comparative Statement of Budget Authority*, except Senate figures from Senate Committee on Appropriations, Senate Report 108-146, Table: *Comparative Statement of Budget Authority*.

### Department of the Treasury Budget and Key Policy Issues

In recent decades, the Treasury Department has performed four basic functions: (1) formulating, recommending, and implementing economic, financial, tax, and fiscal policies; (2) serving as the financial agent for the federal government; (3) enforcing federal financial, tax, counterfeiting, customs, tobacco, alcoholic beverage, and gun laws; and (4) producing postage stamps, currency, and coinage. With the creation of the Department of Homeland Security (DHS) late in 2002 and its

assumption in March 2003 of the authorities transferred to it by executive order, this functional profile has changed significantly. While Treasury still serves as one of the federal government's principal economic policymakers and its financial manager, revenue collector, and producer of currency, coinage, and stamps, its role in law enforcement is now much more limited.

At its most basic level of organization, the Department consists of departmental offices and operating bureaus. The departmental offices are responsible for the formulation and implementation of policy and the management of the Department as a whole, while the operating bureaus carry out specific duties assigned to the Department. The bureaus typically account for more than 95% of the Department's employment and funding. With one notable exception, the bureaus can be divided into those having financial responsibilities and those engaged in law enforcement. In recent decades, financial responsibilities have been handled by the Comptroller of the Currency, U.S. Mint, Bureau of Engraving and Printing, Financial Management Service, Bureau of Public Debt, Community Development Financial Institutions Fund, and Office of Thrift Supervision; and law enforcement has been done by the Bureau of Alcohol, Tobacco, and Firearms (BATF), U.S. Secret Service, Federal Law Enforcement Training Center, U.S. Customs Service, Financial Crimes Enforcement Network (FinCen), and Treasury Forfeiture Fund. The exception to this dichotomy is the Internal Revenue Service (IRS), which performs both financial duties and law enforcement through its administration of federal tax laws.

The advent of DHS has greatly diminished the Department's involvement in law enforcement. Under the law establishing DHS (P.L. 107-296), the Secret Service, Customs Service, and Federal Law Enforcement Training Center were transferred from the Treasury Department to DHS, while the Treasury Forfeiture Fund and many functions of BATF were transferred to the Justice Department (DOJ). On January 24, 2003, the Treasury Department announced the establishment of a new bureau to administer laws related to the use of alcohol and tobacco and to implement regulations formerly handled by BATF: the Alcohol and Tobacco Tax and Trade Bureau. Its main duties include collecting alcohol and tobacco excise taxes and classifying those products for tax purposes.

In its budget request for FY2004, the Bush Administration is seeking \$11.408 billion in funding for the Treasury Department.<sup>12</sup> This amount is 3.5% greater than the amount enacted for FY2003 (\$11.018 billion), after adjusting for the transfer of functions to DHS and the Justice Department. According to budget documents, the Administration's top priorities for Treasury operations in the coming fiscal year are to bolster IRS's efforts to monitor and enforce compliance with tax laws, improve the Department's overall efficiency by further streamlining operations, and elevate the Department's role in federal efforts to combat money laundering and disrupt financial

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<sup>12</sup> The Administration's budget request for the Treasury Department in FY2004 is \$65 million greater than the requested amounts being considered by the House and Senate appropriations committees. This difference reflects funding for two programs administered by Treasury but funded through separate appropriations accounts: the Community Development Financial Institutions Fund (CDFI) and international technical assistance. Funding for the former is covered under appropriations for the Department of Housing and Urban Development, and for the latter under appropriations for foreign operations.

networks supporting international terrorist activities. Under the newly configured Treasury accounts, the IRS accounts for 91.5% of the proposed Treasury budget, followed by the Financial Management Service (2.0%), the Bureau of Public Debt (1.6%), and Departmental Offices (1.5%).

The Administration's budget request also seeks an increase of \$6 million in funding for FinCen and an additional \$4 million for the Department's International Technical Assistance program, which aims to assist the efforts of countries torn by war or political instability to improve their systems of economic governance. In addition, the Administration is proposing that the Treasury Inspector General for Tax Administration (TIGTA) be merged with the Office of Inspector General (OIG) on the grounds that many of the functions once handled by OIG have been transferred to other agencies, especially DHS.

On July 24, 2003, the House Committee on Appropriations approved by voice vote a measure (H.R. 2989) to provide funding for Treasury operations in FY2004. The measure authorizes \$11.273 billion in funding, or \$423.5 million more than the amount enacted for FY2003 but \$70 million less than the amount requested by the Bush Administration for FY2004. According to the Committee's report on H.R. 2989 (H.Rept. 108-243), most of the difference with the Administration's request reflects a smaller recommended budget for IRS operations.

More specifically, compared with the Administration's request, H.R. 2989 provides \$36.9 million less in funding for processing, assistance and management; \$6.4 million less in funding for tax law enforcement; and \$41.3 million less in funding for information systems. In addition, the measure provides \$8.9 million more in funding for Treasury's departmental offices than the Administration has requested. Most of this increase (89%) is spread among administrative costs arising from the transfer of functions and personnel to the DHS (+\$2.9 million), as well as increased funding for the Office of International Affairs (+\$2.7 million) and the new Office of Terrorist Financing and Financial Crimes (+\$2.3 million). H.R. 2989 also denies the Administration's proposal to combine the functions of OIG and TIGTA into a new Treasury Inspector General on the grounds that such a step would require "extensive new legislation that has yet to be enacted." Instead, the bill adds \$1.7 million to OIG's budget for FY2003 and \$3.8 million to TIGTA's budget for FY2003. But it matches the Administration's requested funding for FinCen in FY2004.

After consideration of numerous amendments introduced during the floor debate on H.R. 2989, the full House approved the measure by a vote of 381 to 39 on September 9, 2003. Two of the amendments were related to Treasury appropriations for FY2004. One, introduced by Representative Jim Cooper, would reduce proposed funding from \$100 million to \$25 million for a controversial IRS pilot program to require some taxpayers claiming the earned income tax credit to certify the residency status of the qualifying child they plan to claim beginning with the 2004 tax year and divert the \$75 million in savings to programs aimed at improving compliance among large and medium-sized business taxpayers. It failed by a vote of 219 to 192.

The other amendment was introduced by Representative Bernie Sanders and would bar the Treasury Department from using funds appropriated under H.R. 2989

to “assist in overturning the judicial ruling” in a case known as *Cooper v. IBM*. In July 2003, the federal judge in the case ruled that IBM’s cash benefit pension plan violated a federal law proscribing discrimination on the basis of age because the rate of benefit accrual under the plan declines as a participant’s age increases.<sup>13</sup> In December 2002, the IRS issued proposed regulations on the application of age-discrimination rules to the conversion of traditional pension plans to cash balance plans.<sup>14</sup> Some Members of Congress are concerned that if the IRS were to make those regulations final, IBM would have a better chance of prevailing if it were to appeal the judge’s ruling.<sup>15</sup> The amendment passed by a vote of 258 to 160. Otherwise, the House-passed version of H.R. 2989 endorses the recommended levels of funding for Treasury departmental offices and operating bureaus approved by the Appropriations Committee.

On September 4, 2003, the Senate Appropriations Committee unanimously approved a bill (S. 1589) providing \$11.196 billion in funding for the Treasury Department in FY2004. This amount is \$202 million more than the amount enacted for FY2003 but \$147 million less than the amount requested by the Bush Administration and \$77 million less than the amount approved by the House for FY2004. According to the Committee’s report on the legislation (S.Rept. 108-146), most of the difference between S. 1589 and the Administration’s budget request and the House-passed version of H.R. 2989 is due to a smaller recommended budget for IRS operations. More specifically, compared to the Administration’s request, S. 1589 provides \$26 million less in funding for tax processing, assistance, and management, and \$79 million less in funding for IRS information systems.

The measure also would merge the IRS accounts for tax law enforcement and the earned income tax credit compliance initiative, resulting in a drop in recommended funding for the initiative in FY2004 of \$55 million. In addition, S. 1589 would spend nearly \$8 million more than the Administration has requested for Treasury’s departmental offices. A substantial share of this recommended increase would go to the Office of International Affairs (+\$2.7 million) and the Office of Terrorist Finance and Financial Crimes (+\$2.3 million). S. 1589 also denies the Administration’s proposed merger of the OIG and the TIGTA into a new office (known as the Inspector General for Treasury), but for a different reason than the one expressed in the report on H.R. 2989.

The Senate Appropriations Committee opposes the merger mainly because the duties and responsibilities of OIG and TIGTA “remain vastly different in substance ... and are not conducive to being integrated.” Instead, it recommends an increase in funding for OIG of \$1.6 million and for TIGTA of \$3.8 million in FY2004. But, like H.R. 2989, the bill matches the Administration’s recommended increase in funding for FinCen of \$6.1 million, in part to manage the new responsibilities taken on by the bureau under the USA Patriot Act of 2001.

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<sup>13</sup> CRS Report RL30196, *Pension Issues: Cash Balance Plans*, by Patrick J. Purcell, p. 15.

<sup>14</sup> *Ibid.*, pp. 15-16.

<sup>15</sup> See Alan K. Ota, “Pension Amendment Unlikely on Transportation-Treasury Bill,” *CQ Weekly*, Sept. 13, 2003, p. 2225, available at [<http://www.cq.com>].

**Internal Revenue Service (IRS).** The federal government levies individual and corporate income taxes, social insurance taxes, excise taxes, estate and gift taxes, customs duties and miscellaneous taxes and fees. The federal agency responsible for administering all these taxes and fees, except customs duties, is the IRS. In discharging that duty, it receives and processes tax returns and other related documents, processes payments and refunds, enforces compliance through audits and other methods, collects delinquent taxes, and provides a variety of services to taxpayers to help them understand their rights and responsibilities and resolve problems. In FY2002, the most recent year for which data are available, the IRS collected \$2,017 billion before refunds, the largest component of which was individual income tax revenue of \$1,038 billion.

The Bush Administration is asking Congress for \$10.436 billion to fund IRS operations in FY2004. This amount is 6.1% greater than the \$9.834 billion enacted for FY2003 and 5.2% greater than the amount requested by the Administration for FY2003. Of the requested budget for FY2004, \$4.135 billion would be used for processing, assistance, and management; \$4.086 billion for tax law enforcement; \$1.709 billion for information systems; \$500 million for the business systems modernization program (BSM); \$251 million for a program aimed at curbing fraud and abuse in claims for the earned income tax credit (EITC) known as the Earned Income Tax Credit Compliance Initiative; and \$35 million to administer the health insurance tax credit. Two proposed enforcement initiatives for FY2004 have aroused concern or outright opposition among some Members of Congress. One would allocate \$100 million to pilot program to require that some taxpayers to certify the residency status of the qualifying child before filing a claim for the EITC. Under the second proposal, the IRS would spend \$2 million to hire private collection agents to collect overdue or unpaid taxes.

The proposed budget places a high priority on improving compliance with tax laws. It would set aside \$133 million for a new program aimed at curbing five sources of tax evasion: (1) the promotion of abusive tax schemes; (2) the misuse of trusts and offshore accounts to hide or illegally lower taxable income; (3) the use of abusive corporate tax avoidance schemes; (4) the under-reporting of income by upper-income individuals; and (5) the failure of employers to file employment tax returns and pay substantial amounts of employment taxes in a timely manner. The Administration contends that such a program will lead to a 72% increase in the number of audits of tax returns for high-income individuals and businesses. Nonetheless, some have expressed concern that the Administration's proposed funding for IRS operations falls short of what will be needed to enable the IRS to enforce the tax laws adequately.<sup>16</sup>

A key player in the annual appropriations process for the IRS is the IRS Oversight Board, which originated with the IRS Restructuring and Reform Act of 1998. Under the Act, the Board is required to review the annual IRS budget request

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<sup>16</sup> Alison Bennett, "Rossotti Details IRS Successes, Notes Much Work Remains for Years Ahead," *Daily Report for Executives*, Bureau of National Affairs, no. 210, Oct. 30, 2002, p. G-6; and George Guttman, "Oversight Board Concerned About IRS Budget Situation," *Tax Notes*, vol. 97, no. 11, pp. 1404-1406.

prepared by the IRS Commissioner and submit its recommendations to the Secretary of the Treasury. The President in turn is required to submit the Board's budget recommendations to Congress along with his own budget request for the IRS.

For FY2004, the Board recommends that the IRS be given a budget of \$10.724 billion, or \$287 million more than the amount requested by the Bush Administration.<sup>17</sup> It also recommends that the IRS hire an additional 2,120 full-time employees in FY2004, compared to the 238 additional full-time employees included in the Administration's request. The Board's budget recommendations are intended to accomplish three goals:

One is to achieve a real growth rate of 2% in the next five years for the purpose of channeling adequate resources into efforts to monitor and enforce compliance with tax laws. The second goal is to provide more resources for the BSM program, which the Board views as essential to the transformation of the IRS into an efficient, fair, customer-friendly collector of revenue and enforcer of tax laws. The third goal is to restore funds for customer service and tax law enforcement that were diverted in recent years to cover unanticipated expenses, such as unfunded increases in annual pay raises for federal civilian employees. Nearly 85% of the difference between the Administration's budget request for FY2004 and the Board's recommended budget is due to funding for two accounts: processing, assistance, and management; and business systems modernization.

On July 24, 2003, the House Committee on Appropriations passed by voice vote a measure (H.R. 2989) providing appropriations for the IRS in FY2004. It funds the agency at a level of \$10.352 billion, or \$517 million more than the amount enacted for FY2003 but \$85 million less than the amount requested by the Bush Administration. More specifically, the measure provides \$4.038 billion for processing, assistance, and management; \$4.221 billion for tax law enforcement; \$1.629 billion for information systems; \$429 million for business systems modernization; and \$35 million for administering the health insurance tax credit.

The lower level of funding approved by the Committee, relative to the Administration's budget request, is spread over three appropriations accounts: processing, assistance, and management (-\$36.9 million); tax law enforcement (-\$6.4 million); and information systems (-\$41.3 million). Among the IRS programs and initiatives receiving favorable comment in the Committee's report (H.Rept. 108-243) are low-income taxpayer clinics (which would receive \$8 million in funding), the tax counseling program for elderly taxpayers (which would receive \$4.25 million in funding), the emerging partnership between the IRS and suppliers of tax-return software in implementing the Free-File Alliance, a controversial pilot program for pre-certifying persons eligible for the earned income tax credit (which would receive \$100 million in funding), and a controversial proposal to hire private collection agencies to collect overdue or unpaid taxes.

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<sup>17</sup> For more details on the Board's budget recommendations for FY2004, see the statement made by Nancy Killefer, the chair of the IRS Oversight Board, before the House Appropriations Subcommittee on Transportation and Treasury on May 7, 2003, available at [www.nexis.com].

The House overwhelmingly passed H.R. 2989 on September 9, 2003. Its version endorses the recommended funding levels for IRS accounts in FY2004 approved by the Appropriations Committee. Under an amendment adopted by the House during floor debate on the measure, none of the funds appropriated in the measure may be used to help overturn a federal judge's recent ruling that IBM's cash balance pension plan violates a federal law barring age discrimination. The sponsors of the amendment are seeking to prevent the IRS from making final proposed regulations it issued in December 2002 on the application of age-discrimination rules to the conversion of traditional pension plans to cash balance plans it issued in December 2002. They are concerned that such a step would strengthen IBM's hand if it were to appeal the judge's ruling.

On September 4, 2002, the Senate Appropriations Committee unanimously approved a measure (S. 1589) providing \$10.276 billion in funding for IRS operations in FY2004. This amount is \$296 million more than the amount enacted in FY2003 but \$160 million less than the amount requested by the Administration and \$76 million less than the amount approved by the House.

More specifically, S. 1589 recommends spending \$4.048 billion on processing, assistance and management (or \$26 million below the Administration's request but \$10 million above the amount in H.R. 2989); \$4.173 billion on tax law enforcement (or \$196 million above the Administration's request but \$48 million below the amount in H.R. 2989); \$1.591 billion on information systems (or \$79 million below the Administration's request and \$38 million below the amount in H.R. 2989); \$429 million for business systems modernization (or the same amount requested by the Administration and contained in H.R. 2989); and \$35 million to administer the health insurance tax credit (or the same amount requested by the Administration and contained in H.R. 2989).

The Committee report (S.Rept. 108-146) on the bill singles out two IRS programs for praise: the Tax Counseling Program for the Elderly and Low-Income Taxpayer Clinics. It recommends that the former be funded at a level of \$3.9 million and the latter at a level of \$7.0 million in FY2004. In addition, the report recommends that the IRS manage its earned income tax compliance initiative as part of its budget for tax law enforcement, and that the IRS "realign development activities funded under the Information Systems account so that they are managed and integrated formally into Business Systems Modernization activity." It is unclear from the report what view the Committee takes of recent controversial proposals to pre-certify the eligibility of certain taxpayers for the earned income tax credit and to hire private collection agents to collect unpaid or overdue taxes.

## Title III: Postal Service

**Table 7. Title III: United States Postal Service Appropriations**  
(in millions of dollars)

Program or Account	FY2003 Enacted	FY2004 Request	FY2004 House Passed	FY2004 Senate Reported	FY2004 Enacted
Payment to the Postal Service Fund	29	29	29	29	
Advance Appropriation, FY2002/2003	47	31	31	31	
Advance Appropriation, FY2004	31	37	37	37	
<b>Total, Postal Service</b>	<b>107</b>	<b>97</b>	<b>97</b>	<b>97</b>	

**Source:** United States House of Representative, Committee on Appropriations, House Report 108-243, Table: *Comparative Statement of Budget Authority*, except Senate figures from Senate Committee on Appropriations, Senate Report 108-146, Table: *Comparative Statement of Budget Authority*.

**Note:** The Senate lists the Postal Service appropriation under the “Related Agencies” (“Independent Agencies” in the Senate report) Title, rather than as a separate title.

The U.S. Postal Service (USPS) generates nearly all of its funding—about \$67 billion—annually through the sale of products and services. It does receive a regular appropriation from Congress, however, to compensate for revenue it forgoes in providing, at congressional direction, free mailing privileges for the blind and visually impaired and for overseas voting. Under the Revenue Forgone Reform Act of 1993, Congress is required to reimburse USPS \$29 million each year until 2035, for services performed but not paid for in the 1990s (for more information, see CRS Report RS21025, *The Postal Revenue Forgone Appropriation: Overview and Current Issues*). The terrorist attacks in the fall of 2001, however, including use of the mail for delivery of anthrax spores to congressional and media offices, generated new funding needs that USPS contends should be met through appropriations.

In FY2003, USPS received a revenue forgone appropriation of \$59.6 million, including \$30.8 million for revenue forgone in FY2003 but not payable until October 1, 2003, and the \$29 million (\$28.8 after rescission) due annually under the Revenue Forgone Reform Act of 1993.

In its FY2004 Budget, the Administration proposed an appropriation of \$55.7 million for revenue forgone in fiscal 2004, and \$29 million for the FY2003 installment under the Revenue Forgone Reform Act of 1993—reduced by \$19.2 million as a reconciliation adjustment to reflect actual versus estimated free mail volume in 2001—for a total of \$65.5 million. Of this amount, \$36.5 million would not be available for obligation until October 1, 2004, which is in FY2005. However, USPS will also have available for obligation during FY2004 the \$31 million provided for revenue forgone in fiscal 2002, for a total of \$60 million. In its FY2002 Budget, the Bush Administration had proposed to “reverse the misleading budget practice of using advance appropriations simply to avoid [annual] spending limitations.” The Administration did not renew the proposal in its FY2003 or FY2004 Budgets.

In its detailed justification of its FY2004 budget request, USPS asked Congress for an additional \$350 million (above the OMB proposal of \$65.5 million) in emergency response funds to protect the safety of employees and customers from threats such as the 2001 anthrax attack. The funds would be used to continue acquisition and deployment of ventilation and filtration equipment that was begun with \$762 million provided in FY2002 specifically for emergency response. Neither the Administration's FY2003 Budget nor its FY2004 Budget included any additional funds for emergency preparedness for the Postal Service. As a condition to receiving the largest part of its previous emergency response funding, on March 6, 2002 USPS submitted to its oversight and appropriations committees an emergency preparedness plan to combat the threat of biological and chemical substances in the mail.<sup>18</sup> The March 6, 2002 emergency preparedness plan did identify substantial needed appropriations of \$799.8 million for FY2003, and \$897.5 million for FY2004.

Both the House-passed and the Senate Appropriations Committee's version of the FY2004 bill mirrored the Administration's request, providing \$60 million for FY2004, made up of \$29 million for past revenue forgone, and \$31 million payable in FY2004 though appropriated in the FY2003 law. The House and the Senate Committee also provided \$36.5 million as an advance appropriation for revenue forgone to be payable in FY2005. Neither Committee's report referred to the Postal Service's supplementary request for bio-terrorism prevention. Both versions of the bill continue long-standing language forbidding USPS to reduce service below the six-day delivery and rural delivery standards that have prevailed since 1983, or to close rural or other small post offices during FY2004.

The Administration's Budget also contained a proposal to correct an anticipated over-funding of USPS obligations for the retirement benefits of postal workers under the Civil Service Retirement System. Congress has passed legislation (P.L. 108-18) to reduce the annual USPS contribution to the Civil Service Retirement and Disability Fund, which will have the effect of saving USPS \$2.9 billion in FY2003 and \$2.6 billion in succeeding years. For more on this legislation, see CRS Report RL31684, *Funding Postal Service Obligations to the Civil Service Retirement System*.

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<sup>18</sup> See [[http://www.usps.com/news/2002/press/pr02\\_pmg0313.htm](http://www.usps.com/news/2002/press/pr02_pmg0313.htm) ], visited Sept. 11, 2003.

## Title IV: Executive Office of the President (EOP) and Funds Appropriated to the President

**Table 8. Title IV: Executive Office of the President (EOP) and  
Funds Appropriated to the President Appropriations**  
(in millions of dollars)

Office	FY2003 Enacted	FY2004 Request	FY2004 House Passed	FY2004 Senate Reported	FY2004 Enacted
Compensation of the President	0.5	—	0.5	0.5	
The White House Office (salaries and expenses)	50	—	66	62	
Office of Homeland Security	19	—	—	8	
Executive Residence at the White House (operating expenses)	12	—	13	13	
White House Repair and Restoration	1	—	4	4	
Council of Economic Advisors	4	—	4	5	
Office of Policy Development	3	—	4	4	
National Security Council	8	—	9	11	
Office of Administration	91	—	83	77	
The White House	—	184	—	—	
Office of Management and Budget	62	77	63	75	
Office of National Drug Control Policy (salaries and expenses)	26	27	29	28	
Office of National Drug Control Policy Counterdrug Technology Assessment Center	48	40	40	42	
Federal Drug Control Programs: High Intensity Drug Trafficking Areas Program	225	206	226	226	
Federal Drug Control Programs: Other Programs	222	250	230	174	
Office of the Vice President (salaries and expenses)	4	4	4	4	
Official Residence of the Vice President (operating expenses)	0.3	0.3	0.3	0.3	
<b>Total, EOP and Funds Appropriated to the President</b>	<b>777</b>	<b>791</b>	<b>777</b>	<b>735</b>	

**Source:** United States House of Representative, Committee on Appropriations, House Report 108-243, Table: *Comparative Statement of Budget Authority*, except Senate figures from Senate Committee on Appropriations, Senate Report 108-146, Table: *Comparative Statement of Budget Authority*.

The Transportation, Treasury and General Government Appropriations bill funds all but three offices in the Executive Office of the President (EOP). Of the three exceptions, the Council on Environmental Quality and Office of Environmental Quality, and the Office of Science and Technology Policy are funded under the Veterans Affairs, Housing and Urban Development, and Independent Agencies appropriations; and the Office of the United States Trade Representative is funded

under the Commerce, Justice, State, and the Judiciary and Related Agencies appropriations.

The President's FY2004 budget proposes to consolidate and financially realign several annual EOP salaries and expenses appropriations that directly support the President into a single annual appropriation, called "The White House." This consolidated appropriation would total \$183.8 million in FY2004, a decrease of 3.0% from the \$189.4 appropriated in FY2003 for the accounts proposed to be consolidated. The accounts included in the consolidated appropriation would be:

- ! Compensation of the President
- ! White House Office (including resources for the Office of Homeland Security)
- ! Executive Residence/White House Repair and Restoration
- ! Office of Policy Development
- ! Council of Economic Advisers
- ! National Security Council
- ! Office of Administration

The budget states that the consolidation "initiative provides enhanced flexibility in allocating resources and staff in support of the President and Vice President, and permits more rapid response to changing needs and priorities."<sup>19</sup> The Administration proposed similar consolidations in the FY2002 and FY2003 budgets, but the conference committees for the Treasury and General Government Appropriations Act, FY2002 (P.L. 107-67) and FY2003 (P.L. 108-7, Division J) agreed to continue with separate appropriations for the EOP accounts. A concern of the Administration has been the "needless complexity [of different accounts] that adds expense, that adds burdens, that adds administrative hurdles that they must go through to accomplish anything."<sup>20</sup> A concern of Congress about consolidation has been its "legitimate needs and desires to have oversight over spending of public funds."<sup>21</sup>

Included with the FY2004 budget request for consolidation is a proposal for a Title VI general provision that would provide for a 10% transfer authority among the following accounts:

- ! The White House (Compensation of the President, White House Office (including the Office of Homeland Security), Executive Residence, White House Repair and Restoration, Office of Administration, Office of Policy Development, National Security Council, Council of Economic Advisers)

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<sup>19</sup> U.S. Executive Office of the President, Office of Management and Budget, *Budget of the United States Government Fiscal Year 2004 Appendix* (Washington: GPO, 2003), p. 882. (Hereafter referred to as FY2004 Budget, Appendix.)

<sup>20</sup> Representative Ernest Istook, then chairman of the Subcommittee on Treasury, Postal Service and General Government of the House Committee on Appropriations, discussing the FY2002 proposal for consolidation of the Executive Office of the President accounts. *Congressional Record*, daily edition, July 25, 2001, p. H4570.

<sup>21</sup> *Ibid.*

- ! Office of Management and Budget
- ! Office of National Drug Control Policy
- ! Special Assistance to the President and Official Residence of the Vice President (transfers would be subject to the approval of the Vice President)
- ! Council on Environmental Quality and Office of Environmental Quality
- ! Office of Science and Technology Policy
- ! Office of the United States Trade Representative<sup>22</sup>

According to the EOP budget submission, the transfer authority would “allow the President to address, in a limited way, emerging priorities and shifting demands” and would “provide the President with flexibility, improve the efficiency of the EOP, and reduce administrative burdens.”<sup>23</sup> The OMB director, or such other officer as the President may designate, could, 15 days after giving notice to the Senate and House Committees on Appropriations, transfer up to 10% of any appropriation to any other appropriation, to be merged with, and available for, the same time and for the same purposes as the appropriation to which transferred. An appropriation could not be increased by more than 50% by such transfers.<sup>24</sup>

Both the House and the Senate Committees on Appropriations recommended that separate appropriations for the EOP accounts be continued and that the transfer authority proposal not be agreed to. According to the committee report accompanying S. 1589:

Last year, the Committee gave this request considerable deliberation and concluded that the existing structure served the Committee’s and the public’s need for transparency in the funding and operation of these important functions well. The existing structure also provides the executive branch with the flexibility it needs to reprogram funds within accounts to address unforeseen budget needs upon the notification and approval of the Committee. As noted in discussions with administration officials in past years, at no time has this Committee rejected an administration’s request to reprogram existing funds within accounts in this Title.<sup>25</sup>

**EOP Offices Funded Through Treasury and General Government Appropriations.** The President’s FY2004 budget for EOP programs funded under the Treasury and General Government appropriations proposes an appropriation of \$790.6 million, an increase of 1.7% over the \$777.0 million appropriated in FY2003. The FY2004 budget proposals for specific accounts are discussed below.

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<sup>22</sup> FY2004 Budget, Appendix, p. 882. U.S. Executive Office of the President, *Fiscal Year 2004 Congressional Budget Submission* (Washington: GPO, [Feb. 2003]), p. 11. (Hereafter referred to as EOP Budget Submission.)

<sup>23</sup> EOP Budget Submission, p. 11.

<sup>24</sup> Ibid.

<sup>25</sup> S.Rept. 108-146, p. 132.

**Compensation of the President.** The President's FY2004 budget proposes an appropriation of \$450,000, which includes an expense allowance of \$50,000. This is the same amount as was appropriated in FY2003. The salary of the President is \$400,000 *per annum*, effective January 20, 2001. The House and Senate Committees on Appropriations recommended and the House passed the same amount as the President requested.

**White House Office (WHO).** This account provides the President with staff assistance and administrative services. The President's FY2004 budget proposes an appropriation of \$70.3 million, an increase of 39.5% over the \$50.4 million appropriated in FY2003.

The House Committee on Appropriations recommended and the House passed an appropriation of \$66.057 million, of which \$8.65 million would be for reimbursements to the White House Communications Agency. The amount is \$4.2 million less than the President's request. The reduction is taken from the Office of Homeland Security funding which is included in the White House Office appropriation (see below). The Committee again requests that the Executive Office of the President, within 30 days of the Act's enactment, provide "a detailed report on the status of efforts to safely resume public tours of the White House." Such a report had been requested in the 2003 appropriations bill, but the committee report accompanying H.R. 2989 states that the EOP "provided a cursory, four-sentence 'report' that said very little about the status of efforts in this regard."<sup>26</sup>

The Committee also directs that both the House and Senate Committees on Appropriations receive a report on the renovations of the Eisenhower Executive Office Building no later than November 15, 2003. According to the committee report accompanying H.R. 2989:

On repeated occasions, the Committee has sought specific answers to questions about the use of non-federal funds for renovating and furnishing GSA facilities occupied by agencies of the Executive Office of the President. In particular, the Committee believes more information is needed on the use of non-federal funding for renovation and furnishing efforts for the Eisenhower Executive Office Building [EEOB], for which \$65,757,000 is included in this bill. The Committee directs EOP to review and report on the use of non-federal funds for renovation and furnishings in the [EEOB] .... should identify the federal agency that coordinated the work funded by non-federal sources, the specific sources and amounts of non-federal funding used, a description of each project, and an explanation of why non-federal funds were used in each specific instance. Finally, the report should determine which agency's gift authority was used to accept the contribution of non-federal funds and whether this authority was used properly. Given EOP's reluctance to provide information on this subject thus far, a provision is included in the bill prohibiting the obligation of more than \$35,000,000 on this project until this report is submitted to the Congress.<sup>27</sup>

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<sup>26</sup> H.Rept. 108-243, pp. 163-164.

<sup>27</sup> H.Rept. 108-243, p. 164.

The Senate Committee on Appropriations recommended an appropriation of \$61.9 million, “a decrease of \$8,331,000 below the budget estimate as funds requested under this account for the Homeland Security Council are provided in a separate account.”<sup>28</sup> Of the total, \$8.6 million would be available for reimbursements to the White House Communications Agency.

**Office of Homeland Security (OHS).** This office provides support and advice to the President and interagency coordination of all aspects of homeland security, including the implementation of the National Strategy for Homeland Security. The funding for OHS is included in the White House Office request. Of the \$70.3 million requested for the WHO for FY2004, \$8.3 million is for the OHS. The OHS FY2003 appropriation was \$19.3 million. The Homeland Security Council functions established in the Homeland Security Act of 2002, P.L. 107-296, are supported by the OHS budget.

The House Committee on Appropriations recommended and the House passed an appropriation of \$4.1 million, which is \$4.2 million less than the President’s request of \$8.3 million. The committee report accompanying H.R. 2989 explained the recommendation as follows.

It is clear that most of [the responsibilities of OHS] have now been assumed by the Secretary of the Department of Homeland Security [DHS]. Although the Administration has changed the “Office of Homeland Security” to the “Homeland Security Council,” it is not clear what work remains that cannot be effectively performed by the [DHS]. Although the Committee understands the President’s need for policy support and advice, it is not clear why that would require 66 staff, given the existence and support of the [DHS].<sup>29</sup>

The Senate Committee on Appropriations recommended the same appropriation as the President requested. The Committee did not approve funding for the council within the White House Office, believing that the council “should be funded as a separate account, which is consistent with the budgetary treatment of its predecessor, the Office of Homeland Security.”<sup>30</sup>

**Executive Residence (White House) Operation and Care.** These accounts provide for the care, maintenance, and operation of the Executive Residence and its repair, alteration, and improvement.

The President’s FY2004 budget proposes an overall appropriation of \$16.7 million for this account, an increase of 25.4% over the \$13.3 million appropriated in FY2003. For the executive residence, the budget proposes an appropriation of \$12.5 million, an increase of 2.9% over the \$12.3 million appropriated in FY2003. For repair and restoration of the White House, the budget proposes an appropriation of \$4.2 million, an increase of 254.4% over the \$1.2 million appropriated in FY2003. The EOP budget submission states that the repair and restoration funding would be

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<sup>28</sup> S.Rept. 108-146, p. 132.

<sup>29</sup> H.Rept. 108-243, p. 163.

<sup>30</sup> S.Rept. 108-146, p. 135.

used to renovate various specific electrical, mechanical, and control system components; replace two power servers; and complete the second phase of the restoration of the East and West Wing exterior.<sup>31</sup>

Maintenance and repair costs for the White House are also funded by the National Park Service as part of that agency's responsibility for national monuments. Entertainment costs for state functions are funded by the Department of State. Reimbursable political events in the Executive Residence are to be paid for in advance by the sponsor, and all such advance payments are to be credited to a Reimbursable Expenses account. The political party of the President is to deposit \$25,000 to be available for expenses relating to reimbursable political events during the fiscal year. Reimbursements are to be separately accounted for and the sponsoring organizations billed, and charged interest, as appropriate. The staff of the Executive Residence must report to the Committees on Appropriations, after the close of each fiscal year, and maintain a tracking system on the reimbursable expenses.

The House and Senate Committees on Appropriations recommended and the House passed the same appropriations as the President requested. The House committee report accompanying H.R. 2989 states that the repair and restoration funds "will finance the ongoing restoration of the east and west wing exterior (\$3,500,000), replacement or repair of various electrical, mechanical, and control system components (\$530,000), and replacement of computer servers and backup power supplies (\$195,000)."<sup>32</sup>

#### **Special Assistance to the President (Office of the Vice President).**

This account funds the Vice President in carrying out the responsibilities assigned to him by the President and by law.

The President's FY2004 budget proposes an appropriation of \$4.5 million for salaries and expenses, an increase of 10.4% over the \$4.0 million appropriated in FY2003. According to the EOP budget submission:

An additional programmatic increase of \$70,000, or 1.7 percent was requested for costs associated with official Vice Presidential travel. Since September 11, 2001, the Vice President's travel has been augmented by travel to undisclosed locations for security purposes. This travel is 100 percent official ...<sup>33</sup>

The House and Senate Committees on Appropriations recommended and the House passed the same appropriation as the President requested. This funding level "will allow for 24 full-time permanent positions in fiscal year 2004," according to the Senate committee report accompanying S. 1589.<sup>34</sup>

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<sup>31</sup> EOP Budget Submission, p. 62.

<sup>32</sup> H.Rept. 108-243, p. 165.

<sup>33</sup> EOP Budget Submission, p. 164.

<sup>34</sup> S.Rept. 108-146, p. 133.

**Official Residence of the Vice President.** This account provides for the care and operation of the Vice President's official residence and includes the operation of a gift fund for the residence.

The President's FY2004 budget proposes an appropriation of \$331,000 for the operating expenses of the Official Residence, an increase of 2.8% over the \$322,000 appropriated in FY2003.

The House and Senate Committees on Appropriations recommended and the House passed the same appropriation as the President requested. In its report accompanying S. 1589, the Senate Committee stated that it "has had a longstanding interest in the condition of the residence and expects to be kept fully apprised by the Vice President's office of any and all renovations and alterations made to the residence by the Navy."<sup>35</sup>

**Council of Economic Advisers (CEA).** The three-member council was created in 1946 to assist and advise the President in the formulation of economic policy. The council analyzes and evaluates the national economy, economic developments, federal programs, and federal policy to formulate economic advice. The council assists in the preparation of the annual Economic Report of the President to Congress.

The President's FY2004 budget proposes an appropriation of \$4.5 million, an increase of 20.4% over the \$3.8 million appropriated in FY2003.

The House Committee on Appropriations recommended and the House passed an appropriation of \$4 million, \$502,000 less than the President's request. The Senate Committee on Appropriations recommended the same appropriation as the President requested.

**Office of Policy Development.** The Office supports and coordinates the Domestic Policy Council (DPC) and the National Economic Council (NEC) in carrying out their responsibilities to advise and assist the President in formulating, coordinating, and implementing economic and domestic policy. The office also supports other policy development and implementation initiatives.

The President's FY2004 budget proposes an appropriation of \$4.1 million, an increase of 27.2% over the \$3.2 million appropriated in FY2003. Of the total, an estimated \$2.1 million supports the Office of Policy Development's DPC functions and \$2.0 million supports the office's NEC functions.<sup>36</sup>

The House and Senate Committees on Appropriations recommended and the House passed the same appropriation as the President requested.

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<sup>35</sup> S.Rept. 108-146, p. 134.

<sup>36</sup> EOP Budget Submission, p. 102.

**National Security Council (NSC).** The NSC advises the President on integrating domestic, foreign, military, intelligence, and economic policies relating to national security.

The President's FY2004 budget proposes an appropriation of \$10.6 million, an increase of 35.8% over the \$7.8 million appropriated in FY2003. Of the total, \$9.8 million funds the operations of the NSC, including the Office for Combating Terrorism, and \$741,000 funds the President's Foreign Intelligence Advisory Board.<sup>37</sup>

The House Committee on Appropriations recommended and the House passed an appropriation of \$9 million, \$1.6 million less than the President's request. The Senate Committee on Appropriations recommended the same appropriation as the President requested. This funding level "will support 60 full-time equivalent positions, or the same since the fiscal year 1996 level for the normal activities of the NSC."<sup>38</sup>

**Office of Administration.** The Office of Administration provides administrative services, including information technology; human resources management; library and records management; financial management; and facilities, printing, and supply, to the Executive Office of the President.

The President's FY2004 budget proposes an appropriation of \$77.2 million, a decrease of 15.1% from the \$90.9 million appropriated in FY2003. Of the total, \$56.6 million is for salaries and expenses and \$20.6 million is for capital investment.<sup>39</sup>

The House Committee on Appropriations recommended and the House passed an appropriation of \$82.8 million of which \$17.5 million would remain available until expended for the Capital Investment Plan for continued modernization of the information technology infrastructure within the EOP. This amount is \$5.7 million more than the President's request. The committee report accompanying H.R. 2989 states that the "recommendation maintains funding to continue the core enterprise pilot program in this account (+\$8,258,000) and acknowledges program savings for security guard services provided to the Office of Science and Technology Policy (-\$1,096,000) and for information technology contract services provided to the Homeland Security Council (-\$1,500,000)." The Committee also recommends continuation of the "pilot project to determine whether economies of scale could be achieved through centralized procurement of certain common goods and services."<sup>40</sup>

The Senate Committee on Appropriations recommended the same appropriation as the President requested. Of the total, \$20.6 million would remain available until expended for the Capital Investment Plan for continued modernization of the

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<sup>37</sup> EOP Budget Submission, p. 129.

<sup>38</sup> S.Rept. 108-146, p. 135.

<sup>39</sup> EOP Budget Submission, p. 73.

<sup>40</sup> H.Rept. 108-243, pp. 166-167.

information technology infrastructure within the EOP. The EOP would submit a report to the Committees on Appropriations that includes a current description of (1) the Enterprise Architecture, as defined in OMB Circular A-130 and the Federal Chief Information Officers Council guidance; (2) the Information Technology (IT) Human Capital Plan; (3) the capital investment plan for implementing the Enterprise Architecture; and (4) the IT capital planning and investment control process. The report would be reviewed and approved by OMB, and reviewed by GAO. In its report accompanying S. 1589, the Committee states its continuing support for the Centralized Procurement Pilot Project, “but recommends funding for such items [information technology, rent, printing and reproduction, supplies and materials and equipment] in individual offices within the EOP until saving and other benefits are identified.”<sup>41</sup>

**Office of Management and Budget (OMB).** OMB assists the President in discharging budgetary, management, and other executive responsibilities. The agency’s activities include preparing the budget documents; examining agency programs, budget requests, and management activities; preparing the government-wide financial management status report and five-year plan (with the Chief Financial Officer Council); reviewing and coordinating agency regulatory proposals and information collection requirements; and promoting economical, efficient, and effective procurement of property and services for the executive branch.

The President’s FY2004 budget proposes an appropriation of \$77.4 million, an increase of 24.9% over the \$62.0 million appropriated in FY2003. According to the EOP budget submission, “Since the start of the Administration, OMB has maintained a very tight budget” and “In light of constrained funding levels over the past two years, the majority of the increase in the FY2004 request will permit OMB to continue current operations.”<sup>42</sup>

The House Committee on Appropriations recommended and the House passed an appropriation of \$62.8 million, \$14.6 million less than the President’s request. Savings would be derived from deferring proposed discretionary initiatives (\$2.4 million), assuming 20 fewer staff years than budgeted (\$1.5 million), limiting reception and representation expenses to half of the budget estimated amount (\$1,500), reducing funding for the office of information and regulatory affairs (\$2.5 million), and transferring funds back to the pilot project on centralized procurement of common goods and services discussed under the Office of Administration (\$8.3 million). The Committee also directs OMB

To the extent that OMB establishes individual agency targets in its internal guidance [on competitive sourcing targets], the agency is directed within 30 days of establishing such targets, to submit a report to the House and Senate Committees on Appropriations that indicates each agency’s competitive sourcing target. The report should specifically detail the research and analysis that was used in determining each agency’s individual target, goal or quota. To the extent that such targets change over time, OMB is directed to maintain an up-to-date

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<sup>41</sup> S.Rept. 108-146, p. 136.

<sup>42</sup> EOP Budget Submission, p. 189.

record of such changes and convey the changes periodically to the [appropriations committees] and the appropriate legislative committees.

[T]o submit a report to the House and Senate Committees on Appropriations, not later than April 1, 2004, detailing the amount of federal funds used by federal grantees to pay dues, fees, or other types of membership costs to national associations or other types of professional organizations.

[T]o involve the House and Senate Committees on Appropriations in the development of PART [program assessment rating tool] ratings [which rate the effectiveness of federal programs] at all stages in the process.<sup>43</sup>

The Senate Committee on Appropriations recommended an appropriation of \$75.4 million, \$2 million less than the President's request. "[T]he reduction is manageable by limiting the growth for staff and professional development," according to the committee report accompanying S. 1589.<sup>44</sup> The Committee also expressed its concern "that agencies are shielding significant, influential data and related documents funded by the Federal government from the requirements of the Federal Data Quality Act [FDQA]" and "directs the Administrator of the Office of Information and Regulatory Affairs [OIRA] to submit a report to the House and Senate Committees on Appropriations not later than 30 days on how guidelines to agencies may be updated to address these concerns and improve the transparency of agency science." Expressing strong support for the Truman Scholarship program, the Committee directs the program's board "to strictly adhere to its statutory mandate to assure that at least one Truman scholar shall be selected each year from each State in which there is at least one resident applicant who meets the minimum criteria established by the Foundation."<sup>45</sup>

**Office of National Drug Control Policy (ONDCP).** The ONDCP develops policies, objectives, and priorities for the National Drug Control Program. The account also funds general policy research to support the formulation of the National Drug Control Strategy.

The President's FY2004 budget proposes an appropriation of \$27.3 million, an increase of 3.8% over the \$26.3 million appropriated in FY2003. Of the total, \$25.9 million is for salaries and expenses operations and \$1.4 million is for policy research.<sup>46</sup>

The House Committee on Appropriations recommended and the House passed an appropriation of \$28.8 million (policy research and evaluation would be funded at \$1.35 million and the National Alliance for Model State Drug Laws would be funded at \$1.5 million). This amount is \$1.5 million more than the President's request.

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<sup>43</sup> H.Rept. 108-243, pp. 167-169.

<sup>44</sup> S.Rept. 108-146, p. 136.

<sup>45</sup> Ibid., p. 137.

<sup>46</sup> EOP Budget Submission, p. 216.

The Senate Committee on Appropriations recommended an appropriation of \$27.996 million, \$706,500 more than the President's request. Of the total, \$1.350 million would remain available until expended for policy research and evaluation and \$1.5 million is to be used for the National Alliance for Model State Drug Laws.

**The Counterdrug Technology Assessment Center (CTAC).** The CTAC is the central counterdrug research and development organization for the federal government.

The President's FY2004 budget requests \$40 million, a decrease of 16.1% from the \$47.7 million appropriated in FY2003. Of the total, \$18 million is for counternarcotics research and development projects (which shall be available for transfer to other federal departments or agencies) and \$22 million is for the continued operation of the technology transfer program.<sup>47</sup>

The House Committee on Appropriations recommended and the House passed the same appropriation as the President requested. Counternarcotics research and development projects would be funded at \$18 million (and available for transfer to other federal departments or agencies) and the continued operation of the technology transfer program would be funded at \$22 million.

The Senate Committee on Appropriations recommended an appropriation of \$42 million, \$2 million more than the President's request. Of the total, \$18 million would be for counternarcotics research and development projects and would be available for transfer to other federal departments or agencies. The continuation of the technology transfer program to State and local law enforcement in their efforts to combat drugs is funded at \$24 million. Several Committee expectations with regard to CTAC are stated in the report accompanying S. 1589. In addition, ONDCP is directed "to report to the House and Senate Committees on Appropriations, no later than December 15, 2003, on CTAC funding allocations, specifically providing a detailed spending plan for the research and development program as well as the technology transfer program for fiscal years 2001, 2002, and 2003." The Committee requests "that the fiscal year 2005 budget request include a specific accounting of the total number of grant applications received and the number awarded in the previous year so that the Committee may have a true understanding of CTAC's ability to meet demand."<sup>48</sup>

**Federal Drug Control Programs.** The High Intensity Drug Trafficking Areas (HIDTA) program provides assistance to federal, state, and local law enforcement entities operating in those areas most adversely affected by drug trafficking. Funds are disbursed at the discretion of the director of ONDCP for joint local, state, and federal initiatives.

The President's FY2004 budget proposes an appropriation of \$206.4 million, a decrease of 8.2% from the \$224.9 million appropriated in FY2003. No less than 51% of the total shall be transferred to State and local entities for drug control

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<sup>47</sup> FY2004 Budget, Appendix, p. 1053.

<sup>48</sup> S.Rept. 108-146, p. 138.

activities, which shall be obligated within 120 days of enactment of the Transportation/Treasury appropriations act. Up to 49% of the total shall remain available until September 30, 2005, and may be transferred to federal agencies and departments at a rate to be determined by the director, of which not less than \$2.1 million shall be used for auditing services and associated activities, and at least \$500,000 of the \$2.1 million shall be used to develop and implement a data collection system to measure the performance of the High Intensity Drug Trafficking Areas Program.<sup>49</sup>

The House Committee on Appropriations recommended and the House passed an appropriation of \$226.4 million, \$20 million more than the President's request. According to the committee report accompanying H.R. 2989, the increase is

to meet requirements to fully fund existing HIDTA program activity, to expand HDTAs where such expansion is justified, to fund new HDTAs as appropriate, and to fund HIDTA activities through the Central Priority Organization Targets (CPOT) initiative .... The Committee directs that HDTAs existing in fiscal year 2003 shall receive funding at least equal to the fiscal year 2003 initial allocation level, which does not include funding provided through the CPOT initiative .... As ONDCP reviews candidates for new HIDTA funding, the Committee recommends that it consider the following: increased funding for the Central Florida, Central Valley, Lake County, and Midwest (Platte and Madison counties, Nebraska) HDTAs; and expansion of the Appalachian HIDTA (Letcher County, Kentucky).<sup>50</sup>

The Senate Committee on Appropriations recommended an appropriation of \$226.350 million, \$20 million more than the President's request. The additional amount, which is subject to reprogramming guidelines, is to fully fund existing HIDTA program activities, expand existing HDTAs where warranted, and fund new HDTAs and new HIDTA activities that are consistent with the program's mission. Existing HDTAs are to be funded at no less than the FY2003 initial allocation level, unless the ONDCP Director submits to, and the House and Senate Committees on Appropriations approve, a request to reprogram funds "based on clearly articulated priorities for the HIDTA program, as well as published ONDCP performance measures of effectiveness."<sup>51</sup> No funds would be used for any further or additional consolidation of the Southwest Border HIDTA, except for the operation of an office with a coordinating role, until the office submits a report on the structure of the HIDTA. According to the committee report accompanying S. 1589:

In allocating the HIDTA funds, the Committee expects the Director of ONDCP to ensure that the activities receiving these limited additional resources are used strictly for implementing the strategy for each HIDTA, taking into consideration local conditions and resource requirements. These funds should not be used to supplant existing support for ongoing Federal, State, or local drug control operations normally funded out of the operating budgets of each agency. The

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<sup>49</sup> FY2004 Budget, Appendix, p. 1051.

<sup>50</sup> H.Rept. 108-243, p. 170.

<sup>51</sup> S.Rept. 108-146, p. 139.

remaining funds may be transferred to Federal agencies and departments to support Federal antidrug activities.<sup>52</sup>

Several Committee expectations with regard to the HIDTA program are stated in the report. Additionally, the Committee directs ONDCP to consult with the House and Senate Committees on Appropriations “in the developmental stages of any new grant programs that it plans to institute in the future.”<sup>53</sup> ONDCP also is directed by the Committee “to coordinate with other Federal agencies with a core mission to target international drug traffickers in an effort to pool personnel, intelligence, and available resources to further the originally conceived CPOT [Consolidated Priority Organizational Targets] program and to report to the House and Senate Committees on Appropriations no later than 90 days after enactment of this Act on the progress of these efforts.” The General Accounting Office is directed “to conduct a study on the effectiveness of the CPOT program, its conformity with the HIDTA mission ... and what resources other Federal law enforcement agencies contribute to the program.”<sup>54</sup> Committee views with regard to methamphetamine reduction, and issues specific to the Midwest, New England, Southwest Border, Appalachia, Northwest, and Southern Ohio HIDTAs also are expressed in the report.<sup>55</sup>

***Other Federal Drug Control Programs (formerly The Special Forfeiture Fund).*** The account, administered by the director of ONDCP, supports high-priority drug control programs. The funds may be transferred to drug control agencies or directly obligated by the ONDCP director.

The President’s FY2004 budget proposes an appropriation of \$250 million, an increase of 12.7% over the \$221.7 million appropriated in FY2003. Of the total, \$170 million is to support a national media campaign, as authorized by the Drug-Free Media Campaign Act of 1998; \$70 million is for a program of assistance and matching grants to local coalitions and other activities, as authorized in chapter 2 of the National Narcotic Leadership Act of 1988, as amended; \$4.5 million is for the Counterdrug Intelligence Executive Secretariat; \$2 million is for evaluations and research related to National Drug Control Program performance measures; \$1 million is for the National Drug Court Institute; \$1.5 million is for the United States Anti-Doping Agency for anti-doping activities; and \$1 million is for the United States membership dues to the World Anti-Doping Agency.<sup>56</sup>

The House Committee on Appropriations recommended and the House passed an appropriation of \$230 million. The money would be allocated in the same manner as the President proposed except that \$150 million would support a national media campaign. This amount is \$20 million less than the President’s request. According to the committee report accompanying H.R. 2989, “The Committee has changed the name of the Special Forfeiture Fund account to Other Federal Drug Control Programs

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<sup>52</sup> Ibid.

<sup>53</sup> Ibid., p. 140.

<sup>54</sup> Ibid.

<sup>55</sup> S.Rept. 108-146, pp. 140-142.

<sup>56</sup> FY2004 Budget, Appendix, p. 1052.

as requested by the President, reflecting the fact that this account receives no forfeiture funds but only direct appropriations.” The report “encourages ONDCP to explore options for using alternative media in schools as a way of utilizing traditional learning tools in non-traditional ways, such as children’s books tailored with an anti-drug message, provided that such media can be utilized in a manner consistent with the goals and parameters of the Media Campaign.”

The report also states the Committee’s belief “that without a convincing demonstration that the Media Campaign has had an impact on youth drug use that can be at least somewhat different from the general trends in such use, any increase in funding for the Media Campaign cannot be justified at this time.” The Director of ONDCP is directed to submit an evaluation plan for the Media Campaign for fiscal years 2004-2008 to the Committees on Appropriations no later than 120 days after this Act’s enactment. The Committee also is requiring “that no less than 77 percent of funds be spent on advertising time and space.”<sup>57</sup>

The Senate Committee on Appropriations recommended an appropriation of \$174 million, \$76 million less than the President’s request. Of the total, \$100 million is for continuation of the National Youth Anti-Drug Media Campaign; \$7.2 million is for the United States Anti-Doping Agency; \$60 million is for the Drug-Free Communities Program (including \$1 million to continue the National Community Anti-Drug Coalition Institute); \$3 million is for the Counterdrug Executive Secretariat; \$1 million is for the National Drug Court Institute; \$2 million is for Performance Measures Development; and \$800,000 is for United States dues to the World Anti-Doping Agency. Noting that the current source of funding for this account is direct appropriations, the Committee concurred with changing the name of the account.

The committee report accompanying S. 1589 includes several directives related to the National Media Campaign. According to the report:

Today, a large portion of the campaign’s budget pays for outside media and advertising consultants and the Committee is concerned about the amount of resources that are being consumed by these parties. The Committee has provided \$100,000,000 for the national media campaign and directs that no less than 80 percent of the funding provided be used for the purchase of advertising time and space unless ONDCP submits and the House and Senate Committees on Appropriations approves a request for reprogramming of the funds based on clearly articulated principals and priorities. The Committee directs the General Accounting Office to conduct a study to determine the extent to which outside consultants are being used by the Media Campaign, the cost-effectiveness of this method, and if this system is producing more effective ads that aid ONDCP in its core mission.<sup>58</sup>

With regard to the campaign’s industry match program, under which federal funds for paid advertising were to be matched dollar-for-dollar by industry, the committee report states that:

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<sup>57</sup> H.Rept. 108-243, pp. 171-172.

<sup>58</sup> S.Rept. 108-146, p. 143.

It has come to the Committee's attention however, that while ONDCP is purchasing peak time for specific ads, they are agreeing to have that time and space matched with different ads at different times. The Committee believes that this violates the intent of Congress and directs ONDCP to provide a detailed report to the House and Senate Committees on Appropriations regarding all advertising, their placement and what matches are being provided by all media in all markets. Further, the Committee directs ONDCP to more closely scrutinize the matching proposals and to ensure that the one to one match more appropriately mirrors the time and space that has been purchased.<sup>59</sup>

The report also states that "the Committee intends to rely on the scientifically rigorous NIDA study to gauge [the advertising campaign's] ultimate impact."<sup>60</sup>

**Unanticipated Needs.** The account provides funds for the President to meet unplanned and unbudgeted contingencies for national interest, security, or defense purposes.

The President's FY2004 budget proposes an appropriation of \$1 million. This is virtually the same amount as was appropriated in FY2003 (\$993,000 after rescission). The House and Senate Committees on Appropriations recommended and the House passed the same appropriation as the President requested.

## Title V: Independent Agencies

**Table 9. Title V: Related Agencies Appropriations**  
(in millions of dollars)

Agency	FY2003 Enacted	FY2004 Request	FY2004 House Passed	FY2004 Senate Reported	FY2004 Enacted
National Transportation Safety Board	72	72	77	73	
Federal Election Commission	50	50	50	50	
Election Assistance Commission	835	500	500	500	
Federal Labor Relations Authority	29	30	30	30	
Federal Maritime Commission	17	18	18	18	
General Services Administration	1,222	464	426	615	
Merit Systems Protection Board	34	36	36	36	
Morris K. Udall Foundation	3	1	3	3	
National Archives and Records Administration	262	298	300	269	
Office of Personnel Management (total)	16,558	18,012	17,506	17,512	

<sup>59</sup> Ibid.

<sup>60</sup> Ibid., p. 144.

Agency	FY2003 Enacted	FY2004 Request	FY2004 House Passed	FY2004 Senate Reported	FY2004 Enacted
Government Payments for Annuitants, Employees Health Benefits	6,853	7,219	7,219	7,219	
Government Payments for Annuitants, Employee Life Insurance	34	35	35	35	
Payment to Civil Service Retirement and Disability Fund	9,410	9,987	9,987	9,987	
Office of Special Counsel	12	14	14	14	
United States Tax Court	37	40	40	40	
<b>Total, Related Agencies</b>	<b>19,151</b>	<b>19,555</b>	<b>19,021</b>	<b>*19,180</b>	

**Source:** United States House of Representative, Committee on Appropriations, House Report 108-243, Table: *Comparative Statement of Budget Authority*, except Senate figures from Senate Committee on Appropriations, Senate Report 108-146, Table: *Comparative Statement of Budget Authority*.

\*The Senate Committee on Appropriations lists the Postal Service under the "Related Agencies" ("Independent Agencies" in the Senate Report) Title, rather than as a separate title. For comparative purposes, the Postal Service appropriation (\$97 million) has been subtracted from the Senate's total figure.

**Federal Election Commission (FEC).** The FEC administers federal campaign finance law, including overseeing disclosure requirements, limits on contributions and expenditures, and the presidential election public funding system; the agency retains civil enforcement authority for the law. The Office of Election Administration, which serves as a clearinghouse for information on voting laws and procedures for state and local election officers, is another part of the FEC .

The President's fiscal 2004 budget proposed an appropriation of \$50.4 million for the FEC, an increase of \$898,000 above the fiscal 2003 appropriation of \$49.5 million. The FEC, in its separate budget submission to Congress, concurred with the Administration proposal, both in the request for overall appropriations and for 391 employees. The agency noted in its submission that the 1.8% increase over the 2003 appropriated amount represented "essentially a Current Services request," reflecting only an adjustment for inflation and salary and benefits increases but no additional funds or staff for new programs or initiatives. The agency attributed the essentially stable budget request to the greater efficiency resulting from mandatory electronic filing and the new administrative fine and Alternative Dispute Resolution programs.

The House-passed bill contained the same \$50.4 million funding level as requested by the Administration and the agency, with a stipulation that no less than \$6.4 million be used for automated data processing systems. The House bill also contained two legislative provisions added by the Appropriations Committee: to extend the FEC's administrative fines program by two years, through the end of 2005, and to allow reports filed by overnight delivery, priority, or express mail to be considered as timely based on the postmark or, if by non-U.S. Postal Service carriers, by the date delivered to that carrier.

The bill reported by the Senate Appropriations Committee contained the same \$50.4 million recommended by the Administration, the FEC, and the House. The Committee, however, did not include the House bill's stipulation regarding spending on data systems, nor did it include the legislative provisions in the House bill.

**Federal Labor Relations Authority (FLRA).** The FLRA serves as a neutral party in the settlement of disputes that arise between unions, employees, and federal agencies on matters outlined in the Federal Service Labor Management Relations Statute; decides major policy issues; prescribes regulations; and disseminates information appropriate to the needs of agencies, labor organizations, and the public. The FLRA also engages in case-related interventions and training and facilitates labor-management relationships. It has three components: the Authority which adjudicates labor-management disputes; the Office of the General Counsel which, among other duties, investigates all allegations of unfair labor practices filed and processes all representation petitions received; and the Federal Service Impasses Panel which resolves impasses which occur during labor negotiations between federal agencies and labor organizations.

The President's FY2004 budget proposes an appropriation of \$29.6 million for the FLRA, an increase of 3.0% over the \$28.8 million appropriated in FY2003. The House and Senate Committees on Appropriations recommended and the House passed the same amount as the President requested.

**Table 10. General Services Administration Appropriations**  
(in millions of dollars)

Fund / Office	FY2003 Enacted	FY2004 Request	FY2004 House Passed	FY2004 Senate Reported	FY2004 Enacted
Federal Buildings Fund					
Appropriations	373	217	247	407	
Limitations on Obligations	6,567	6,634	6,558	6,772	
Government-wide Policy	66	74	56	62	
Operating Expenses	72	85	79	85	
Office of Inspector General	38	39	39	39	
Allowances and Office Staff for Former Presidents	3	3	3	3	
Electronic Government (E-Gov) Fund	5	45	1	5	
Election Reform Payments and Reimbursements	665	—	—		
<b>GSA appropriations total</b>	<b>1,222</b>	<b>464</b>	<b>426</b>	<b>615</b>	

**Source:** United States House of Representative, Committee on Appropriations, House Report 108-243, Table: *Comparative Statement of Budget Authority*, except Senate figures from Senate Committee on Appropriations, Senate Report 108-146, Table: *Comparative Statement of Budget Authority*.

**General Services Administration (GSA).** The General Services Administration administers federal civilian procurement policies pertaining to the construction and management of federal buildings, disposal of real and personal property, and management of federal property and records. It is also responsible for managing the funding and facilities for former Presidents and presidential transitions.

S. 1589, as introduced and reported, recommends a total of \$61.8 million for government-wide policy and \$85.1 million for operating expenses; \$39.2 million for the Office of Inspector General; \$3.4 million for allowances and office staff for former Presidents; and \$5.0 million to remain available until expended for the electronic government fund.

H.R. 2989, as introduced and reported, recommends a total of \$56.4 million for government-wide policy and \$79.1 million for operating expenses; \$39.2 million for the Office of Inspector General; \$3.4 million for allowances and office staff for former Presidents; and \$1.0 million to remain available until expended for the electronic government fund.

The President's FY2004 budget contained a request of \$74.0 million for government-wide policy and \$85.1 million for operating expenses; \$39.2 million for the Office of Inspector General; \$3.4 million for allowances and office staff for former Presidents; \$45.0 million for interagency electronic government initiatives; and \$17.6 million to be deposited into the Federal Consumer Information Center Fund.

**Federal Buildings Fund (FBF).** Revenue to the FBF is the principal source of funding. Congress, however, directs the GSA as to the allocation or limitation on spending of funds.

S. 1589, as introduced and reported, recommends that an additional \$407.0 million be deposited into the FBF, for a total of \$6,717.3 million. Of this total, \$659.7 million shall remain available until expended for new construction, including \$204.6 million for nine courthouses. An additional \$1,000.9 million is to remain available until expended for repairs and alterations. This amount includes \$208.2 million for repairs to five existing courthouses; \$20.0 million to implement a glass fragmentation program; \$5.0 million to implement a chlorofluorocarbons program; and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in federal ownership as may be appropriate to enable the U.S. Secret Service to perform its protective functions.

H.R. 2989, as introduced and reported, recommends that an additional \$247.4 million be deposited into the FBF, for a total of \$6,557.5 million. Of this total, \$406.1 million shall remain available until expended for new construction. An additional \$1,010.5 million is to remain available until expended for repairs and alterations. This amount includes \$208.2 million for repairs to five existing courthouses; \$20.0 million to implement a glass fragmentation program; \$5.0 million to implement a chlorofluorocarbons program; and for funding any costs associated with implementing security improvements in federal buildings.

The President's FY2004 budget requested that an additional \$217.0 million be deposited into the Federal Buildings Fund, for a total of \$6,579.9 million. An amount not to exceed \$400.6 million was to remain available until expended for new construction projects. An additional \$1,012.7 million was to remain available until expended for repairs and alterations. This amount included \$217.2 million for repairs to five existing courthouses; \$20.0 million to implement a glass fragmentation program; \$5.0 million to implement a chlorofluorocarbons program; and "amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056."

**Electronic Government Fund.** Senate appropriators recommended \$5 million for the e-gov fund for FY2004, the same amount recommended and ultimately approved for FY2003. House appropriators recommended only \$1 million for the e-gov fund for FY2004, and this was subsequently approved by the House. The House committee report offered no explanation for the reduced amount. The President's budget for FY2004 had sought \$45 million for the fund. The account statement noted that the fund has been authorized by the E-Government Act of 2002, which had previously been a matter of concern for appropriators.<sup>61</sup> Under the terms of the authorizing provision, the fund is administered by the Administrator of General Services as a GSA account to support projects approved by the director of OMB. No transfers of monies from the fund to federal agencies may be made until 10 days after a proposed spending plan and justification for each project to be undertaken using such monies has been submitted to the Committees on Appropriations.

Funding for the Electronic Government Fund was a somewhat contentious matter between the President and Congress in FY2003, as it had been in FY2002. On February 28, 2001, in advance of his proposed budget for FY2002, the President released: *A Blueprint for New Beginnings: A Responsible Budget for America's Priorities*. Intended as a 10-year budget plan, the *Blueprint*, among other innovations, proposed the establishment of an electronic government account seeded with "\$10 million in 2002 as the first installment of a fund— that will grow to a total of \$100 million over three years— to support interagency electronic Government (e-gov) initiatives." Managed by OMB, the fund was foreseen as supporting "projects that operate across agency boundaries," facilitating "the development of a Public Key Infrastructure to implement digital signatures that are accepted across agencies for secure online communications," and furthering "the Administration's ability to implement the Government Paperwork Elimination Act of 1998, which calls upon agencies to provide the public with optional use and acceptance of electronic information, services and signatures, when practicable, by October 2003."<sup>62</sup> About one month later, on March 22, OMB Deputy Director Sean O'Keefe announced that

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<sup>61</sup> See 116 Stat. 2899 at 2906; 44 U.S.C. 3604.

<sup>62</sup> U.S. Executive Office of the President, Office of Management and Budget, *A Blueprint for New Beginnings*, pp. 179-180.

the Bush Administration had decided to double the amount to be allocated to the e-gov fund, bringing it to \$20 million.<sup>63</sup>

As included in the President's FY2002 budget, the fund was established as an account within the General Services Administration (GSA), to be administered by the Administrator of General Services "to support interagency projects, approved by the Director of the Office of Management and Budget, that enable the Federal Government to expand its ability to conduct activities electronically, through the development and implementation of innovative uses of the Internet and other electronic methods."

The President's initial request for the fund was \$20 million, to remain available until September 30, 2004. Congress, however, appropriated \$5 million for the fund for FY2002, to remain available until expended. Appropriators specified that transfers of monies from the fund to federal agencies could not be made until 10 days after a proposed spending plan and justification for each project to be undertaken using such monies had been submitted to the Committees on Appropriations. Expressing general support for the purposes of the fund, they also recommended, and both chambers agreed, that the administration work with the House Committee on Government Reform and the Senate Committee on Governmental Affairs to clarify the status of its authorization.

The President's budget for FY2003 recognized "GSA as operator of the official federal portal for providing citizens with one-stop access to federal services via the Internet or telephone" and, therefore, a key agency in implementing the President's e-gov vision, which will "require cross-agency approaches that permit citizens, businesses, and state and local governments to easily obtain services from, and electronically transact business with the federal government." In this regard, an Administration interagency Quicksilver E-Gov Task Force, according to the budget, "identified 23 high priority Internet services for early development."

Seeking \$45 million for the e-gov fund, the budget acknowledged that this amount was "a significant increase over the \$20 million requested in 2002," but noted that the request "is supported by specific project plans developed by the Quicksilver Task Force."<sup>64</sup> Furthermore, according to the fund account statement, these monies "would also further the Administration's implementation of the Government Paperwork Elimination Act (GPEA) of 1998, which calls upon agencies to provide the public with optional use and acceptance of electronic information, services, and signatures, when practicable, by October 2003."

The House appropriators again rejected the amount requested by the President and recommended \$5 million for the fund, reiterating, as previously, that transfers of monies from the fund to federal agencies could not be made until 10 days after a proposed spending plan and justification for each project to be undertaken using such

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<sup>63</sup> William Matthews, "Bush E-gov Fund to Double," *Federal Computer Week*, vol. 15, Mar. 26, 2001, p. 8.

<sup>64</sup> U.S. Office of Management and Budget, *Fiscal Year 2003 Budget of the U.S. Government*, pp. 386-387.

monies had been submitted to the Committees on Appropriations. The House Committee also declined to recommend an appropriation for the fund as a GSA account, but did fund it as an account under the jurisdiction of the Office of Management and Budget within the Executive Office of the President.<sup>65</sup> Senate appropriators, however, recommended the full \$45 million requested by the President. Their report stated that OMB “would control the allocation of the fund and direct its use for information systems projects and affect multiple agencies and offer the greatest improvements in access and service.”<sup>66</sup> Final funding, as provided by P.L. 108-7, nonetheless, was \$5 million.

**National Archives and Records Administration (NARA).** The custodian of the historically valuable records of the federal government since its establishment in 1934, NARA also prescribes policy and provides both guidance and management assistance concerning the entire life cycle of federal records. It also administers the presidential libraries system; publishes the laws, regulations, and presidential and other documents; and assists the Information Security Oversight Office (ISOO), which manages federal security classification and declassification policy; and the National Historical Publications and Records Commission (NHPRC), which makes grants nationwide to help nonprofit organizations identify, preserve, and provide access to materials that document American history.

Senate appropriators recommended \$276.674 million for NARA for FY2004, about \$29 million less than the President’s request and approximately \$23 million less than the House appropriators’ recommendation. Of this amount recommended in the Senate, \$258.191 million is proposed for operating expenses; \$13.483 million for repairs and restoration, with \$2.025 million specified for the construction of a regional archival facility in Alaska and \$5 million designated for repair of the plaza of the Lyndon Baines Johnson Presidential Library; and \$5 million for the NHPRC.

The House approved the funding for NARA recommended by House appropriators. This included a total amount of \$299.8 million for NARA for FY2004, which is about \$5 million less than the President’s request, but about \$23 million more than the amount recommended by Senate appropriators. Of this amount approved by the House, \$255.2 million is proposed for NARA operating expenses, which is almost \$39 million less than the President requested for this account. However, some of these funds are included in a new electronic records archive account, for which the Committee had recommended \$35.9 million. The President’s requested amount for repairs and restoration was approved, as was twice the amount requested by the President for the NHPRC.

The President’s budget requested \$305.6 million for FY2004, which was slightly more than \$42 million above the FY2003 appropriation for NARA. Of the requested amount, \$294.1 million was sought for operating expenses, \$6.5 million for repairs and restoration, and \$5 million for the NHPRC grants program.

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<sup>65</sup> U.S. Congress, House Committee on Appropriations, *Treasury, Postal Service, and General Government Appropriations Bill, 2003*, a report to accompany H.R. 5120, 107<sup>th</sup> Cong., 2<sup>nd</sup> sess., H.Rept. 107-575 (Washington: GPO, 2002), pp. 64, 83.

<sup>66</sup> S.Rept. 107-212, p. 77.

Compared with FY2003 funding, increased monies were being sought for operating expenses; amounts sought for the latter two accounts were below the amounts appropriated for them for FY2003.

**Merit Systems Protection Board (MSPB).** The MSPB serves as guardian of the federal government's merit-based system of employment. The agency carries out its mission by hearing and deciding appeals from federal employees of removals and other major personnel actions. The MSPB also hears and decides other types of civil service cases, reviews OPM regulations, and conducts studies of the merit systems. The agency's efforts are to assure that personnel actions taken involving employees are processed within the law and that actions taken by OPM and other agencies support and enhance federal merit principles.

The President's FY2004 budget proposes an appropriation of \$35.5 million for the MSPB. The request is 11.6% more than the \$31.8 million appropriated in FY2003. The MSPB budget submission states that the amount requested includes "\$75,000 to provide for employee and managerial development opportunities" and "\$100,000 to comply with the Accountability of Tax Dollars Act of 2002, Public Law 107-289, which requires audited financial statements for agencies with over \$25,000,000 in appropriated funds in their budget."<sup>67</sup> According to the budget submission:

Beginning in fiscal year 2004, at the request of [OMB], the [MSPB] is not requesting funds be transferred from the Civil Service Retirement and Disability Trust Fund. Instead, the funding previously supplied from the Trust Fund for adjudication of Civil Service Retirement appeals is being requested as part of the regular appropriation total of \$35,503,000. OMB has recommended this change to simplify the financial record keeping for both the [MSPB] and the Civil Service Retirement and Disability Trust Fund. We checked with the Office of Personnel Management, which has responsibility for the Trust Fund, and they have no objection to this change.<sup>68</sup>

The House and Senate Committees on Appropriations recommended and the House passed an appropriation of \$32.9 million, \$2.6 million less than the President's request. In addition, up to \$2.6 million for administrative expenses could be transferred from the Civil Service Retirement and Disability Fund to adjudicate retirement appeals. According to the House committee report accompanying H.R. 2989

The decrease from the President's request reflects the Committee's decision to continue the practice of appropriating funds to MSPB from the Civil Service Retirement and Disability Fund rather than discontinuing this practice as requested by the President; this request has not been adequately justified.<sup>69</sup>

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<sup>67</sup> U.S. Merit Systems Protection Board, *Fiscal Year 2004 Budget Justification*, Feb. 3, 2003, p. 6.

<sup>68</sup> *Ibid.*, p. 5.

<sup>69</sup> H.Rept. 108-243, pp. 191-192.

**Office of Personnel Management (OPM).** The budget for OPM is comprised of budget authority for both permanent and current appropriations. This report discusses the budget authority for current appropriations. The agency is responsible for administering personnel functions. The OPM helps agencies to develop merit-based human resources management accountability systems to support their missions. The Strategic Human Resources Policy Division designs and develops human resources policies and strategies linked to agency accomplishment of missions. The Human Capital Leadership and Merit Systems Accountability Division assists agencies in implementing and assessing human capital strategies. The Human Resources Products and Services Division supports federal agencies by administering retirement and insurance programs, providing personnel investigation services, managerial and executive training, and other human resources services.<sup>70</sup> The Office of Inspector General (OIG) conducts audits, investigations, evaluations, and inspections throughout the agency and may issue administrative sanctions related to the operation of the Federal Employees Health Benefits Program.

The President's FY2004 budget proposes an appropriation of \$18.0 billion for OPM. This total includes discretionary funding of \$118.7 million<sup>71</sup> for salaries and expenses and \$1.5 million for OIG salaries and expenses. It also includes mandatory funding of \$7.5 billion for the government payment for annuitants of the employees health benefits program,<sup>72</sup> \$35.0 million for the government payment for annuitants of the employee life insurance program, and \$10.0 billion for payment to the civil service retirement and disability fund. Included in this total as well are trust fund transfers of \$135.9 million<sup>73</sup> for salaries and expenses and \$14.4 million<sup>74</sup> for OIG salaries and expenses. (In FY2003, \$120.8 million for salaries and expenses and \$10.9 million for OIG salaries and expenses were transferred from trust funds.)

According to OPM's budget submission, the \$118.7 million requested for salaries and expenses "includes \$111,748,000 in annual funds [for such things as enhanced information technology support and competitive sourcing studies], \$4,500,000 in no-year funds for e-Government (e-Gov) projects, and \$2,500,000 to

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<sup>70</sup> U.S. Office of Personnel Management, *Congressional Budget Justification; Annual Performance Plan Fiscal Year 2004*, Feb. 2003, p. 3. (Hereafter referred to as OPM Budget Justification.)

<sup>71</sup> Of this total of \$118,748,000, \$2,000,000 shall remain available until expended for the cost of the enterprise human resources integration project, \$2,500,000 shall remain available until expended for the cost of leading the government-wide initiative to modernize federal payroll systems and service delivery, and \$2,500,000 shall remain available through September 30, 2005 to coordinate and conduct program evaluation and performance measurement.

<sup>72</sup> This was the amount of funding estimated in the FY2004 budget. OPM reported to the House Appropriations Committee that funding of \$7.2 billion would be needed.

<sup>73</sup> Of this total of \$135,914,000, \$36,700,000 shall remain available until expended for the cost of automating the retirement record keeping systems.

<sup>74</sup> This money is for administrative expenses to audit, investigate, and provide other oversight of OPM's retirement and insurance programs.

remain available through the end of FY2005 to coordinate and conduct program evaluation and performance management.”<sup>75</sup>

With regard to the OIG, the budget states that the amount requested

will finance more audit staff, special agent criminal investigators, associated analytical staff, and improved information systems. OPM expects to reduce the audit cycle from 5 years to 3.6 years for community-related carriers. Recoveries are expected to increase by \$16 million annually as a result.<sup>76</sup>

The OPM budget request is 8.8% more than the \$16.6 billion appropriated in FY2003. Specifically, it is 7.7% less than the \$128.6 million appropriated in FY2003 for salaries and expenses; 0.7% less than the \$1.5 million for OIG salaries and expenses; 5.3% more than the \$6.9 billion for the government payment for annuitants of the employees health benefits program; 2.9% more than the \$34.0 million for the government payment for annuitants of the employee life insurance program; and 6.1% more than the \$9.4 billion for payment to the civil service retirement and disability fund.<sup>77</sup>

The House Committee on Appropriations recommended and the House passed an appropriation of \$119.5 million for salaries and expenses (\$750,000 more than the President’s request), of which \$2 million would be for the cost of the enterprise human resources integration project; \$2.5 million would be for the cost of leading the government-wide initiative to modernize federal payroll systems and service delivery; and \$2.5 million would be to coordinate and conduct program evaluation and performance measurement. The Committee recommended the same amounts as the President requested for OIG salaries and expenses, the government payment for annuitants of the employees health benefits program, the government payment for annuitants of the employee life insurance program, and payment to the civil service retirement and disability fund. In addition, the Committee recommended trust fund transfers of \$126.9 million for salaries and expenses, \$9.1 million less than the President requested, and \$14.4 million for OIG salaries and expenses, the same amount as the President requested. The committee report accompanying H.R. 2989 states that

The increase of \$750,000 above the President’s request is to provide additional funding for the ongoing ‘retirement readiness’ project being done by OPM in conjunction with the International Foundation for Retirement Education (InFRE)... The Committee directs OPM to award this money to InFRE as a grant

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<sup>75</sup> OPM Budget Justification, p. 5.

<sup>76</sup> FY2004 Budget, Appendix, p. 974.

<sup>77</sup> The amounts of \$6,853,000,000; \$34,000,000; and \$9,410,000,000 for FY2003 are from P.L. 108-7. OPM notifies the Secretary of the Treasury of the “such sums as may be necessary” to fund these accounts each fiscal year. The FY2004 estimates for these accounts are \$7,219,000,000; \$35,000,000; and \$9,987,000,000 (from the House Committee on Appropriations Table: *Presidents Request with Outlays*, FY2004).

or contract, and to report to the Committee on the progress of this project no later than 60 days after enactment of this Act.<sup>78</sup>

The report also “urges the Director of OPM to certify that any transfer of DSS [Defense Security Service] functions to OPM will not have a detrimental impact on the ability of OPM to handle its current caseload,” directs OPM to “notify the Committees if any research, audit, or investigation regarding PBMs [pharmacy benefit managers] has been delayed or terminated at the formal or informal request of another Federal agency” by September 1, 2003, encourages OPM to complete the comprehensive outside audit to determine the true cost of mandated services under the Federal Employees Health Benefits Program (FEHBP) and “promptly submit a report of the results to the Committee,” and “directs OPM to consider Hampshire and Hampden counties [in Massachusetts] for inclusion into the Hartford [CT] Locality Pay Area.”<sup>79</sup>

#### The Committee directs OPM

to conduct a study in both the aggregate and by State to: (1) determine the approximate number of Federal employees and retirees who are eligible to participate in the FEHBP, but who are not covered by this program or by any other health insurance program; (2) the principal reasons why these individuals do not obtain health insurance; and (3) by which agencies these people are employed and at which pay grades, levels, or rates of pay. The results of this study shall be submitted to the Committees on Appropriations no later than September 30, 2004.<sup>80</sup>

The Senate Committee on Appropriations recommended the same appropriations as the President requested. The salaries and expenses appropriation would be allocated in the same manner as the House Committee recommended. Of the amount recommended for transfer from the trust funds, \$36.7 million would remain available until expended for the cost of automating the retirement recordkeeping systems. In its report accompanying S. 1589, the Committee addressed OPM’s ongoing program to modernize its retirement system which began in 1997. According to the report:

Two years ago, the Committee recommended that OPM reach out to GAO for guidance and support because OPM could benefit from the experiences that GAO has documented with other Federal agency modernization projects. OPM did not act on the Committee’s suggestion, therefore, last year, the Committee directed OPM to conduct quarterly meetings with GAO on the progress of the IT modernization project. These meetings did not occur quarterly. Instead only one meeting occurred in 2002 and none in 2003. The Committee is now aware that this multi-year effort has been plagued with problems. The Committee is disappointed by this lack of cooperation and therefore directs GAO to do a

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<sup>78</sup> H.Rept. 108-243, p. 196.

<sup>79</sup> H.Rept. 108-243, pp. 197-198.

<sup>80</sup> H.Rept. 108-243, p. 198.

comprehensive audit on the problems and any mismanagement of the modernization project.<sup>81</sup>

**Human Capital Performance Fund.** The President's FY2004 budget proposes an appropriation of \$500 million for this new fund which

is designed to create performance-driven pay systems for employees and reinforce the value of employee performance management systems. The Administration proposes providing additional pay over and above any annual, across-the-board pay raise to certain civilian employees based on individual or organizational performance and/or other critical agency human capital needs. Ninety percent of funds appropriated would be distributed to agencies on a pro rata basis, upon OPM approval of an agency's plan. The remainder, and any amount withheld from agencies due to inadequate plans, would be allocated at the discretion of OPM.<sup>82</sup>

The House Committee on Appropriations recommended and the House passed an appropriation of \$2.5 million, \$497.5 million less than the President's request. Obligation of the funding is contingent upon legislation authorizing the creation of the fund within OPM.<sup>83</sup> No funds would be available until the OPM Director notifies the relevant subcommittees of jurisdiction of the Committees on Appropriations of the approval of a performance pay plan for an agency and the prior approval of the subcommittees has been attained. The Committee directs OPM "to report annually to the Committees on Appropriations on the performance pay plans that have been approved, and the amounts that have been obligated or transferred."<sup>84</sup>

The Senate Committee on Appropriations did not recommend an appropriation for the fund. "The Committee believes that an initiative of this type should be budgeted and administered within each individual agency," according to the report accompanying S. 1589.<sup>85</sup>

**Office of Special Counsel (OSC).** The agency investigates federal employee allegations of prohibited personnel practices and, when appropriate, prosecutes matters before the Merit Systems Protection Board; provides a channel for whistle blowing by federal employees; and enforces the Hatch Act. In carrying out the latter activity, the OSC issues both written and oral advisory opinions. The OSC may require an agency to investigate whistle blower allegations and report to the Congress and the President as appropriate.

The President's FY2004 budget proposes an appropriation of \$13.5 million for the OSC, an increase of 9.2% over the \$12.4 million appropriated in FY2003.

<sup>81</sup> S.Rept. 108-146, pp. 162-163.

<sup>82</sup> FY2004 Budget, Appendix, p. 973.

<sup>83</sup> Creation of the Human Capital Performance Fund is proposed at Section 1111 of H.R. 1588, the National Defense Authorization Act for FY2004. See CRS Report RL31954, *Civil Service Reform: Analysis of the National Defense Authorization Act for FY2004*.

<sup>84</sup> H.Rept. 108-243, p. 200.

<sup>85</sup> S.Rept. 108-146, p. 165.

According to the budget, the funding “will enable OSC to continue its efforts to reduce its long-standing case processing backlogs .... This request provides funding for seven additional full time staff in [the Hatch Act and Disclosure Units] to address growing backlog concerns.”<sup>86</sup>

The House and Senate Committees on Appropriations recommended and the House passed the same appropriation as the President requested.

## **Title VI: General Provisions**

This section of the report discusses, briefly, general provisions such as government-wide guidance on basic infrastructure-like policies. Examples are provisions related to the Buy America Act, drug-free federal workplaces, and authorizing agencies to pay GSA bills for space renovation and other services which are annually incorporated into the Treasury and General Government appropriations legislation. Quite frequently, additionally, there have been provisions which relate to specific agencies or programs. For both Transportation/Treasury-related general provisions and government-wide general provisions, with noted exceptions, the sections discussed here will be those which are new or contain modified policies. Title VII of H.R. 2989 and Title VI of S. 1589 contain these provisions. It should be noted that there are also general provisions which relate only to agencies and accounts within the bill (Title VI, H.R. 2989 and Title V, S. 1589).

The Administration’s proposed language for government-wide general provisions is found the *Appendix*.<sup>87</sup> Most of the general provisions continue language which has appeared under that title for several years. For an array of reasons, Congress has determined that reiterating the language is preferable to placing the provisions in permanent law.

The Administration is recommending dropping several such provisions. The provisions are shown in **Table 11**.

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<sup>86</sup> FY2004 Budget, Appendix, p. 1091.

<sup>87</sup> *FY2004 Budget, Appendix*, pp. 9-13.

**Table 11. Government-wide General Provisions**

<b>Administration Proposals</b>	<b>H.R. 2989, as passed House</b>	<b>S. 1589, as reported</b>
<p>Repeats recommendation eliminating of the provision (section 609, FY2003) which prohibits payment to political appointees functioning in jobs for which they have been nominated, but not confirmed. This provision has been in the bill for at least 20 years. The previous administration also recommended its elimination.</p>	<p>Sec. 709. Continue the provision prohibiting payments to persons filling positions for which they have been nominated after the Senate has voted not to approve the nomination.</p>	<p>Sec. 609. Same as House language.</p>
<p>Recommended elimination of the provision (section 612, FY2003) which prohibits use of funds to “implement, administer, or enforce any regulation” which has been disapproved through statutorily authorized means. If the provision were eliminated, conceivably the executive could continue regulatory activities which Congress had disapproved, through resolution of disapproval or the Congressional Review Act. The provision, in the bill since the early 1980s, had been recommended for elimination in FY2002 and by the previous administration also.</p>	<p>Sec. 712. Continue the provision prohibiting the use of funds for enforcing regulations disapproved in accordance with the applicable law of the United States.</p>	<p>Sec. 612. Same as House language.</p>
<p>Recommends elimination of provision banning use of funds to Customs Service for importation or release in the United States of goods found to be manufactured by forced or indentured child labor (FY2003, Sec. 619). This provision may reappear under the Department of Homeland Security appropriation.</p>		

<b>Administration Proposals</b>	<b>H.R. 2989, as passed House</b>	<b>S. 1589, as reported</b>
<p>Recommends, elimination of provision (section 621, FY2002) which requires that no funds may be obligated or expended for employee training not directly related to the employee's official duties; that may induce high levels of emotional response or psychological stress in some participants; that fails to inform re course content or post-course evaluation; that contains methods or content "associated with religious or quasi-religious belief systems or 'new age' belief systems;" and that is offensive to, or designed to change, participants' personal values or lifestyles away from the workplace. Elimination of language in the bill since the mid-1990s, was requested previously by both the Bush Administration and the Clinton Administration.</p>	<p>Sec. 719. Continue the provision prohibiting federal training not directly related to the performance of official duties.</p>	<p>Sec. 619. Same as House language.</p>
<p>Section 622 (FY2003) prohibits the use of funds to require and execute employee non-disclosure agreements without those agreements having whistle-blower protection clauses. The Bush proposal repeats their FY2002 and FY2003 requests for elimination of that provision, which has been in the bill for over ten years.</p>	<p>Sec. 720. Continue the provision prohibiting the expenditure of funds for implementation of agreements in non-disclosure policies unless certain provisions are included.</p>	<p>Sec. 620. Same as House language.</p>
<p>Section 625 (FY2003) requires approval by the Committees on Appropriations of release of any "non-public" information such as mailing or telephone lists to any person or any organization outside the federal government. The Bush Administration is repeating their request for its elimination.</p>	<p>Sec. 723. Continue the provision prohibiting funds to be used to provide non-public information such as mailing or telephone lists to any person or organization outside the government without the approval of the Committee on Appropriations.</p>	<p>Sec. 623. Same as House language.</p>

<b>Administration Proposals</b>	<b>H.R. 2989, as passed House</b>	<b>S. 1589, as reported</b>
Federal employees in executive agencies are required (section 627, FY2003) to “use official time in an honest effort to perform official duties.” That requirement, in the bill since FY1999, has been slated for elimination by both the Bush and Clinton budget proposals. The argument has been that the ethics statutes, in fact, place that same requirement on all federal personnel.	Sec. 725. Continue the provision directing agency employees to use official time in an honest effort to perform official duties.	Sec. 625. Same as House language.
Proposed section 630 would amend provisions of the Federal Employees Compensation Act (FECA) which relates to workmen’s compensation available to federal employees. [See discussion below under “Federal Employees Workers’ Compensation Program (FECA)” section.]		
Proposed section 631 would authorize funding if provisions like those of the proposed Managerial Flexibility Act of 2001 (S. 1612, 107 <sup>th</sup> Congress), relating to the accrual of funds for the payment of federal pensions and post-retirement health benefits, were enacted. Similar legislation has not yet been introduced in the 108 <sup>th</sup> Congress.		
Proposed section 632 would authorize the Administration to transfer up to 5% from any appropriation, with certain limitations.		
		Sec. 628. A new section which would prohibit use of funds to operate an online employment information service for the federal government under certain circumstances.

Administration Proposals	H.R. 2989, as passed House	S. 1589, as reported
	Sec. 736. A new provision which would require agencies to evaluate the creditworthiness of an individual before issuing the individual a government travel charge card and would limit agency actions accordingly.	Sec. 640. Similar to House language.
Proposed section 634 would authorize interagency funding of the National Oceanographic Partnership Program Office.	Sec. 737. A new provision which would permit interagency funding of the National oceanographic Partnership Program Office and the Coastal America program and would require a report.	
	Sec. 738. A new provision which would extend the Federal Election Commission's administrative fine program through December 31, 2005.	
	Sec. 739. A new provision which would allow for the timely filing of reports with the Federal Election Commission using overnight delivery, priority, or express mail.	
	Sec. 740. Would provide that the adjustment in rates of basic pay for federal employees under statutory pay systems taking effect in fiscal year 2004 shall be an increase of 4.1%.	Sec. 636. Would provide for a 4.1% increase.
	Sec. 741. A new provision which would require a report from each agency on competitive sourcing activities.	Sec. 642. Similar to House language
	Sec. 742. Sense of the Congress that no pay localities, as defined for the General Schedule, would be disestablished.	
	Sec. 743. Shifts \$1 million from one California Bay Area transit project to another.	

Administration Proposals	H.R. 2989, as passed House	S. 1589, as reported
	Sec. 744. Appropriates \$63 million for the Essential Air Service program, replacing funding from the Airport and Airway Trust Fund that was stricken on a point of order.	
	Sec. 745. A new provision which would change travel restrictions to Cuba.	
	Sec. 746. A new provision which would prohibit use of funds to enforce any restriction on remittances to nationals of Cuba or Cuban households.	
	Sec. 747. A new provision which would prohibit use of funds in overturning the July 31, 2003 judicial ruling related to IBM Person Pension Plan.	
	Sec. 748. A new provision which would prohibit use of funds to implement revision to OMB Circular A-76.	
	Sec. 749. A new provision which would prohibit use of funds to implement, administer, or enforce Code of Federal Regulations amendments relating to specific licenses for “people-to-people” educational exchanges.	
		Sec. 638. A new provision which would prohibit the purchase of a product or service offered by the Federal Prison Industries, Inc., unless the agency making such purchase determines that such product or service provides the best value.
		Sec. 639. A new provision which would allow the use of appropriated funds for official travel by federal departments and agencies to participate in the fractional aircraft ownership pilot program.

Administration Proposals	H.R. 2989, as passed House	S. 1589, as reported
		Sec. 641. A new provision which would prohibit the expenditure of funds for the acquisition of additional federal law enforcement training facilities.
Proposed section 635 would allow the Administration to transfer funds between accounts funding operations in the Executive Office of the President. In previous funding cycles, the Administration had requested that all of the accounts within the Executive Office of the President be consolidated into one account. Congress rejected that proposal.		
Proposed section 636 would establish a Human Capital Performance Fund to be administered by the Office of Personnel Management (OPM). See discussion above related to OPM funding.		
Proposed section 637 would change the pay system for the Senior Executive Service.		

## Federal Personnel Issues

**General Schedule Pay.** Under the Federal Pay Comparability Act of 1990 (FEPCA), federal white collar employees, paid under the General Schedule and related salary systems, are to receive annual adjustments based on two separate mechanisms. The first is the adjustment to base pay which is based on changes in private sector salaries as reflected in the Employment Cost Index (ECI). The rate of pay adjustment is supposed to be the percentage rate of change in that element of the ECI, minus 0.5. Under that formula, for January 2003, the base pay adjustment was 3.1%. On December 31, 2002, the President signed an Executive Order establishing the salary schedules for federal civilian personnel effective January 2003.<sup>88</sup> Under the provisions of Section 637, Division J, P.L. 108-7, the full pay increase for the General Schedule is 4.1%. There was no stipulation as to how the additional 1% would be apportioned between base pay and locality-based comparability payments. The payment will be retroactive to January 2003. On March 21, it was announced

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<sup>88</sup> U.S. National Archives and Records Administration, "Executive Order 13282 — Adjustments of Certain Rates of Pay," *Federal Register*, vol. 68, January 8, 2003 (Washington: GPO, 2003), pp. 1133-1142. E. O. 13282, dated December 31, 2002.

that the additional 1% would be applied exclusively to locality-based comparability payments.<sup>89</sup>

The President's budget proposes a federal civilian pay increase of 2.0% in January 2004.<sup>90</sup> However, the proposal does not indicate how the pay increase would be split between basic pay and locality-based payments for the General Schedule and related pay systems. He submitted an alternative plan at the end of August which would provide a 1.5% increase in basic pay and a 0.5% increase in locality pay. Unless Congress acts to enact other rates, the President's plan will be effective in January 2004.

Section 601 of the FY2004 budget resolution (H. Con. Res. 95, H.Rept. 108-71) contained a Sense of the Senate provision stating that the civilian and military pay increases should be in parity. The H.R. 2989, as passed by the House and S. 1589, as reported would establish a January 2004 pay increase, at a rate of 4.1%, for civilian employees, equal to the Administration's proposal for the military. It would be left to the President's discretion as to how the increase would be split between basic and locality pay.

**Federal Wage System.** The Federal Wage System (FWS) is designed to compensate the federal blue collar, or skilled labor, force at rates prevailing in local wage areas for like occupations. If the statutory system were allowed to be managed as planned, the wage rates and the rates of adjustment in the over 130 wage areas would vary, according to the labor costs and compensation in the private sector. For the last several years, Congress has limited the rates of adjustment, based on the rates of adjustment for the General Schedule (P.L. 108-7, Division J, Section 613). Part of the rationale for that decision is that, in certain high cost areas, some FWS wages would exceed the salaries paid to General Schedule supervisors. Wages in lower cost areas will be allowed to increase according to the findings of the wage surveys but the high cost area wages will be capped.

P.L. 107-117 extends the Monroney Amendment out-of-area survey application to Department of Defense personnel.

**Senior Executive Service Salaries.** Section 637 of the President's proposed General Provisions would amend the statute governing the determination of salary levels for the Senior Executive Service. It would increase the level at which the salaries are capped, both for base pay and for the application of locality pay. It would eliminate the 6-tier system with a pay band system. It also would adjust language related to pay for performance.<sup>91</sup> No similar language appears in either the House-passed or Senate-reported versions.

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<sup>89</sup> U.S. National Archives and Records Administration, "Executive Order 13291 — Further Adjustment of Certain Rates of Pay," *Federal Register*, vol. 68, March 25, 2003 (Washington: GPO, 2003), pp. 14525-14526. E. O. 13291, dated March 21, 2003.

<sup>90</sup> *FY2004 Budget, Analytical Perspectives*, p. 287.

<sup>91</sup> *FY2004 Budget, Appendix*, p. 13.

**Human Capital Performance Fund.** The Administration's FY2004 pay proposal would combine a 2% across-the board increase with a performance component. A \$500 million fund would be set aside government-wide to allow managers to reward top-performing individuals with permanent increases in base pay.<sup>92</sup>

**Members of Congress, Judges, and Other Officials.** There are no provisions in either the House-passed or Senate-reported versions which address the pay of Members of Congress, Judges, or other federal officials. If Congress is legislatively silent, the annual adjustment goes into effect automatically. A pay adjustment of 2.2% is scheduled for the officials of the three branches effective January 2004.

Under the Ethics Reform Act of 1989, as amended, pay adjustments for federal officials, including Members of Congress and judges, are also based on ECI calculations, but for a different 12-month period. The ECI calculations dictated a pay adjustment in January 2003 of 3.3%. However, the statute limits those adjustments to the rate of adjustment for base pay of the General Schedule. Therefore, since the General Schedule base pay was adjusted at the rate of 3.1%, 3.1% is the maximum rate of adjustment in salaries of federal officials for January 2003. Because the mechanism described above is automatic, no bill language is necessary to establish the pay adjustment.<sup>93</sup>

Unlike that for Members of Congress and executive branch officials, the annual pay increase must be specifically authorized for judges. The language permitting the judges to receive the January 2003 increase was reported by the Senate Committee on Appropriations as section 304 of S. 2778. However, Congress adjourned prior to enactment. Therefore, the judges did not receive the 3.1% adjustment as of January 1, 2003. The 108<sup>th</sup> Congress enacted P.L. 108-6<sup>94</sup> for the purpose of permitting the judges to receive the increase retroactive to the first of the year. At no time, since the authorization was required, have the judges received lower adjustments than the other officials.

**President.** Pursuant to the Treasury and General Government Appropriations Act, 2000 (P.L. 106-58), effective noon, January 20, 2001, the President receives a salary of \$400,000 *per annum*. Since 1969, Presidents had been paid a salary of \$200,000. No further action on presidential pay is expected. Former Presidents

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<sup>92</sup> *FY2004 Budget, Appendix*, p. 12 and *Analytical Perspectives*, p. 287.

<sup>93</sup> See also, CRS Report RL30014, *Salaries of Members of Congress: Current Procedures and Recent Adjustments* and CRS Report 97-1011, *Salaries of Members of Congress: Payable Rates and Effective Dates, 1789-2001*, both by Paul E. Dwyer. Also see, CRS Report RS20388, *Salary Linkage: Members of Congress and Other Federal Officials*; CRS Report RS20278, *Judicial Salaries: Current Situation*; and CRS Report 98-53, *Salaries of Federal Officials*, by Sharon S. Gressle.

<sup>94</sup> P.L. 108-6; H.R. 16; February 13, 2003; 117 Stat. 10.

receive a pension equal to the rate of pay for Cabinet Secretaries (currently \$171,900) and the pension is adjusted automatically as those pay rates are changed.<sup>95</sup>

**Federal Employees Workers' Compensation Program (FECA).** The Federal Employees Compensation Act (FECA) provides workers' compensation benefits for Federal employees injured on the job. Under current law (5 U.S.C. Sect. 8147), the direct costs of these benefits are reimbursed via transfers from the budgets of each Federal agency to the Labor Department, which administers the program and disburses the benefits. The costs of administration are covered by appropriation directly to the Labor Department.

The Administration is again proposing various changes in FECA that it broached in the 107<sup>th</sup> Congress. The aspect that would affect agency budgets government-wide is to charge administrative costs in the same manner as benefit costs, i.e. through the appropriation of each employing agency. The stated intention is to make each agency explicitly bear the full cost of their employees' claims, thus "bolstering their incentive to improve workplace safety." The administrative surcharge would be around 3.5% of benefit costs (calculated from the Administration budget for FY2004, which contemplates \$88 million in administrative costs to service \$2,532 million in program benefits). Most of the surcharge would be paid by the two agencies that account for more than 60% of FECA claims: the U.S. Postal Service and the Defense Department. (However, the Postal Service already pays its share pursuant to 5 U.S.C. 8147(c).) No similar language is found in either the House or Senate bill.

## **Competitive Sourcing of Federal Activities<sup>96</sup>**

In its "Statement of Administration Policy" on H.R. 2989, the Administration reiterated its support for competitive sourcing, objected to an amendment that would hinder competitive sourcing, and stated that the President's senior advisers would recommend that the President veto the bill if it contains a prohibition on funding for public-private competitions.<sup>97</sup> Competitive sourcing, which applies only to commercial activities, is one of the components of the President's Management Agenda (PMA). Since February 2001, OMB has implemented several initiatives designed to promote competitive sourcing, including revising OMB Circular A-76 (May 29, 2003) and requiring agencies to submit inventories of their inherently governmental activities. Circular A-76 provides policy and guidance for public-private competitions.

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<sup>95</sup> See CRS Report RS20114, *Salary of the President Compared with That of Other Federal Officials*, by Sharon S. Gressle.

<sup>96</sup> Prepared by L. Elaine Halchin, Analyst in American National Government, Government and Finance Division.

<sup>97</sup> Executive Office of the President, Office of Management and Budget, "Statement of Administration Policy, H.R. 2989 – Departments of Transportation and Treasury and Independent Agencies Appropriations Bill, FY 2004," Sept. 4, 2003, available at [www.whitehouse.gov/omb/legislative/sap/108-1/hr2989\_sap-h.pdf], visited Sept. 8, 2003.

By a vote of 220 to 198 (Roll call no. 487), the House approved an amendment, H.Amdt. 379, concerning competitive sourcing. The amendment would prohibit using any of the funds made by available by H.R. 2989 for the implementation of the May 29, 2003 revision to Office of Management and Budget (OMB) Circular A-76.<sup>98</sup> Depending upon how this section (section 748) is interpreted, some, or all, federal departments and agencies could revert to the 1999 revision to the circular.

## **Cuba Sanctions<sup>99</sup>**

Since the early 1960s, U.S. policy toward Cuba has consisted largely of efforts to isolate the Communist government of Fidel Castro through comprehensive economic sanctions, including a trade embargo and prohibitions on U.S. financial transactions with Cuba, including travel. The comprehensive sanctions were made stronger by congressional initiative with the 1992 passage of the Cuban Democracy Act (P.L. 102-484, Title XVII) and the 1996 enactment of the Cuban Liberty and Democratic Solidarity Act (P.L. 104-114), often referred to as the Helms/Burton legislation. Sanctions on financial transactions with Cuba, including those related to travel, are set forth in the Cuban Assets Control Regulations (CACR), administered by the Treasury Department's Office of Foreign Assets Control (OFAC).

Cuba sanctions have been controversial in recent years. While there appears to be broad congressional agreement on the overall objective of U.S. policy toward Cuba—to help bring democracy and respect for human rights to the island, there are several schools of thought on how to achieve that objective. Some advocate maximum pressure on the Cuban government until reforms are enacted, others argue for lifting some U.S. sanctions that they believe are hurting the Cuban people, and still others call for a swift normalization of U.S.-Cuban relations by lifting the U.S. embargo.

In the 108<sup>th</sup> Congress, several bills have been introduced that would lift or ease restrictions on Cuba sanctions and as in the past several years, the House has approved amendments to the Treasury appropriations measure to ease Cuba sanctions. The White House has threatened to veto any legislation that weakens economic sanctions against Cuba.

During September 9, 2003 floor consideration of H.R. 2989, the FY2004 Transportation-Treasury appropriations bill, the House approved three amendments to ease the embargo against Cuba in various respects. The bill now has provisions that would prevent funds from being used to administer or enforce restrictions on travel (section 745) and remittances (section 746), and from being used to eliminate the travel category of people-to-people educational exchanges (section 749). Similar

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<sup>98</sup> Circular A-76 is available at [[www.whitehouse.gov/omb/circulars/a076/a76\\_incl\\_tech\\_correction.pdf](http://www.whitehouse.gov/omb/circulars/a076/a76_incl_tech_correction.pdf)], visited Sept. 8, 2003.

<sup>99</sup> Prepared by Mark P. Sullivan, Specialist in Latin American Affairs, Foreign Affairs, Defense, and Trade Division.

Cuba language is expected to be offered during Senate floor consideration of the Senate version of the Treasury appropriations measure, S. 1589.<sup>100</sup>

H.Amdt. 375 (Flake), approved by a vote of 227-188, would prevent funds from being used to enforce travel restrictions; its language is now section 745 of the House bill. Restrictions on travel have been a key and often contentious component in U.S. efforts to isolate Cuba. The embargo regulations generally have not banned travel, but restrictions on any financial transactions have resulted in a de facto travel ban. Certain categories of travelers may travel to Cuba under a *general* license, which means that there is no need to obtain special permission from OFAC. These include U.S. government officials, journalists, persons with close relatives in Cuba (once every 12 months), full-time professionals for research or for professional meetings, and amateur or semi-professional athletes participating in international competitions. In addition, a wide variety of travelers engaging in educational, religious, and other activities, may be eligible for *specific* licenses, including those visiting close relatives more than once in a 12-month period.

Supporters of the Flake amendment argued that U.S. policy toward Cuba abridges the rights of ordinary Americans who can travel to other countries with communist or authoritarian governments, and that such travel by Americans can help carry the idea of freedom to Cuba and expose Cubans to alternative information. Opponents of the amendment argued that not enforcing the travel restrictions would provide the Cuban government with millions of dollars in tourist receipts at the same time when it is brutally cracking down on democracy activists, and that such travel would not increase purposeful contact with ordinary Cubans.

H.Amdt. 377 (Delahunt), approved by a vote of 222-196, would prevent funds from being used to enforce restrictions on remittances; its language is now section 746 of the House bill. In March 2003, OFAC had announced that the Cuba travel regulations were being amended to allow travelers to Cuba to carry up to \$3,000 in remittances, although the limit of \$300 per quarter destined for a Cuban household remains. Supporters of the Delahunt amendment argued that there should be no limit on the amount of financial support that Cuban Americans can send their families in Cuba, while opponents argued that lifting the cap on remittances would mean that more money would go to the Cuban regime through government-owned dollar stores that have inflated prices.

H.Amdt. 382 (Davis), approved by a vote of 246-173, would prohibit funds from being used to eliminate the travel category of people-to-people educational exchanges; its language is now section 749 of the House bill. In March 2003, OFAC announced that the Cuba travel regulations were being tightened for certain types of educational travel. People-to-people educational exchanges unrelated to academic coursework would no longer be allowed under the regulations. Some groups lauded the restriction of these educational exchanges because they believed they had become an opportunity for unrestricted travel; others criticized the Administration's decision

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<sup>100</sup> "Travel, Remittances Clear House Last Night, But Sanctions Opponents Lose Dozens of Votes; Sanctions Supporters Say Momentum for Easing Embargo is Gone," *Cuba Trader*, September 10, 2003

to restrict a category of travel to Cuba in which ordinary people were able to travel and exchange with their counterparts on the island.

Cuba's human rights crackdown in 2003 has had an impact on momentum behind legislative proposals to ease U.S. sanctions policy toward Cuba. For example, the House-approved Cuba amendments to H.R. 2989 were approved with less support than similar amendments in 2002. While the Flake amendment to H.R. 2989 described above was approved by a vote of 227-188, a similar Flake amendment to the FY2003 Treasury Department appropriations bill had been approved by a vote of 262-167.

For further information, see the entry on "Cuba Sanctions" in the CRS Trade Electronic Briefing Book; CRS Report R131740, *Cuba: Issues for the 108<sup>th</sup> Congress*; and CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Legislative Initiatives*.

## List of Transportation Acronyms

ARC: Amtrak Reform Council

AIP: Airport Improvement Program (FAA)

AIR21: the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (P.L. 106-181), the current aviation authorizing legislation

ARAA: the Amtrak Reform and Accountability Act of 1997 (P.L. 105-134), the current Amtrak authorizing legislation

ATSA: the Aviation and Transportation Security Act (P.L. 107-71), legislation which created the Transportation Security Administration within the DOT

BRR: Bridge Replacement and Rehabilitation program (FHWA)

BTS: Bureau of Transportation Statistics

CG: Coast Guard

CMAQ: Congestion Mitigation and Air Quality program (FHWA)

DOT: Department of Transportation

EAS: Essential Air Service (FAA)

F&E: Facilities and Equipment program (FAA)

FAA: Federal Aviation Administration

FAHP: Federal-Aid Highway Program (FHWA)

FAIR21: the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (P.L. 106-181), the current aviation authorizing legislation

FHWA: Federal Highway Administration

FRA: Federal Railroad Administration

FTA: Federal Transit Administration

Hazmat: Hazardous materials (safety program in RSPA)

HPP: High Priority Projects (FHWA)

HTF: Highway Trust Fund

IM: Interstate Maintenance program (FHWA)

ITS: Intelligent Transportation Systems (FHWA)

MCSAP: Motor Carrier Safety Assistance Program (FMCSA)

New Starts: part of the FTA's Capital Grants and Loans Program which funds new fixed-guideway systems or extensions to existing systems

NHS: National Highway System; also a program within FHWA

NHTSA: National Highway Traffic Safety Administration

NMCSA: National Motor Carrier Safety Administration

O&M: Operations and Maintenance program (FAA)

OIG: Office of the Inspector General of the DOT

OST: Office of the Secretary of Transportation

RABA: Revenue-Aligned Budget Authority

RD&T: Research, Development and Technology program (FHWA)

RE&D: Research, Engineering and Development program (FAA)

RSPA: Research and Special Projects Administration

SCASD: Small Community Air Service Development program (FAA)

STB: Surface Transportation Board

STP: Surface Transportation Program (FHWA)

TCSP: Transportation and Community and System Preservation Program (FHWA)

TEA-21: Transportation Equity Act for the 21<sup>st</sup> Century (P.L. 105-178), the current highway and transit authorizing legislation

TIFIA: Transportation Infrastructure Finance and Innovation Act program (FHWA)

TSA: Transportation Security Administration

## **Appendix 1: The Transportation Appropriations Framework**

Transportation is function 400 in the annual unified congressional budget. It is also considered part of the discretionary budget. Funding for the DOT budget is derived from a number of sources. The majority of funding comes from dedicated transportation trust funds. The remainder of DOT funding is from federal Treasury general funds. The transportation trust funds include: the highway trust fund, which contains two accounts, the highway trust account and the transit account; the airport and airway trust fund; and the inland waterways trust fund. All of these accounts derive their respective funding from specific excise and other taxes.

In FY2002 trust funds accounted for well over two-thirds of total federal transportation spending. Together, highway and transit funding constitute the largest component of DOT appropriations. Most highway and transit programs are funded with contract authority derived by the link to the highway trust fund. This is very significant from a budgeting standpoint. Contract authority is tantamount to, but does not actually involve, entering into a contract to pay for a project at some future date. Under this arrangement, specified in Title 23 U.S.C., authorized funds are automatically made available at the beginning of each fiscal year and may be obligated without appropriations legislation; although appropriations are required to make outlays at some future date to cover these obligations.

Where most federal programs require new budget authority as part of the annual appropriations process, transportation appropriators are faced with the opposite situation. That is, the authority to spend for the largest programs under their control already exists, and the mechanism to obligate funds for these programs also is in place.

### **Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21)**

During the 105<sup>th</sup> and 106<sup>th</sup> Congresses, major legislation changed the relationships between the largest transportation trust funds and the federal budget. The Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) (P.L. 105-178) linked annual spending for highway programs directly to revenue collections for the highway trust fund. In addition, core highway and mass transit program funding was given special status in the discretionary portion of the federal budget by virtue of the creation of two new budget categories. The Act thereby created a virtual “firewall” around highway and transit spending programs. The funding guarantees were set up in a way that makes it difficult for funding levels to be altered as part of the annual budget/appropriations process. Additional highway funds can be provided annually by a mechanism called “Revenue Aligned Budget Authority” (RABA); RABA funds accrue to the trust fund as a result of increased trust fund revenues. For FY2003, however, it now appears that the RABA adjustment, if it had been left intact during the appropriations process, would have led to a significant and unexpected drop in the availability of highway obligational funding.

TEA-21 changed the role of the House and Senate appropriations and budget committees in determining annual spending levels for highway and transit programs.

The appropriations committees are precluded from their former role of setting an annual level of obligations. These were established by TEA-21 and are adjusted by an annual RABA computation. In addition, it appears that TEA-21 precludes, at least in part, the House and Senate appropriations committees from exercising what some Members view as their once traditional option of changing spending levels for specific core programs or projects. In the FY2000 appropriations act, the appropriators took some tentative steps to regain some of their discretion over highway spending. The FY2000 Act called for the redistribution of some funds among programs and added two significant spending projects. In the FY2001 appropriations act, the appropriators continued in this vein by adding funds for large numbers of earmarked projects. Further, the FY2001 Act called for redirection of a limited amount of funding between programs and includes significant additional funding for some TEA-21 programs. This trend continued, and even accelerated, in the FY2002 Act as appropriators made major redistributions of RABA funds and, in some instances, transferred RABA funds to agencies that are not eligible for RABA funding under TEA-21.

### **Wendell H. Ford Aviation Investment and Reform Act for the 21<sup>st</sup> Century (FAIR21 or AIR21)**

The Wendell H. Ford Aviation Investment and Reform Act for the 21<sup>st</sup> Century (FAIR21 or AIR21)(P.L. 106-181) provides a so-called “guarantee” for Federal Aviation Administration (FAA) program spending. The guarantee for aviation spending, however, is significantly different from that provided by TEA-21. Instead of creating new budget categories, the FAIR21 guarantee rests on adoption of two point-of-order rules for the House and the Senate. Supporters of FAIR21 believe the new law requires significant new spending on aviation programs; and, for at least the FY2001 and FY2002 appropriations cycles, spending grew significantly. Most observers view the FAIR21 guarantees, however, as being somewhat weaker than those provided by TEA-21. Congress can, and sometimes does, waive points-of-order during consideration of legislation.

Enactment of TEA-21 and FAIR21 means that transportation appropriators have total control over spending only for the TSA, the Coast Guard, the Federal Railroad Administration (including Amtrak), and a number of smaller DOT agencies. All of these agencies are concerned about their funding prospects in any year where it is believed that there is a constrained budgetary environment.

## Appendix 2: Transportation Budget Terminology

Transportation budgeting uses a confusing lexicon (for those unfamiliar with the process) of **budget authority** and **contract authority** — the latter, a form of budget authority. Contract authority provides **obligational authority** for the funding of trust fund-financed programs, such as the federal-aid highway program. Prior to TEA-21, changes in spending in the annual transportation budget component had been achieved in the appropriations process by combining changes in budget/contract authority and placing **limitations on obligations**. The principal function of the limitation on obligations is to control outlays in a manner that corresponds to congressional budget agreements.

Contract authority is tantamount to, but does not actually involve, entering into a contract to pay for a project at some future date. Under this arrangement, specified in Title 23 U.S.C., which TEA-21 amended, authorized funds are automatically made available to the states at the beginning of each fiscal year and may be obligated without appropriations legislation. Appropriations are required to make outlays at some future date to cover these obligations. TEA-21 greatly limited the role of the appropriations process in core highway and transit programs because the Act enumerated the limitation on obligations level for the period FY1999 through FY2003 in the Statute.

Highway and transit grant programs work on a **reimbursable basis**: states pay for projects up front and federal payments are made to them only when work is completed and vouchers are presented, months or even years after the project has begun. Work in progress is represented in the trust fund as obligated funds and although they are considered “used” and remain as commitments against the **trust fund balances**, they are not subtracted from balances. Trust fund balances, therefore, appear high in part because funds sufficient to cover actual and expected future commitments must remain available.

Both the highway and transit accounts have substantial short- and long-term commitments. These include payments that will be made in the current fiscal year as projects are completed and, to a much greater extent, outstanding obligations to be made at some unspecified future date. Additionally, there are unobligated amounts that are still dedicated to highway and transit projects, but have not been committed to specific projects.

Two terms are associated with the distribution of contract authority funds to the states and to particular programs. The first of these, **apportionments**, refers to funds distributed to the states for formula driven programs. For example, all national highway system (NHS) funds are apportioned to the states. **Allocated** funds, are funds distributed on an administrative basis, typically to programs under direct federal control. For example, federal lands highway program monies are allocated; the allocation can be to another federal agency, to a state, to an Indian tribe, or to some other governmental entity. These terms do not refer to the federal budget process, but often provide a frame of reference for highway program recipients, who may assume, albeit incorrectly, that a state apportionment is part of the federal budget per se