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CRS Report for Congress

Financial Services and General Government (FSGG): FY2009 Appropriations

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

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

NOTE: A Web version of this document with active links is available to congressional staff at [http://apps.crs.gov/cli/cli.aspx?PRDS_CLI_ITEM_ID=221&from=3&fromId=73].

Financial Services and General Government (FSGG): FY2009 Appropriations

Summary

The Financial Services and General Government (FSGG) appropriations bill includes funding for the Department of the Treasury, the Executive Office of the President (EOP), the judiciary, the District of Columbia, and 22 independent agencies. Among the independent agencies funded by the bill are the General Services Administration (GSA), the Office of Personnel Management (OPM), the Small Business Administration (SBA), and the United States Postal Service (USPS).

The President requests $44.1 billion for FSGG agencies for FY2009, an increase of $550 million over FY2008 enacted appropriations. While funding for many departments and agencies would increase under the President's FY2009 budget request, funding would decrease for others. The Department of the Treasury's funding would increase by about $200 million under the President's request, the Executive Office of the President by over $15 million, the judiciary by $475 million, and the District of Columbia by $57 million. Independent agencies, collectively, would receive $197 million less in FY2009 than they are receiving in FY2008.

The House and Senate FSGG appropriations subcommittees have held hearings, but no bill to fund FSGG agencies has been introduced. This report will be updated to reflect major congressional action.

Key Policy Staff

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Department of the Treasury			
Treasury, Internal Revenue Service	Gary Guenther	G&F	7-7742
Executive Office of the President and Funds Appropriated to the President			
Executive Office of the President	Barbara Schwemle	G&F	7-8655
The Judiciary			
Judiciary	Lorraine Tong	G&F	7-5846
Judiciary	Steve Rutkus	G&F	7-7162
District of Columbia			
District of Columbia	Eugene Boyd	G&F	7-8689
Other Independent Agencies			
Generally	Garrett Hatch	G&F	7-7822
Commodity Futures Trading Commission	Mark Jickling	G&F	7-7784
Consumer Product Safety Commission	Bruce Mulock	G&F	7-7775
Election Assistance Commission	Kevin Coleman	G&F	7-7878
E-Government Fund in GSA	Harold Relyea	G&F	7-8679
Federal Communications Commission	Patty Figliola	RSI	7-2508
Federal Deposit Insurance Corporation: OIG	Pauline Smale	G&F	7-7832
Federal Election Commission	R. Sam Garrett	G&F	7-6443
Federal Labor Relations Authority	Gerald Mayer	DSP	7-7815
Federal Trade Commission	Bruce Mulock	G&F	7-7775
General Services Administration	Stephanie Smith	G&F	7-8674
Merit Systems Protection Board	Barbara Schwemle	G&F	7-8655
National Archives and Records Administration	Harold Relyea	G&F	7-8679
National Credit Union Administration	Pauline Smale	G&F	7-7832
Office of Personnel Management	Barbara Schwemle	G&F	7-8655
Office of Special Counsel	Barbara Schwemle	G&F	7-8655
Privacy and Civil Liberties Oversight Board	Harold Relyea	G&F	7-8679
Securities and Exchange Commission	Mark Jickling	G&F	7-7784
Selective Service System	David Burrelli	FDT	7-8033
Small Business Administration	Eric Weiss	G&F	7-6209
U.S. Postal Service	Kevin Kosar	G&F	7-3968
General Provisions, Government-Wide			
Government-wide General Provisions	Barbara Schwemle	G&F	7-8655
Competitive Sourcing	L. Elaine Halchin	G&F	7-0646
Cuba	Mark Sullivan	FDT	7-7689

DSP = Domestic Social Policy Division
FDT = Foreign Affairs, Defense, and Trade Division
G&F = Government and Finance Division
RSI = Resources, Science, and Industry Division

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Most Recent Developments

The Administration's FY2009 budget request includes $44.1 billion for FSGG agencies, an increase of $550 million over FY2008 enacted appropriations. The House and Senate FSGG appropriations subcommittees have held hearings but no FSGG appropriations legislation has been introduced. **Table 1**, below, will be updated to reflect major congressional action.

Table 1. Status of FY2009 Financial Services and General Government Appropriations

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

Introduction

The House and Senate Committees on Appropriations reorganized their subcommittee structures in early 2007. Each chamber created a new Subcommittee on Financial Services and General Government (FSGG). In the House, the jurisdiction of the FSGG Subcommittee was formed primarily of agencies that had been under the jurisdiction of the Subcommittee on Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies, commonly referred to as "TTHUD."[1] In addition, the House FSGG Subcommittee was assigned four independent agencies that had been under

[1] The agencies previously under the jurisdiction of the TTHUD Subcommittee that did not become part of the FSGG subcommittee were the Department of Transportation, the Department of Housing and Urban Development, the Architectural and Transportation Barriers Compliance Board, the Federal Maritime Commission, the National Transportation Safety Board, the Neighborhood Reinvestment Corporation, and the United States Interagency Council on Homelessness.

the jurisdiction of the Science, State, Justice, Commerce, and Related Agencies Subcommittee.[2]

In the Senate, the jurisdiction of the new FSGG Subcommittee was a combination of agencies from the jurisdiction of three previously existing subcommittees. The District of Columbia, which had its own subcommittee in the 109th Congress, was placed under the purview of the FSGG Subcommittee, as were four independent agencies that had been under the jurisdiction of the Commerce, Justice, Science, and Related Agencies Subcommittee.[3] Additionally, most of the agencies that had been under the jurisdiction of the Subcommittee on Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies were assigned to the FSGG Subcommittee.[4] As a result of this reorganization, the House and Senate FSGG Subcommittees have nearly identical jurisdictions.[5]

The House Appropriations Subcommittee on Financial Services and General Government is the primary source of the funding figures used throughout the report.

Overview of FY2009 Appropriations

The Administration's FY2009 budget request includes $44.1 billion for FSGG agencies, an increase of $550 million over FY2008 enacted appropriations. The FY2009 request would increase funding for the Department of the Treasury by about $200 million, the Executive Office of the President by over $15 million, the judiciary by $475 million, and the District of Columbia by $57 million. Independent agencies, collectively, would receive $197 million less in FY2009 than they are receiving in FY2008. **Table 2** lists the enacted amounts for FY2008 and the President's request for FY2009.

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[2] The agencies are the Federal Communications Commission (FCC), the Federal Trade Commission (FTC), the Securities and Exchange Commission (SEC), and the Small Business Administration (SBA).

[3] The agencies are the FCC, FTC, SEC, and SBA.

[4] The agencies that did not transfer from TTHUD to FSGG were Transportation, HUD, the Architectural and Transportation Barriers Compliance Board, the Federal Maritime Commission, the National Transportation Safety Board, the Neighborhood Reinvestment Corporation, and the United States Interagency Council on Homelessness.

[5] The Commodity Futures Trading Commission (CFTC) is under the jurisdiction of the FSGG Subcommittee in the Senate but not in the House.

Table 2. Financial Services and General Government Appropriations, FY2008-FY2009

(in millions of dollars)

	FY2008 Enacted	FY2009 Request	FY2009 House Passed	FY2009 Senate Passed	FY2009 Enacted
Department of the Treasury	$12,263	$12,463			
Executive Office of the President	680	696			
The Judiciary	6,246	6,721			
District of Columbia	610	667			
Independent Agencies	23,748	23,551			
Total	**$43,547**	**$44,097**			

Source: Budget authority tables provided by House Appropriations Subcommittee on Financial Services and General Government. Columns may not equal the total due to rounding.

Key Issues

The wide scope of the President's FY2009 FSGG appropriations request — which would provide funding for two of the three branches of the federal government, a city government, and 22 independent agencies with a range of functions — encompasses a number of potentially controversial issues, some of which are identified below.

- **Department of the Treasury.** Is the proposed funding for enforcement, taxpayer services, and business systems modernization at the Internal Revenue Service adequate for lowering the federal tax gap?

- **Executive Office of the President (EOP).** Should Congress accept the President's proposals to (1) consolidate EOP budget accounts into a single appropriation, (2) expand the authority of the EOP to transfer funds among separate appropriations accounts, and (3) centralize funding for administrative services provided throughout the EOP in the Office of Administration?

- **The Judiciary.** What level of funding should Congress provide for judicial security enhancements and other administrative issues, such as pay increases for judges, hiring of additional staff, and creation of additional judgeships to meet the demands of rising caseloads?

Department of the Treasury[6]

This section examines FY2009 appropriations for the Treasury Department and its operating bureaus, including the Internal Revenue Service (IRS). **Table 3** shows the enacted amounts for FY2008 as well as the Bush Administration's budget request for FY2009.

Table 3. Department of the Treasury Appropriations, FY2008 to FY2009

(in millions of dollars)

Program or Account	FY2008 Enacted	FY2009 Request	FY2009 House Passed	FY2009 Senate Passed	FY2009 Enacted
Salaries and Expenses (non-IRS)	$248	$274			
Department-wide Systems and Capital Investments	19	27			
Office of Inspector General	18	19			
Treasury Inspector General for Tax Administration	141	146			
Community Development Financial Institutions Fund	94	29			
Financial Crimes Enforcement Network	86	91			
Financial Management Service	298[a]	239			
Alcohol and Tobacco Tax and Trade Bureau	94	97			
Bureau of the Public Debt	173	177			
Internal Revenue Service, Total	11,095[b]	11,362			
Taxpayer Services	*2,150*[c]	*2,150*			
Enforcement	*4,780*	*5,117*			
Operations Support	*3,680*[d]	*3,856*			
Business Systems Modernization	*267*	*223*			
Health Insurance Tax Credit Administration	*15*	*15*			
Total: Department of the Treasury	**$12,263**[e]	**$12,463**			

Source: Budget authority table provided by House Appropriations Subcommittee on Financial Services and General Government. Columns may not equal the total due to rounding.

a. Includes $64.2 million emergency appropriation received under the provisions of P.L. 110-185.
b. Includes $202.1 million emergency appropriations received under the provisions of P.L. 110-185.
c. The taxpayer services account received an additional $50.7 million emergency appropriation under the provisions of P.L. 110-185.
d. The operations support account received an additional $151.4 million emergency appropriation under the provisions of P.L. 110-185.
e. The Department of Treasury total includes $266.3 million in emergency appropriations.

[6] This section was written by Gary Guenther, Analyst in Industry Economics, Government and Finance Division.

Department of the Treasury Budget and Key Issues

The Treasury Department performs a variety of governmental functions. They can be summarized as protecting the nation's financial system against a host of illicit activities (e.g., money laundering and terrorist financing), collecting tax revenue, enforcing tax laws, managing and accounting for federal debt, administering the federal government's finances, regulating financial institutions, and producing and distributing coins and currency.

At its most basic level of organization, Treasury consists of departmental offices and operating bureaus. In general, the offices are responsible for formulating and implementing policy initiatives and managing Treasury's operations, while the bureaus perform specific duties assigned to Treasury, mainly through statutory mandates. In the past decade or so, the bureaus have accounted for over 95% of the agency's funding and work force.

With one possible exception, the bureaus can be divided into those engaged in financial management and regulation and those engaged in law enforcement. In recent decades, the Comptroller of the Currency, U.S. Mint, Bureau of Engraving and Printing, Financial Management Service (FMS), Bureau of the Public Debt, Community Development Financial Institutions Fund (CDFI), and Office of Thrift Supervision have undertaken tasks related to the management of the federal government's finances or the supervision and regulation of the U.S. financial system. By contrast, law enforcement has been the central focus of the tasks handled by the Bureau of Alcohol, Tobacco, and Firearms; U.S. Secret Service; Federal Law Enforcement Training Center; U.S. Customs Service; Financial Crimes Enforcement Network (FinCEN); and the Treasury Forfeiture Fund. Since the advent of the Department of Homeland Security in 2002, Treasury's direct involvement in law enforcement has shrunk considerably. The possible exception to this simplified dichotomy is the Internal Revenue Service (IRS), whose main duties encompass both the collection of tax revenue and the enforcement of tax laws and regulations.

Treasury Offices and Bureaus (Excluding the IRS). Funding for many bureaus comes largely from annual appropriations. This is the case for the IRS, FMS, Bureau of Public Debt, FinCEN, Alcohol and Tobacco Tax and Trade Bureau, Office of the Inspector General (OIG), Treasury Inspector General for Tax Administration (TIGTA), and the CDFI. By contrast, the Treasury Franchise Fund, U.S. Mint, Bureau of Engraving and Printing, Office of the Comptroller of the Currency, and the Office of Thrift Supervision finance their operations largely from the fees they charge for services and products they provide.

In FY2008, Treasury is receiving $12.263 billion in appropriated funds (including emergency appropriations), or 5% more than it received in FY2007. As usual, most of these funds are being used to finance the operations of the IRS, which is receiving $11,095 billion in FY2008. The remaining $1.168 billion is distributed among Treasury's other appropriations accounts in the following amounts: departmental offices (which include the Office of Terrorism and Financial Intelligence — or TFI — and the Office of Foreign Assets Control) are receiving $248 million for salaries and expenses; department-wide systems and capital investments, $19 million; OIG, $18 million; TIGTA, $141 million; CDFI, $94 million; FinCEN, $86 million; FMS, $234 million (plus an additional $64 million in emergency appropriations); Alcohol and Tobacco Tax and Trade Bureau (ATB), $94 million; and Bureau of the Public Debt, $173 million.

FY2009 Budget Proposal. For FY2009, the Bush Administration is asking Congress to approve $12.463 billion in funding for Treasury, or 1.6% more than the amount enacted for FY2008. Under the proposal, the IRS would receive $11.361 billion (or 91% of the total). The remaining $1.102 billion would be distributed among Treasury's other appropriations accounts in the following amounts: departmental offices would receive $274 million; departmental systems and capital investments, $27 million; OIG, $19 million; TIGTA, $146 million; CDFI, $29 million; FinCEN, $91 million; FMS, $239 million; ATB, $97 million; and Bureau of the Public Debt, $177 million. All major accounts except for FMS and CDFI would be funded at the same level as or higher levels than the amounts enacted for FY2008.

Under the Administration's budget proposal, total full-time equivalent employment (direct and reimbursable) at Treasury could rise from an estimated 107,912 in FY2008 to a projected 109,597 in FY2009.[7] Nearly 98% of the gain in full-time jobs of 1,685 would stem from an increase in full-time jobs at the IRS of 1,826 and a decrease in such jobs at the FMS of 179.

According to Treasury's budget documents, its proposed budget for FY2009 is crafted to provide the resources needed to "effectively manage the government's finances, promote economic opportunity through sound fiscal policy, work towards entitlement reform, strengthen trade and investment policies, and maximize voluntary tax compliance."[8] In evaluating the merit of the budget request, Congress may wish to consider the extent to which it would allow the Administration to achieve these objectives.

The following Treasury appropriations accounts (excluding the IRS) would receive the largest increases in funding under the FY2009 budget proposal: department-wide systems and capital investments (44.2%), departmental offices (10.3%), and FinCEN (6.4%).

Additional spending on department-wide systems and capital investments would serve multiple purposes. These include remedying "critical building deficiencies in the Treasury Annex Building," furthering the use of a newly developed computer-based system known as the Enterprise Content Management System, securing the Treasury Secure Data Network, and improving Treasury's performance in meeting the requirements of the Federal Information Security Management Act.[9]

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[7] U.S. Department of the Treasury, *Congressional Justification FY2009* (Washington: 2008), p. 11.

[8] Ibid., p. 3.

[9] Ibid., pp. 7-8.

In seeking more funding for Treasury's departmental offices, the Administration is hoping to improve the department's debt management systems and its ability to "perform timely legal reviews" for the Committee on Foreign Investment in the United States, construct an Operations Center to respond to domestic and international financial crises, expand the department's capability to administer sanctions against "terrorist groups and their sponsors," and enhance its "internal counterintelligence and security capabilities."[10]

Foremost among FinCEN's main tasks is administering the Bank Secrecy Act (BSA). The Administration is asking Congress to increase funding for FinCEN from $86 million in FY2008 to $91 million in FY2009. Most of the added money would be used to improve the agency's management and analysis of BSA data.

For the third straight year, the Administration is asking Congress to slash funding for the CDFI. The proposed decreased for FY2009 is nearly 70%. Most of that reduction reflects a decision to seek no funding for the Bank Enterprise Award Program and the Native Initiatives programs and a decrease in funding of $34 million for the CDFI Program.

Internal Revenue Service (IRS). To help finance its operations and multitude of spending programs, 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 and collecting these taxes and fees (except for customs duties) is the Internal Revenue Service. In discharging this responsibility, the IRS receives and processes tax returns, related documents, and tax payments; disburses refunds; enforces compliance through audits and other procedures; collects delinquent taxes; and provides a host of services to taxpayers with the aim of enabling them to understand their rights and responsibilities under the federal tax code and resolving problems without litigation. In FY2006, the agency collected $2.537 trillion before refunds, the largest component of which was individual income tax revenue of $1.236 trillion.

The IRS receives funding for its operations from three sources: appropriated funds, user fees, and so-called reimbursables, which are payments the IRS receives from other federal agencies and state governments for services it provides. In FY2008, appropriated funds account for 97% of IRS's operating budget, user fees for 2%, and reimbursables for the remaining 1%.

Appropriated funds are distributed among five accounts:

- (1) **taxpayer services**, which provides resources for pre-filing taxpayer assistance, filing and account services, administrative services for IRS employees, and senior IRS management;

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[10] Department of the Treasury, *The Budget in Brief: Fiscal Year 2009* (Washington: 2008), p. 11.

- (2) **enforcement**, which covers the cost of compliance services, research and statistical analysis, and administration of the earned income tax credit;

- (3) **operations support**, which addresses the improvement and maintenance of the agency's information and management systems;

- (4) **business systems modernization (or BSM)**, which provides funds for developing new information systems for tax administration and acquiring the hardware and software needed to integrate them into IRS's operations; and

- (5) **health insurance tax credit administration**, which covers the cost of administering the refundable tax credit for health insurance established by the Trade Adjustment Assistance Reform Act of 2002.

In FY2008, the IRS is receiving $11.095 billion (including emergency appropriations) in appropriated funds, or 4.7% more than it received in FY2007. Of this amount, $2.200 billion is designated for taxpayer services, $4.780 billion for enforcement, $3.831 billion for operations support (including emergency appropriations), $267 million for the BSM program, and $15 million for administration of the health insurance tax credit.

The Bush Administration is asking Congress to appropriate $11.362 billion for IRS operations in FY2009, or 2.4% more than the amount enacted for FY2008. Of this amount, $2.150 billion (2% less than FY2008) would be used for taxpayer services, $5.117 billion (7% more than FY2008) for enforcement, $3.856 billion (0.6% more than FY2008) for operations support, $223 million (17% less than FY2008) for the BSM program, and about $15 million (the same amount as FY2008) for administering the health insurance tax credit. Under the budget proposal, total full-time equivalent employment (direct and reimbursables) at the IRS is projected to rise from an estimated 91,746 in FY2008 to 93,572 in FY2009, a gain of 2%.[11]

Budget documents indicate that the FY2009 budget proposal for the IRS is intended to support three strategic goals: (1) improve service to taxpayers; (2) enhance enforcement of federal tax laws; and (3) modernize the IRS by investing in people, processes, and technology.

In addition, the Administration is requesting that Congress pass a number of legislative proposals aimed at improving taxpayer compliance and reducing the federal tax gap. The Administration claims (without providing documentary support) they could raise $36 billion in revenue over the next 10 years.[12] Some proposals would expand information reporting; others would target tax compliance by firms of

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[11] Ibid., p. 11.

[12] Ibid., p. 60.

all sizes; and one would penalize the failure to comply with the requirements for electronic filing of tax and information returns.[13]

In assessing the Administration's budget proposal for the IRS, lawmakers may want to consider whether proposed funding for enforcement, taxpayer service, and the BSM can be judged adequate in light of the difficult challenges facing the agency. Foremost among those challenges are improving compliance rates among individuals and businesses without sacrificing recent gains in taxpayer service, generating more detailed and reliable estimates of the rates of non-compliance among business taxpayers, increasing the share of tax returns filed electronically, upgrading the agency's computer systems, managing the agency's private tax debt collection program so that it at once respects taxpayer rights and is cost-effective, and hiring and training sufficient numbers of enforcement agents to replace those who have retired or quit in recent years.

Executive Office of the President and Funds Appropriated to the President[14]

All but three offices in the Executive Office of the President (EOP) are funded in the Financial Services and General Government (FSGG) appropriations bill.[15] **Table 4** shows appropriations enacted for FY2008, and amounts requested by the President for FY2009.

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[13] Ibid., p. 61.

[14] This section was written by Barbara Schwemle, Analyst in American National Government, Government and Finance Division.

[15] Of the three exceptions, the Council on Environmental Quality and the Office of Environmental Quality are funded in the House and Senate Interior, Environment, and Related Agencies Appropriations Act. The Office of Science and Technology Policy and the Office of the United States Trade Representative are funded in the House and Senate Commerce, Justice, Science, and Related Agencies Appropriations Act.

Table 4. Executive Office of the President and Funds Appropriated to the President, FY2008 to FY2009

(in thousands of dollars)

Office	FY2008 Enacted	FY2009 Request	FY2009 House Passed	FY2009 Senate Passed	FY2009 Enacted
The White House (total)	$174,505	$190,528			
Compensation of the President	*450*	*450*			
The White House Office (salaries and expenses)	*51,656*	*52,499*			
Executive Residence, White House (operating expenses)	*12,814*	*13,363*			
White House Repair and Restoration	*1,600*	*1,600*			
Council of Economic Advisers	*4,118*	*4,118*			
Office of Policy Development	*3,482*	*3,550*			
Privacy and Civil Liberties Oversight Board[a]	*2,000*	—			
National Security Council	*8,640*	*9,029*			
Office of Administration	*91,745*	*105,919*			
Office of Management and Budget	78,000	72,800			
Federal Drug Control Programs (total)	421,702	418,382			
Office of National Drug Control Policy	*26,402*	*23,697*			
High Intensity Drug Trafficking Areas Program	*230,000*	*200,000*			
Other Federal Drug Control Programs	*164,300*	*189,685*			
Counterdrug Technology Assessment Center	*1,000*	*5,000*			
Unanticipated Needs	1,000	1,000			
Presidential transition administrative support	—	8,000			
Office of the Vice President (salaries and expenses)	4,432	4,496			
Official Residence of the Vice President (operating expenses)	320	323			
Total: EOP and Funds Appropriated to the President	**$679,959**	**$695,529**			

Sources: Budget authority table provided by the House Appropriations Subcommittee on Financial Services and General Government, President's FY2009 budget request, and U.S. Executive Office of the President, *Fiscal Year 2009 Congressional Budget Submission* (Washington: February 2008). Columns may not equal the total due to rounding.

a. The $2 million for the Privacy and Civil Liberties Oversight Board is not included in the White House and EOP totals because the Board has been reconstructed as an independent agency. Section 801(a) of P.L. 110-53, Implementing Recommendations of the 9/11 Commission Act of 2007, enacted on August 3, 2007, authorizes the following appropriations for the Board: $5,000,000 (FY2008); $6,650,000 (FY2009); $8,300,000 (FY2010); $10,000,000 (FY2011); and such sums as may be necessary (FY2012 and each subsequent fiscal year).

The Executive Office of the President Budget and Key Issues

The Administration's FY2009 budget requests an appropriation of $695.5 million for the EOP and funds appropriated to the President, a 2.3% increase above the almost $680 million appropriated for FY2008. Within the request, funding for all "White House" accounts, discussed under "Consolidation Proposal" below, would increase by 9.2%. As for the four accounts under federal drug control programs, increased appropriations were proposed for Other Federal Drug Control Programs (+15.4%) and the Counterdrug Technology Assessment Center (+400%), and reduced funding was proposed for the Office of National Drug Control Policy (-10.2%) and the High Intensity Drug Trafficking Areas Program (-13%).

Consolidation Proposal. For the eighth consecutive fiscal year, the President's FY2009 budget proposes to consolidate and financially realign eight salaries and expenses accounts that directly support the President into a single annual appropriation, called "The White House." The consolidated appropriation would have a full-time equivalent (FTE) level of 904. The accounts that would be included in the consolidated appropriation are the following (with FTEs noted):

- Compensation of the President,
- White House Office (WHO) — 446,
- Executive Residence at the White House — 95,
- White House Repair and Restoration — 0,
- Office of Administration — 222,
- Office of Policy Development — 35,
- National Security Council — 71, and
- Council of Economic Advisers — 35.[16]

This consolidated appropriation would total $190.5 million in FY2009 for the accounts proposed to be consolidated, an increase of 9.2% from the $174.5 million appropriated in FY2008. The appropriations requested for three of the eight accounts within the White House — Compensation of the President, White House Repair and Restoration, and Council of Economic Advisers — were the same as the FY2008 funding. Increased funding is requested for these five accounts: White House Office (+1.63%), Executive Residence (+4.28%), Office of Policy Development (+1.95%), National Security Council (+4.5%), and Office of Administration (+15.45%). According to the EOP budget submission, the increased appropriations would "offset payroll inflationary increases and maintain operations at current levels."[17] Additionally, the proposed expansion of the Enterprise Services Initiative (discussed below) underlies some of the increased funding requested for the Office of Administration.

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[16] U.S. Executive Office of the President, Office of Management and Budget, *Budget of the United States Government Fiscal Year 2009, Appendix* (Washington: GPO, 2008), pp. 1055-1056. (Hereafter referred to as *FY2009 Budget, Appendix*.)

[17] U.S. Executive Office of the President, *Fiscal Year 2009 Congressional Budget Submission* (Washington: February 2008), pp. EOP-4 - EOP-5. (Hereafter cited as *EOP Budget Submission*.)

The budget submission stated that consolidation "presents the best means for the President to realign or reallocate the resources and staff available in response to changing and emerging needs and priorities."[18] The conference committees on the FY2002 through FY2007 appropriations acts decided to continue with separate appropriations for the EOP accounts to facilitate congressional oversight of their funding and operation. This practice continues for FY2008 under P.L. 110-161, the Consolidated Appropriations Act for FY2008.

Transfer Authority Proposal. As in the FY2008 budget proposal, the FY2009 budget requests a general provision in Title VII to continue and expand the authority for the EOP to transfer 10% of the appropriated funds among several accounts under the EOP. The proposal was included under the government-wide general provisions at Section 733 and would cover the following accounts in FY2009:

- The White House,[19]
- Office of Management and Budget (OMB),
- Office of National Drug Control Policy,
- Special Assistance to the President (Vice President) and the 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, and
- Office of the United States Trade Representative.[20]

The OMB Director (or such other officer as the President designates in writing) would be able, 15 days after notifying the House and Senate Committees on Appropriations, to transfer up to 10% of any such appropriation to any other such appropriation. The transferred funds would be merged with, and available for, the same time and purposes as the appropriation receiving the funds. Such transfers could not increase an appropriation by more than 50%. According to the EOP budget submission, the transfer authority would "provide the President with flexibility and improve the efficiency of the EOP" and would "significantly improve the President's flexibility and effectiveness in meeting the needs across the EOP." The authority is "not intended to be used for new missions or programs, but to address emerging priorities, shifting demands, and administrative efficiencies within the currently funded programs."[21]

P.L. 108-447, the Consolidated Appropriations Act for FY2005 (Section 533, Title V, Division H) authorized transfers of up to 10% of FY2005 appropriated funds

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[18] *EOP Budget Submission*, p. EOP-12.

[19] The accounts under the White House are Compensation of the President, White House Office, Executive Residence at the White House, White House Repair and Restoration, Office of Administration, Office of Policy Development, National Security Council, and Council of Economic Advisers.

[20] *FY2009 Budget, Appendix*, p. 1056.

[21] *EOP Budget Submission*, pp. EOP-12 - EOP-13.

among the accounts for the White House Office, Office of Management and Budget, Office of National Drug Control Policy, the Special Assistance to the President (Vice President), and the Official Residence of the Vice President. For FY2006, P.L. 109-115, the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006 (Section 725) authorized transfers of up to 10% among the accounts for the White House, the Special Assistance to the President (Vice President), and the Official Residence of the Vice President. P.L. 110-161, the Consolidated Appropriations Act for FY2008, at Section 201, continues this practice.

Enterprise Services Proposal. The FY2009 budget request also includes a proposal to expand the enterprise services initiative. The initiative is designed "to efficiently manage common services throughout the EOP and to ensure that the management of GSA [General Services Administration] space rent is consistently administered throughout the EOP." It is expected to reduce "redundant processes in administering" Enterprise Services across the EOP. Under the proposal, funding for the rent that the Office of Management and Budget and the Office of National Drug Control Policy (ONDCP) pay to GSA would be moved into the Enterprise Services fund of the Office of Administration account. Specifically, almost $10.3 million would be moved to this account: almost $7.2 million from OMB and $3.1 million from ONDCP.

GSA space rent funding for the White House Office, Office of Policy Development, National Security Council, Council of Economic Advisers, Office of Science and Technology Policy, Council on Environmental Quality, and the United States Trade Representative is already included in the Office of Administration's Enterprise Services fund. Services that will be assumed by the fund in FY2009 are transit subsidies, Flexible Savings Account administrative fees, health unit operations, and Federal Protective Service (FPS) rent-based fees.[22]

Administrative Support for the Presidential Transition The FY2009 budget includes a request for $8 million to fund "an orderly presidential transition." The appropriation would cover the cost of processing the President's and Vice President's records, under the Presidential Records Act, and other expenses related to the transition to a new administration. There are no FTEs associated with this account.

The Vice President An appropriation of $4.5 million and an FTE level of 24 is requested for the Special Assistance to the President (Vice President) account for FY2009. The funding is 1.44% above the $4.4 million provided for FY2008, while the FTE total remains the same. As for the Official Residence of the Vice President account, an FY2009 appropriation of $323,000, 0.94% above the $320,000 provided for FY2008, is requested. There is one FTE associated with this account for FY2009, the same as in the previous fiscal year.

Office of Management and Budget (OMB) The FY2009 budget requested an appropriation of $72.8 million for OMB, 6.67% less than the $78 million provided for FY2008. The FTE level requested would remain at 489. The decreased funding

[22] *EOP Budget Submission*, p. EOP-13.

request results from moving OMB's monies for space rent to the Office of Administration, as discussed above under the "Enterprise Services Initiative."

The Judiciary[23]

As a co-equal branch of government, the judiciary presents its budget to the President, who transmits it to Congress unaltered. **Table 5** shows appropriations for the judiciary as enacted for FY2008, and as requested for FY2009.

Table 5. The Judiciary Appropriations, FY2008 to FY2009

(in millions of dollars)

Budget Groupings and Accounts	FY2008 Enacted	FY2009 Request	FY2009 House Passed	FY2009 Senate Passed	FY2009 Enacted
Supreme Court (total)	$78.7	$88.2			
Salaries and Expenses	*66.5*	*69.8*			
Building and Grounds	*12.2*	*18.4*			
U.S. Court of Appeals for the Federal Circuit	27.1	32.4			
U.S. Court of International Trade	16.6	19.6			
Courts of Appeals, District Courts, and Other Judicial Services (total)	5,942.5	6,380.9			
Salaries and Expenses	*4,619.3*	*4,963.1*			
Court Security	*410.0*	*439.9*			
Defender Services	*835.6*	*911.4*			
Emergency Defender Services	*10.5*	—			
Fees of Jurors and Commissioners	*63.1*	*62.2*			
Vaccine Injury Compensation Trust Fund	*4.1*	*4.3*			
Administrative Office of the U.S. Courts	76.0	82.0			
Federal Judicial Center	24.2	25.8			
United States Sentencing Commission	15.5	16.3			
Judicial Retirement Funds	65.4	76.1			
Total: The Judiciary	**$6,246.1**	**$6,721.2**			

Source: Budget authority table provided by House Appropriations Subcommittee on Financial Services and General Government. Columns may not equal total due to rounding.

[23] This section was written by Lorraine Tong, Analyst in American National Government, Government and Finance Division.

The Judiciary Budget and Key Issues

Appropriations for the judiciary — about two-tenths of 1% (0.2%) of the entire federal budget — are divided into budget groups and accounts. Two accounts that fund the Supreme Court (the salaries and expenses of the Court and the expenditures for the care of its building and grounds) together make up about 1.2% of the total judiciary budget. The structural and mechanical care of the Supreme Court building, and care of its grounds, are the responsibility of the Architect of the Capitol. The rest of the judiciary's budget provides funding for the "lower" federal courts and for related judicial services. The largest account, about 75% of the total budget — the Salaries and Expenses account for the U.S. Courts of Appeals, District Courts, and Other Judicial Services — covers the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the U.S. Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the federal judiciary not specifically provided for by other accounts; it also covers the necessary expenses of the courts. The judiciary budget does not fund three "special courts" in the U.S. court system: the U.S. Court of Appeals for the Armed Forces, the U.S. Tax Court, and the U.S. Court of Appeals for Veterans Claims. Federal courthouse construction also is not funded within the judiciary's budget.

The judiciary also uses non-appropriated funds to offset its appropriations requirement. The majority of these non-appropriated funds are from fee collections, primarily from court filing fees. The fees are used to offset expenses within the Salaries and Expenses account. In some instances, the judiciary also has funds which may carry forward from one year to the next. These funds are considered "unencumbered" because they result from savings from the judiciary's financial plan in areas where budgeted costs did not materialize. According to the judiciary, such savings are usually not under its control (e.g., the judiciary has no control over the confirmation rate of Article III judges and must make its best estimate on the needed funds to budget for judgeships, rent costs based on delivery dates, and technology funding for certain programs).

The judiciary also has "encumbered" funds — no-year authority funds for specific purposes, used when planned expenses are delayed, from one year to the next (e.g., costs associated with space delivery, and certain technology needs and projects).[24]

In her March 12, 2008, written testimony submitted to the House and Senate Subcommittees on the judiciary's FY2009 budget request, Judge Julia S. Gibbons, United States Circuit Judge for the Sixth Circuit Court of Appeals and chair of the Budget Committee of the Judicial Conference of the United States,[25] stated, "We

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[24] Administrative Office of the U.S. Courts, *The Judiciary Fiscal Year 2009 Congressional Budget Summary* (Washington: February 2008), pp. 34-35. Hereafter cited as *Judiciary FY2009 Congressional Budget Summary*.

[25] The Judicial Conference of the United States is the principal policymaking body for the federal courts system. The Chief Justice is the presiding officer of the conference, which (continued...)

recognize the fiscal constraints Congress is facing. Through our cost-containment efforts and information technology innovations we have significantly reduced the Judiciary's appropriations requirements without adversely impacting the administration of justice."[26]

Cost Containment Initiatives. According to Judge Gibbons, the Judicial Conference has endeavored, through cost containment policies, to reduce costs and increase productivity in the federal judiciary. For example, to limit the growth of the court rental fees paid to the General Services Administration (GSA), the judiciary has been working collaboratively with GSA. Through rent validation and rent capping initiatives, Judge Gibbons said that the previously projected rent costs of $1.2 billion for FY2009, has been reduced by $200 million dollars, with a new projection of $1.0 billion (or 17% below the pre-cost containment projection). She cited the identification of GSA rent overcharges, which totaled $30 million over three years, and a more recent finding of an additional $22.5 million in overcharges. The Judicial Conference also approved a cap of 4.9% on the average annual rate of growth for courthouse rent to be paid in FY2009 through FY2016. Under the rent cap, the circuit judicial councils are responsible for keeping their respective circuits within the caps for space needs through managing and prioritizing such needs.[27]

The Judicial Conference, at its September 2007 meeting, approved recommendations to slow the growth in personnel costs throughout the judiciary. Expected savings of up to $300 million from FY2009 through FY2017 would be gained by restricting annual salary step increases, limiting the number of law clerks, and other measures governing the classification and grading of judiciary staff nationwide.

Other cost containment initiatives include using information technology (e.g., consolidating computer servers around the country) to increase efficiency and cost-effectiveness. According to Judge Gibbons, savings and cost avoidances amounting to $55.4 million through FY2012 are expected to be achieved through the consolidation of services for the judiciary's national accounting system in FY2008.

Judicial Security. Judicial security — the safe conduct of court proceedings and the security of judges in courtrooms and off-site — continues to be an issue of concern. The 2005 Chicago murders of family members of a federal judge; the Atlanta killings of a state judge, a court reporter, and a sheriff's deputy at a courthouse; and the 2006 sniper shooting of a state judge in the judge's office in Reno spurred efforts to enhance judicial security. Early in the 110th Congress, the chairmen of Senate and House Judiciary Committees introduced companion bills (S.

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[25] (...continued)
comprises the chief judges of the 13 courts of appeals, a district judge from each of the 12 geographic circuits, and the chief judge of the Court of International Trade.

[26] Statement of Honorable Julia S. Gibbons, Chair, Committee on the Budget of the Judicial Conference of the United States, before the Subcommittee on Financial Services and General Government of the Committee on Appropriations of the United States Senate, March 12, 2008, p.17. Hereafter cited as *Judge Gibbons's March 12, 2008, Statement*.

[27] Ibid., pp. 7-8.

378 and H.R. 660, respectively), the Court Security Improvement Act of 2007, to strengthen security.[28] The legislation was amended and approved in December 2007, and the president signed the bill into law on January 7, 2008 (P.L. 110-177). Judicial security continues to be an issue of critical importance. As a result of concerns the judiciary raised about perimeter security the Federal Protective Service (FPS) provides, some functions at selected courthouses will be transferred to the U.S. Marshals Service (USMS). Under the Consolidated Appropriations Act, 2008 (P.L. 110-161), Congress authorized USMS to monitor the exterior of seven courthouses and assume control of FPS monitoring equipment in a pilot program. The 18-month pilot will begin in the fourth quarter of FY2008, and an evaluation of the pilot is expected to be provided to congressional subcommittees. The estimated annualized cost of the pilot is $5 million, which would be offset by expected reductions in FPS billings.

Workload. Judge Gibbons, in written testimony submitted to the House and the Senate on March 12, 2008, noted that Congress provided the judiciary with funding for staff in the past two years to enable the courts to address the workload in the short term, but that the additional judgeships and courthouse are needed. She referred to the increased workload expected from the southwest border due to immigration-related cases, and stressed that the President's request for additional border patrol agents would bring the border patrol, when fully staffed, to a total of about 20,000 — doubling its size since 2001. Judge Gibbons stated that, "The district courts on the southwest border have not received any new district judgeships since 2002" although the Judicial Conference requested additional judgeships in 2003, 2005, and 2007 for a total of 32 judgeships. She also urged Congress to support the additional $110 million included in the President's FY2009 budget to fund fully a new federal courthouse in San Diego, California.[29]

Judge Gibbons summarized the judiciary's projection of the courts' workload, and noted that FY2009 staffing needs are based on 2008 caseload projection. "Our projections indicate that caseload will increase slightly in probation (+1%) and pretrial services (+3%) and increase substantially for bankruptcy filings (+23%). For 2008 we are projecting small declines in appellate (-3%) and criminal (-3%) caseload, and a steeper decline in civil filings (-8%)."[30]

Judgeships. The Judicial Conference voted on March 13, 2007, to ask Congress to create 67 new federal judgeships — 15 for the courts of appeals (13 permanent, 2 temporary) and 52 for the district courts (38 permanent, 14 temporary) — to make permanent five temporary judgeships, and to extend another temporary judgeship for five years. According to the judiciary, since the 1990 omnibus judgeship bill, the number of courts of appeals judges has remained the same, while federal appellate court case filings increased by 55% over the same 17-year period.

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[28] For details about the enacted legislation and other legislative proposals to enhance judicial security, see CRS Report RL33464, *Judicial Security: Responsibilities and Current Issues*, by Lorraine H. Tong.

[29] *Judge Gibbons's March 12, 2008, Statement*, pp. 5-6.

[30] Ibid., p.10.

According to the judiciary, the number of district court judgeships increased by 4%, while case filings increased by 29%, over the same period of time.[31]

Subsequent to the conference's recommendation, on March 13, 2008, Senate Judiciary Committee Chairman Patrick J. Leahy introduced (for himself, and Senators Orrin G. Hatch, Dianne Feinstein, and Charles E. Schumer) S. 2774, legislation to provide for the appointment of additional federal circuit and district judges. The bill would add 12 permanent circuit court judgeships, add 38 permanent district court judgeships, and convert five existing temporary judgeships into permanent positions. In addition, 14 temporary district court judgeships, two temporary circuit judgeships, and one existing temporary district court judgeships would be extended. S. 2774 was referred to the Senate Judiciary Committee, where it is pending.

Judicial Pay. Another key issue being discussed is the judiciary's advocacy for a significant increase in judicial pay. John G. Roberts Jr., Chief Justice of the United States, stated in his *2006 End-of-the-Year Report on the Federal Judiciary* that judges' pay has not kept pace with inflation over the years and has led to judges leaving the bench in increasing numbers. According to the Chief Justice, retaining and attracting the best talent to the courts is a serious concern. He stated that failure to raise judicial salaries has reached the level of a "constitutional crisis that threatens to undermine the strength and independence of the federal Judiciary."[32] On June 15, 2007, Senator Leahy introduced S. 1638, the "Federal Judicial Salary Restoration Act of 2008," that, before markup, would have provided a 50% pay adjustment for justices and judges.[33] Representative John Conyers Jr., chairman of the House Judiciary Committee, introduced a companion bill, H.R. 3753, "Federal Judicial Salary Restoration Act of 2007," on October 4, 2007. The House bill, before markup, would have provided for a 41.3% pay adjustment. As amended in markup, and ordered to be reported by the respective committees, both bills, S. 1638 and H.R. 3753,[34] would authorize pay increases of 28.7% to 28.8%.[35]

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[31] U.S. Courts, News Release, *"Federal Judiciary Says New Judgeships Needed,"* March 13, 2007, at [http://www.uscourts.gov/Press_Releases/judconf031307.html].

[32] U.S. Supreme Court, Chief Justice's "2006 Year-End Report on the Federal Judiciary," (Washington: 2007), at [http://www.supremecourtus.gov/publicinfo/year-end/2006year-endreport.pdf].

[33] Last year, on January 8, 2007, Senator Leahy introduced S. 197, legislation to authorize a 1.7% salary increase for federal justices and judges for FY2007. The Senate had approved the bill by unanimous consent on the same day, and it was referred to the House Judiciary Committee. On February 2, 2007, S. 197 was referred to the Subcommittee on Courts, the Internet, and Intellectual Property. No further action has been taken.

[34] The Congressional Budget Office cost estimate for S. 1638 is at [http://www.cbo.gov/ftpdocs/90xx/doc9092/s1638.pdf]. For the cost estimate for H.R. 3753, see [http://www.cbo.gov/ftpdocs/89xx/doc8957/hr3753.pdf].

[35] For further details about these bills and judicial pay issues, see CRS Report RL34281, *Judicial Salary: Current Issues and Options for Congress*, by Kevin M. Scott; and also CRS Report RS20388, *Salary Linkage: Members of Congress and Certain Federal Executive and Judicial Officials*, and CRS Report RL33245, *Legislative, Executive, and Judicial Officials:*

(continued...)

On November 14, 2007, Senator Richard J. Durbin introduced S. 2353, the Fair Judicial Compensation Act of 2007, to authorize a 16.5% increase in the annual salaries of the Chief Justice of the United States, Associate Justices of the Supreme Court, courts of appeals judges, district court judges, and judges of the United States Court of International Trade, and to increase fees for bankruptcy trustees. S. 2353 is pending in the Senate Judiciary Committee.

House and Senate Budget Hearings

On March 12, 2008, the House Appropriations Subcommittee on Financial Services and General Government held a hearing on the FY2009 federal judiciary budget request. The subcommittee heard testimony from Judge Julia S. Gibbons, and James C. Duff, director of the Administrative Office of the U.S. Courts (AOUSC). Among issues raised at the hearing were judicial security, rent paid to GSA, and workload. Later that same day, the Senate Appropriations Subcommittee on Financial Services and General Government also held a hearing on the FY2009 budget request and heard testimony from Judge Gibbons and Director Duff. The Senate subcommittee heard testimony on some of the same issues that were discussed at the House hearing.

In prepared testimony on the FY2009 judicial budget request, Judge Gibbons stated

> The goal of our fiscal year 2009 request is to maintain staffing levels in the courts at the level Congress funded in fiscal year 2008, as well as to obtain funding for several much needed program enhancements. As I noted earlier in my testimony, we are not requesting additional staff for our clerks or probation offices. We believe the requested funding level represents the minimum amount required to meet our constitutional and statutory responsibilities. While this may appear high in relation to the overall budget request submitted by the Administration, I would note that the Judiciary does not have the flexibility to eliminate or cut programs to achieve budget savings as the Executive Branch does. The Judiciary's funding requirements essentially reflect basic operating costs of which more than 80 percent are for personnel and space requirements.[36]

On the following day, the House subcommittee heard Supreme Court Justices Anthony M. Kennedy and Clarence Thomas give testimony on the Supreme Court budget request for FY2009. Issues raised at the hearing included the Supreme Court building modernization project, caseload, minority clerk hiring, and televising Supreme Court proceedings.

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[35] (...continued)
Process for Adjusting Pay and Current Salaries, both by Barbara L. Schwemle.

[36] *Judge Gibbon's March 12, 2008, Statement*, p. 13

FY2009 Request and Congressional Action.[37] For FY2009, the judiciary requests $6,721.2 million in total appropriations, a $475.1 million (7.6%) increase over the $6,246.1 million enacted for FY2008. According to the judiciary, about 85.6% of the increase would provide for pay adjustments, inflation, and other adjustments necessary to maintain current services. The FY2009 request includes funding for 33,591 full-time-equivalent (FTE) positions — an increase of 300 FTE positions over the estimated 33,291 FTE positions funded for FY2008.[38]

The following are highlights of the FY2009 judiciary budget request and the FY2008 enacted amount.[39]

Supreme Court. For FY2009, the total request for the Supreme Court (salaries and expenses plus buildings and grounds) is $88.2 million, a $9.5 million (12.1 %) increase over the FY2008 appropriation of $78.7 million. The total request comprises two accounts: (1) Salaries and Expenses — $69.8 million is requested, an increase of $3.3 million (4.9%) over the $66.5 million enacted for FY2008; and (2) Care of the Building and Grounds — $18.4 million is requested, an increase of $6.2 million (51.2%) over the $12.2 million enacted for FY2008. The increase in the second account includes repairs to the roof of the Supreme Court building and exterior property renovation and landscaping. The overall request reflects increases in salary and other inflationary costs.

U.S. Court of Appeals for the Federal Circuit. This court, consisting of 12 judges, has nationwide jurisdiction and reviews, among other things, certain lower court rulings in patent and trademark, international trade, and federal claims cases. The FY2009 request for this account is $32.4 million — a $5.3 million (19.5%) increase over the $27.1 million appropriated for FY2008. The request includes six FTE positions for 12 law clerks, one for each of the judges. According to the budget submission, the need for more law clerks is due to the increase in caseload and the complicated nature of the cases.

U.S. Court of International Trade. This court has exclusive jurisdiction nationwide over the civil actions against the United States, its agencies and officers, and certain civil actions brought by the United States (import transactions and enforcement of federal customs and international trade laws). The FY2009 request is $19.6 million — a $3.0 million (18.0%) increase over the FY2008 appropriation of $16.6 million. The judiciary budget submission ascribes the increase primarily to rent paid to GSA.

Courts of Appeals, District Courts, and Other Judicial Services. This budget group includes 12 of the 13 courts of appeals and 94 district judicial

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[37] Administrative Office of the U.S. Courts, *The Judiciary Fiscal Year 2008 Congressional Budget Summary* (Washington: February 2007). Hereafter cited as *Judiciary FY2008 Congressional Budget Summary*.

[38] *Judiciary FY2009 Congressional Budget Summary,* p. 5.

[39] Data are rounded, which may result in slight differences when figures are added or subtracted. Percentages are based on data prior to rounding and may result in very minor differences.

courts located in the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the territories of Guam and the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands. Totaling about 95% of the judiciary budget, the four accounts in the group — salaries and expenses, court security, defender services, and fees of jurors and commissioners — fund most of the day-to-day activities and operations of the federal circuit and district courts. For this budget group, the FY2009 request is $6,380.9 million, a $438.3 million (7.4%) increase over the FY2008 enacted amount of $5,942.5 million.

The total of this budget group comprises the following accounts:

Salaries and Expenses. The FY2009 request for this account is $4,963.1 million, a $343.8 million (7.4%) increase over the FY2008 level of $4,619.3 million. According to the budget request, this increase is needed for inflationary and other adjustments to maintain the courts' current services. According to the FY2009 budget submission, the request includes $308.8 million for standard pay and other inflationary increases, and other adjustments to maintain FY2008 service levels.

Court Security. This account provides for protective guard services, security systems, and equipment for courthouses and other federal facilities to ensure the safety of judicial officers, employees, and visitors. Under this account, a major portion of the funding is transferred to the U.S. Marshals Service (USMS), to pay for court security officers under the Judicial Facility Security Program. The FY2009 request is $439.9 million — a $29.9 million (7.3 %) increase over the FY2008 appropriation of $410.0 million. This increase is reportedly driven by pay and benefit adjustments and other adjustments needed to maintain current services. The FY2009 request to pay the Federal Protective Service (FPS) $72.9 million is also covered under this account. Funding requested includes 9 FTE positions for USMS.

Defender Services. This account funds the operations of the federal public defender and community defender organizations, and the compensation, reimbursement, and expenses of private practice panel attorneys appointed by the courts to serve as defense counsel to indigent individuals accused of federal crimes. The FY2009 request is $911.4 million — a $65.3 million (7.7 %) increase over the FY2008 appropriation of $846.1 million (which included $10.5 million in emergency funding).

Fees of Jurors and Commissioners. This account funds the fees and allowances provided to grand and petit jurors, and the compensation of jury and land commissioners. The FY2009 request is $62.2 million — a $0.9 million (1.4%) decrease over the FY2008 appropriation of $63.1 million.

Vaccine Injury Compensation Trust Fund. Established to address a perceived crisis in vaccine tort liability claims, the Vaccine Injury Compensation Program is a federal no-fault program that protects the availability of vaccines in the nation. The FY2009 request for this account is $4.3 million, a slight increase of $0.2 million (3.8%) above the FY2008 enacted amount of $4.1 million.

Administrative Office of the U.S. Courts (AOUSC). As the central support entity for the judiciary, the AOUSC provides a wide range of administrative, management, program, and information technology services to the U.S. courts. The AOUSC also provides support to the Judicial Conference of the United States, and implements conference policies and applicable federal statutes and regulations. The FY2009 request for this account is $82.0 million — a $6.0 million (7.8%) increase over the FY2008 level of $76.0 million. The increase is reportedly for pay increases and other inflationary adjustments to maintain FY2008 service levels. The AOUSC also receives non-appropriated funds from fee collections and carry-over balances to supplement its appropriations requirements.

Federal Judicial Center. As the judiciary's research and education entity, the center undertakes research and evaluation of judicial operations for the Judicial Conference committees and the courts. In addition, the center provides judges, court staff, and others with orientation and continuing education and training. The center's FY2009 request is $25.8 million — a $1.6 million (6.5%) increase over the FY2008 appropriation of $24.2 million.

United States Sentencing Commission. The commission promulgates sentencing policies, practices, and guidelines for the federal criminal justice system. The FY2009 request is $16.3 million — a $0.8 million (5.0%) increase over the FY2008 appropriation of $15.5 million.

Judiciary Retirement Funds. This mandatory account provides for three trust funds that finance payments to retired bankruptcy and magistrate judges, retired Court of Federal Claims judges, and spouses and dependent children of deceased judicial officers. The FY2009 request is $76.1 million — a $10.7 million (16.4%) increase over the FY2008 appropriation of $65.4 million. According to the budget submission, the appropriation requirements are calculated by an enrolled actuary as mandated by law.

General Provision Changes. According to the budget request submission, the judiciary proposed the following new language under general provisions:

> Sec. 306: which grants the judiciary the same tenant alteration authorities as the executive branch.
>
> Sec. 308: which deletes a provision related to establishing Vancouver, Washington, as a place of holding court in the Western District of Washington.
>
> Sec. 309: which deletes a one-year provision extending the temporary judgeships in the Districts of Kansas and the District of Northern Ohio through FY2008.

District of Columbia[40]

The authority for congressional review and approval of the District's budget is derived from the Constitution and the District of Columbia Self-Government and Government Reorganization Act of 1973 (Home Rule Act).[41] The Constitution gives Congress the power to "exercise exclusive Legislation in all Cases whatsoever" pertaining to the District of Columbia. In 1973, Congress granted the city limited home rule authority and empowered citizens of the District to elect a mayor and city council. However, Congress retained the authority to review and approve all District laws, including the District's annual budget. As required by the Home Rule Act, the city council must approve a budget within 50 days after receiving a budget proposal from the mayor. The approved budget must then be transmitted to the President, who forwards it to Congress for its review, modification, and approval.[42]

Both the President and Congress may propose and approve of financial assistance to the District in the form of special federal payments in support of specific activities or priorities. **Table 1** shows details of the District's federal payments — both the FY2008 enacted amounts and the amounts included in the President's FY2009 budget request.

Table 6. District of Columbia Appropriations, FY2008 to FY2009: Special Federal Payments

(in millions of dollars)

	FY2008 Enacted	FY2009 Request	FY2009 House Passed	FY2009 Senate Passed	FY2009 Enacted
Resident Tuition Support	$33.0	$35.1			
Emergency Planning and Security	3.4	15.0			
District of Columbia Courts	223.9	223.9			
Defender Services	48.0	48.0			
Court Services and Offender Supervision Agency	190.3	202.5			
Public Defender Service	32.7	35.7			
Criminal Justice Coordinating Council	1.3	1.8			
Water and Sewer Authority	8.0	14.0			

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40 This section was written by Eugene Boyd, Analyst in American National Government, Government and Finance Division, and David Smole, Specialist in Education Policy, Domestic Social Policy Division.

41 See Article I, Sec. 8, clause 17 of the U.S. Constitution and Section 446 of P.L. 93-198, 87 Stat. 801.

42 87 Stat. 801.

	FY2008 Enacted	FY2009 Request	FY2009 House Passed	FY2009 Senate Passed	FY2009 Enacted
Anacostia Waterfront Initiative	__[a]	0.0			
Office of the Chief Financial Officer	5.5[b]	0.0			
Executive Office of the Mayor	5.0	0.0			
— Anacostia River Water Quality Initiative	*1.0*	0.0			
— Public Education Initiative	*2.0*	0.0			
— Marriage Initiative	__[c]	0.0			
— Pediatric Health Care Initiative	*1.0*	0.0			
— Historic Preservation	*1.0*	0.0			
School Improvement	40.8	54.0			
— Public Schools	*13.0*	*18.0*			
— Public Charter Schools	*13.0*	*18.0*			
— Education Vouchers	*14.8*	*18.0*			
Jump Start Public School Reform	0.0	20.0			
Consolidated Laboratory Facility	5.0	5.0			
Central Library and Branches	9.0	7.0			
FBI Reimbursement	4.0	5.0			
Special Federal Payments (total)	**$609.9**	**$667.0**			

Source: Budget authority table provided by House Appropriations Subcommittee on Financial Services and General Government. Columns may not equal the total due to rounding.

a. This activity will be funded as a $1 million award to the Executive Office of the Mayor.
b. The conference report accompanying H.R. 2764 (P.L. 110-161) directs the CFO to award funds to 17 specific organizations and activities: ARISE Foundation — $282,000; Barracks Row — $500,000; Bright Beginnings — $100,000; Catalyst HOPE VI — $132,000; Center for Inspired Teaching — $52,500; Earth Conservation Corps — $282,000; Marriage Development Account — $1,800,000; Eastern Market — $131,000; Everybody Wins — $100,000; Excel Institute — $300,000; Congressional Cemetery — $625,000; Community-based Dental Education — $52,500; International Youth Service and Development Corps — $600,000; MenzFit Career Development — $23,500; Sitar Arts Center — $22,500; Southeastern University — $300,000; STEED Youth Program — $150,000.
c. Marriage Initiative is included as a $1.8 million award administered by the CFO.

The District of Columbia Budget and Key Issues

President's Request. The Administration's proposed FY2009 budget includes $668.0 million in federal payments to the District of Columbia. The funding request for the courts and criminal justice system (court operations, defender services, offender supervision, and criminal justice coordinating council) is $511.9 million, or 76.8%, of the request. The President's budget also requests $109.1 million in special federal payments for specific education initiatives, including $35.1 million for college tuition assistance, $38 million for public school enhancements and reforms, $18 million for public charter schools, and $18 million for the school choice (school voucher) program, which awards grants to eligible students to attend private schools.

In addition to recommending $667million in federal payments to the District of Columbia, the President's budget also contains general provisions, including a number of so-called "social riders." The President's budget request would

- prohibit the use of federal and District funds to finance or administer a needle exchange program intended to reduce the spread of AIDS and HIV among intravenous drug abusers and their partners;
- prohibit the use of both federal and District funds to provide abortion services except in instances of rape or incest, or when the health of the mother is threatened;
- prohibit the city from decriminalizing the use of marijuana for medical purposes;
- prohibit the use of federal funds to implement the Health Care Benefits Act;
- limit the payment of fees to no more than $4,000 to attorneys representing a party in an action brought against the District under the Individuals with Disabilities Act; and
- limit the city's ability to use District funds to lobby for congressional voting representation or statehood.

Resident Tuition Support. The District of Columbia Tuition Access Grant (DCTAG) program provides tuition support through grants to institutions of higher education (IHEs) for eligible residents of the District of Columbia by paying the difference between in-state and out-of-state tuition (up to $10,000) at public IHEs; and up to $2,500 per year for tuition at private non-profit IHEs that are either located in the Washington, DC, metropolitan area, or are Historically Black Colleges and Universities (HBCUs). Funding has been provided for the DCTAG program annually since FY2000. For FY2009, the Administration proposes the appropriation of $35.1 million for the DCTAG program, of which $1.3 million would be available for administrative expenses. As in prior years, appropriations language would specify that awards made under the DCTAG program may be prioritized on the basis of a resident's academic merit, the need of eligible students, and other factors as may be authorized.

School Improvement. Since FY2004, a federal payment for school improvement in the District of Columbia has been provided annually to be allocated between the District of Columbia Public Schools (DCPS) for the improvement of public education; the State Education Office (SEO) for the expansion of public charter schools; and the U.S. Department of Education for the DC School Choice Incentive program (also known as the Opportunity Scholarship program). For FY2009, the Administration proposes the appropriation of $54 million for school improvement in the District of Columbia. Of this amount, $18 million would be provided to DCPS for school improvement, $18 million would be provided to the SEO for public charter schools, and $18 million provided to the U.S. Department of Education for the Opportunity Scholarship program. Of the $18 million provided for the Opportunity Scholarship program, $1 million would be available for the administration and funding of assessments.

The Opportunity Scholarship program was enacted under the DC School Choice Incentive Act of 2003 (P.L. 108-199) and is authorized through FY2008. The program enables children from families with incomes not exceeding 185% of the poverty line to apply to receive opportunity scholarships valued at up to $7,500 to cover the costs of tuition, fees, and transportation expenses associated with attending participating private elementary and secondary schools located in the District of Columbia. Scholarship recipients remain eligible to continue to participate in the program in subsequent years, so long as their family income does not exceed 300% of the poverty level.

The Administration proposes to amend the DC School Choice Incentive Act of 2003 to establish annual limits on opportunity scholarship awards for school year 2009-2010 in the amounts of $7,500 for kindergarten through grade 8, and $12,000 for grades 9 through 12; and to adjust annual award limits for inflation in future years by indexing them to the consumer price index for all urban consumers (CPI-U). The administration also proposes to extend the authorization of appropriations for the Opportunity Scholarship program at the amount of $18 million for FY2009, and such sums as may be necessary for FY2010 through FY2013.

Federal Payment to Jump Start Public School Reform. In addition to funding provided for school improvement in the District of Columbia, the Administration proposes the appropriation of $20 million to "jump start" the reform of public education in the District of Columbia. Of the $20 million that would be made available, $3.5 million would be provided for the recruiting, development, and training of principals and other school leaders; $7 million would be provided for the development of optimal school programs, and for intervention in low-performing schools; $7.5 million would be provided for a student performance data reporting and accountability system, and for parental and community outreach; and $2 million would be provided for data reporting associated with the DCPS teacher incentive program. Of the total amount appropriated, the lesser of $500,000 or 10% would be available for transfer from one activity to another.

Independent Agencies

In FY2009, a collection of 22 independent entities are slated to receive funding through the FSGG appropriations bill. **Table 7** lists appropriations as enacted for FY2008 and as requested by the President for FY2009.

Table 7. Independent Agencies Appropriations, FY2008 to FY2009

(in millions of dollars)

Agency	FY2008 Enacted	FY2009 Request	FY2009 House Passed	FY2009 Senate Passed	FY2009 Enacted
Consumer Product Safety Commission	$80	$80			
Election Assistance Commission	142	17			
Federal Communications Commission[a]	1	1			
Federal Deposit Insurance Corporation: Office of Inspector General (by transfer)[b]	(27)	(27)			
Federal Election Commission	59	64			
Federal Labor Relations Authority	24	23			
Federal Trade Commission[a]	82	69			
General Services Administration[c]	175	536			
Merit Systems Protection Board	40	41			
Morris K. Udall Foundation	6	1			
National Archives and Records Administration	400	392			
National Credit Union Administration	1	1			
Office of Government Ethics	12	13			
Office of Personnel Management (total)	21,110	20,358			
Salaries and Expenses	*102*	*93*			
Government Payments for Annuitants, Employee Health Benefits	*8,884*	*9,533*			
Government Payments for Annuitants, Employee Life Insurance	*41*	*46*			
Payment to Civil Service Retirement and Disability Fund	*11,941*	*10,550*			
Office of Special Counsel	17	17			
Postal Regulatory Commission[d]	—	14			
Privacy and Civil Liberties Oversight Board[e]	2	2			
Securities and Exchange Commission[f]	843	871			
Selective Service System	22	22			
Small Business Administration	569	659			
United States Postal Service	118	322			
United States Tax Court	45	48			
Total: Independent Agencies	**$23,748**	**$23,551**			

Source: Budget authority table provided by House Appropriations Subcommittee on Financial Services and General Government. Columns may not equal the total due to rounding.

a. The amounts listed in Table 7 for the FCC and the FTC represent only direct appropriations and do not include fees collected by the agencies that are also used to fund agency activities.
b. Budget authority transferred to FDIC is not included in total appropriations for Title V; it is counted as part of the budget authority in the appropriation account from which it came.
c. Budget authority for GSA is calculated as the net value of appropriations, including limitations on the availability of revenues, plus the redemption of debt payments, minus anticipated revenues from rents paid into Federal Buildings Fund.
d. FY2009 is the first year the PRC has been funded through the FSGG appropriations bill.
e. In FY2008, the PCLOB was considered a component of the Executive Office of the President and was funded through EOP appropriations. The PCLOB has since been established as an independent agency, and the President has requested a separate appropriation for the agency for FY2009.
f. The amounts listed in Table 7 for the SEC include fees collected by the agency. This is not consistent with the treatment of fees for the FCC and the FTC, but it follows the source documents for Table 7.

Consumer Product Safety Commission (CPSC).[43] The CPSC is an independent federal regulatory agency whose enabling legislation is the Consumer Product Safety Act of 1972. The Commission's primary responsibilities include protecting the public against unreasonable risks of injury associated with consumer products; developing uniform safety standards for consumer products and minimizing conflicting state and local regulations; and promoting research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries.

For FY2009, the Administration requests $80 million in funding for the CPSC, the same amount Congress provided for FY2008, but $16.75 million more than requested last year ($63.25 million). For FY2008, the House approved the Committee on Appropriations' recommendation of $66.8 million, $3.6 million above the Administration's request. Subsequently, the Senate recommended $70 million for CPSC for FY2008. In the end, however, following widespread publicity about unsafe exports from China, particularly dangerously defective toys, the consolidated appropriations bill provides the agency with $80 million.

Last year's steady stream of televison and print media stories about unsafe imported consumer products generated strong congressional interest in the long-neglected agency. While conferees still must work out the differences between House and Senate CPSC reform bills (H.R. 4040 and S. 2663, respectively), there appears little doubt that the agency is on the verge of reversing three decades of decline in staffing. With substantially increased funding, the CPSC has begun a comprehensive modernization of its testing laboratories, and overhaul of its information technology infrastructure, and embarked on several new programs, including an Import Safety Initiative.

Election Assistance Commission (EAC).[44] The EAC provides grant funding to the states to meet the requirements of the Help America Vote Act (HAVA), provides for testing and certification of voting machines, studies election issues, and promulgates voluntary guidelines for voting systems standards and issues

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[43] This section was written by Bruce Mulock, Specialist in Business and Government Relations, Government and Finance Division.

[44] This section was written by Kevin Coleman, Analyst in American National Government, Government and Finance Division.

voluntary guidance with respect to the requirements in the act. The commission was not given express rule-making authority under HAVA, although the law transferred responsibilities for the National Voter Registration Act (NVRA) from the Federal Election Commission to the EAC; these responsibilities include NVRA rule-making authority. The Department of Justice is charged with enforcement responsibility.

The President's FY2008 budget request included $15.5 million for the EAC (with $3.25 million for the National Institute of Standards and Technology, NIST), as well as $4.83 million for protection and advocacy programs and $10.89 million for accessibility grants administered by HHS. H.R. 2829 passed the House on June 28, 2007, with the requested amounts for the EAC and NIST, as well as $300 million for requirements payments and $950,000 for high school and college programs. The Senate-reported version eliminated the requirements payments while increasing funding for the EAC to $16.5 million, with $1.05 million for school and college programs. Funding for the EAC and election reform programs ultimately was provided by the Consolidated Appropriations Act, 2008. The act provided $16.53 million for the EAC, of which $3.25 million was for NIST, and $200,000 was for the high school mock election program. It also provided $115 million for requirements payments and $10 million for data collection grants to selected states.

The President's budget request for FY2009 includes $16.7 million for EAC salaries and expenses.

Federal Communications Commission (FCC).[45] The Federal Communications Commission, created in 1934, is an independent agency charged with regulating interstate and international communications by radio, television, wire, satellite, and cable. The FCC is also charged with promoting the safety of life and property through wire and radio communications. The mandate of the FCC under the Communications Act is to make available to all people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communications service. The FCC performs five major functions to fulfill this charge: spectrum allocation, creating rules to promote fair competition and protect consumers where required by market conditions, authorization of service, enhancement of public safety and homeland security, and enforcement. The FCC obtains the majority of its funding through the collection of regulatory fees pursuant to Title I, Section 9, of the Communications Act of 1934; therefore, its direct appropriation is considerably less than its overall budget.

For FY2009, the President proposes a budget of $338.875 million (a direct appropriation of $1 million and the remainder to be collected through regulatory fees). For FY2008, the President signed a budget of $313 million (a direct appropriation of $1 million and the remainder to be collected through regulatory fees).[46]

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[45] This section was written by Patricia Moloney Figliola, Specialist in Internet and Telecommunications Policy, Resources, Science, and Industry Division.

[46] The Consolidated Appropriations Act, 2008 (P.L. 110-161).

Federal Deposit Insurance Corporation (FDIC): OIG.[47] The FDIC's Office of the Inspector General is funded from deposit insurance funds; the OIG has no direct support from federal taxpayers. Before FY1998, the amount was approved by the FDIC Board of Directors; the amount is now directly appropriated (through a transfer) to ensure the independence of the OIG.

The Consolidated Appropriations Act of 2008 (P.L. 110-161) provided for a FY2008 budget of $27 million for the OIG, which was a 13% decrease from the FY2007 appropriation of $31 million. The President requests $27 million for FY2009.

Federal Election Commission (FEC).[48] The FEC administers, and enforces civil compliance with, the Federal Election Campaign Act (FECA) and campaign finance regulations through educational outreach, rulemaking, and litigation, and by issuing advisory opinions.[49] The agency also administers the presidential public financing system. The FEC currently lacks a quorum sufficient to make major policy decisions, although the agency continues to function.[50] Two remaining commissioners (of six possible) and staff continue to provide general information to the regulated community; campaign finance law and regulations remain in effect.

The President's FY2009 budget request includes an appropriation of $63.6 million for the FEC, a 7.4% increase above the enacted FY2008 appropriation of $59.2 million. Although the FEC requested no additional staff in FY2008, the FY2009 budget justification requests funding for 12 additional full-time positions.[51] Most of the FY2009 request emphasizes maintaining current services and funding technology upgrades.[52] In recent years, FEC appropriations have generally been noncontroversial and subject to limited debate in committee or on the floor, although lawmakers have sometimes offered (or attempted to offer) FECA amendments to FEC appropriations legislation.

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[47] This section was written by Pauline Smale, Economic Analyst, Government and Finance Division.

[48] This section was written by Sam Garrett, Analyst in American National Government, Government and Finance Division.

[49] FECA is 2 U.S.C. §431 et seq. The FEC can refer criminal cases to the Justice Department.

[50] See CRS Report RS22780, *The Federal Election Commission (FEC) With Fewer than Four Members: Overview of Policy Implications*, by R. Sam Garrett. For information about recent policy developments, see CRS Report RL34324, *Campaign Finance: Legislative Developments and Policy Issues in the 110th Congress*, by R. Sam Garrett.

[51] On the FY2008 request, see Federal Election Commission, *Fiscal Year 2008 Performance Budget for the Federal Election Commission*, Feb. 5, 2007, at [http://www.fec.gov/pages/budget/fy2008/fy2008cbj_final.pdf], p. 3. On the FY2009 request, see Federal Election Commission, *Fiscal Year 2009 Congressional Budget Justification*, February 4, 2008, at [http://www.fec.gov/pages/budget/fy2009/CJ_final_1_31_08.pdf].

[52] See, for example, Federal Election Commission, *Fiscal Year 2009 Congressional Budget Justification*, pp. 18-24.

As Congress considers the FY2009 FEC appropriations request, it might also choose to address at least one of the agency's enforcement programs. The Administrative Fine Program (AFP) will expire on December 31, 2008, unless Congress extends the program or makes it permanent.[53] Congress created the AFP through the Treasury and General Government Appropriations Act of 2000 and has extended the program through the appropriations process since that time.[54] Therefore, the FY2009 appropriations process could be seen as a vehicle for extending the program, which the FEC has recommended.[55] The AFP sets standard penalties for reporting violations and requires fewer resources than the FEC's full enforcement process. The AFP has generated approximately $2.1 million in fines from approximately 1,600 cases since its inception.[56]

Federal Trade Commission (FTC).[57] The Federal Trade Commission (Commission or FTC) is an independent agency. It seeks to protect consumers and enhance competition by eliminating unfair or deceptive acts or practices in the marketing of goods and services and by ensuring that consumer markets function competitively. For FY2009, the Administration requests a program level for the FTC of $256.2 million, an increase of $12.4 million, or 5%, over the agency's present (FY2008) level of funding. Of the total amount provided, $168 million is to be derived from pre-merger filing fees, $19.3 million from Do-Not-Call fees, and the remaining amount — $68.9 million — is to be provided by a direct appropriation. The request represents an increase of $12.3 million from the FTC's FY2008 budget appropriations level.

Last year, following the recommendation of the Appropriations Committee, the House approved a total program level of $247.5 million for the FTC for FY2008, an increase of $7.2 million over the Administration's request. More specifically, $139 million was to come from pre-merger filing fees, $20 million from Do-Not-Call fees, with a direct appropriation of $88.5 million. The comparable figures for the Senate-

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[53] For background on the program, see Federal Election Commission, "How the Administrative Fine Program Works," at [http://www.fec.gov/pages/brochures/admin_fines.shtml].

[54] On the program's creation, see P.L. 106-58; 113 Stat. 476. On the most recent extension, see 119 Stat. 2493-2494.

[55] The commission did not include the program in its 2007 legislative recommendations because, according to legislative affairs staff, the agency planned to do so in its 2008 recommendations. However, because of the commission's lack of a quorum, no 2008 recommendations have been issued (telephone consultations with Duane Pugh, acting director, legislative affairs, FEC; March 21, 2008, and April 4, 2008). However, the commission did recommend in its FY2009 budget justification document that the program be extended or be made permanent. See Federal Election Commission, *Fiscal Year 2009 Congressional Budget Justification*, p. 15, at [http://www.fec.gov/pages/budget/fy2009/CJ_final_1_31_08.pdf].

[56] Federal Election Commission, "FEC Collects $234,405 in Administrative Fines from 185 Committees," press release, December 5, 2007. Due to the lack of a quorum, the commission has been unable to approve any fines in 2008.

[57] This section was written by Bruce Mulock, Specialist in Business and Government Relations, Government and Finance Division.

reported version were: a total program level for the agency of $240.2 million (the same as the Administration's request), a figure comprising $144.6 million from pre-merger filing fees, $19 million from Do-Not-Call fees, with a direct appropriation of $76.6 million. At the end of the process, the omnibus appropriations bill for FY2008 provided the FTC with a total program level of $243.9 million. More specifically, $139 million will come from pre-merger filing fees, and $23 million from Do-Not-Call fees, with a direct appropriation of $81.9 million.

Appropriators, in recent years, have moved away from the practice followed at the turn of the century (FY2000 through FY2002) wherein zero ($0) direct appropriations were required, because the entire program level was covered by a combination of fees and prior-year collections.

General Services Administration (GSA).[58] 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. Typically, only about 1% of GSA's total budget is funded by direct appropriations.

For FY2009, the President requests $56.6 million for government-wide policy and $71.8 million for operating expenses, $54 million for the Office of Inspector General, $2.9 million for allowances and office staff for former Presidents, $8.5 million for presidential transition expenses, and $36.6 million to be deposited into the Federal Citizen Information Center Fund.

Federal Buildings Fund (FBF). Most GSA spending is financed through the Federal Buildings Fund. Rent assessments from agencies paid into the FBF provide the principal source of its funding. Congress may also provide direct funding into the FBF. Congress directs the GSA as to the allocation or limitation on spending of funds from the FBF in provisions found accompanying GSA's annual appropriations.

For FY2009, the President requests that an additional amount of $525 million be deposited in the FBF, which is an increase of $441 million from the amount enacted in FY2008. The President's budget further requests that $620.1 million remain available until expended for new construction projects from the FBF, and that $692.4 million remain available until expended for repairs and alterations.

Electronic Government Fund (E-Gov Fund).[59] Originally unveiled in advance of the President's proposed budget for FY2002, the E-Gov Fund and its appropriation have been a somewhat contentious matter between the President and Congress. The President's initial $20 million request was cut to $5 million, which was the amount provided for FY2003, as well. Funding thereafter was held at $3 million for FY2004, FY2005, FY2006, FY2007, and FY2008. Created to support

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[58] This section was written by Stephanie Smith, Analyst in American National Government, Government and Finance Division.

[59] This section was written by Harold Relyea, Analyst in American National Government, Government and Finance Division.

interagency e-gov initiatives approved by the Director of OMB, the fund and the projects it sustains have been subject to close scrutiny by, and accountability to, congressional appropriators. As he did for FY2008, the President is requesting $5 million for the fund for FY2009.

Independent Agencies Related to Personnel Management. The FY2008 budget included information on the portfolios of each of the agencies involved in personnel management functions: the Federal Labor Relations Authority (FLRA), the Merit Systems Protection Board (MSPB), the Office of Personnel Management (OPM), and the Office of Special Counsel (OSC). **Table 9** shows appropriations as enacted for FY2008 and as requested for FY2009 for each of these agencies.

Table 8. Independent Agencies Related to Personnel Management Appropriations, FY2008 to FY2009

(in millions of dollars)

Agency	FY2008 Enacted	FY2009 Request	FY2009 House Passed	FY2009 Senate Passed	FY2009 Enacted
Federal Labor Relations Authority	$23.6	$22.7			
Merit Systems Protection Board (total)	40.1	41.4			
Salaries and expenses	*37.5*	*38.8*			
Limitation on administrative expenses	*2.6*	*2.6*			
Office of Personnel Management (total)	21,110.3	20,357.9			
Salaries and Expenses	*101.8*	*92.8*			
Limitation on administrative expenses	*123.9*	*118.1*			
Office of Inspector General (salaries and expenses)	*1.5*	*1.5*			
Office of Inspector General (limitation on administrative expenses)	*17.1*	*16.5*			
Government Payments for Annuitants, Employee Health Benefits[a]	*8,884.0*	*9,533.0*			
Government Payments for Annuitants, Employee Life Insurance[a]	*41.0*	*46.0*			
Payment to Civil Service Retirement and Disability Fund[a]	*11,941.0*	*10,550.0*			
Office of Special Counsel	$17.5	$17.5			

Sources: Budget authority table provided by the House Appropriations Subcommittee on Financial Services and General Government and the President's FY2008 budget request; *FY2009 Budget, Appendix*, pp. 1097-1108, 1179-1180, 1190-1191, and 1215.

a. The annual appropriations act provides "such sums as may be necessary" for the health benefits, life insurance, and retirement accounts. The Office of Personnel Management's *Congressional Budget Justification* for FY2009 states the FY2009 amounts for these accounts as $9,595.0

million (health benefits), $46 million (life insurance), and $10,172.0 million (retirement) at pp. 129-131. The *FY2009 Budget Appendix*, at pp. 1100-1101, states the same amounts as the budget justification.

Federal Labor Relations Authority (FLRA).[60] The FLRA is an independent federal agency that administers and enforces Title VII of the Civil Service Reform Act of 1978. Title VII gives federal employees the right to join or form a union and to bargain collectively over the terms and conditions of employment. Employees also have the right not to join a union that represents employees in their bargaining unit. The statute excludes specific agencies (e.g., the Federal Bureau of Investigation and the Central Intelligence Agency) and gives the President the authority to exclude other agencies for reasons of national security.

The FLRA consists of a three-member authority, the Office of General Counsel, and the Federal Services Impasses Panel (FSIP). The authority resolves disputes over the composition of bargaining units, charges of unfair labor practices, objections to representation elections, and other matters. The General Counsel's office conducts representation elections, investigates charges of unfair labor practices, and manages the FLRA's regional offices. The FSIP resolves labor negotiation impasses between federal agencies and labor organizations.

The President's FY2009 budget proposes an appropriation of $22.7 million for the FLRA, almost $1.0 million below the agency's FY2008 appropriation of $23.6 million.

Merit Systems Protection Board (MSPB).[61] The President's budget requests an FY2009 appropriation of almost $41.4 million for the MSPB, 3.25% above the FY2008 funding of $40.1 million. The agency's full-time equivalent (FTE) employment level would remain at 236 for FY2009. MSPB issued 8,105 decisions in FY2007 (actual), and its budget submission projects that 8,400 decisions will be issued in FY2008 (estimate).

The authorization for the agency expired on September 30, 2007. Legislation that would reauthorize the MSPB for three years and enhance the agency's reporting requirements is currently pending in the Senate and the House of Representatives. Senator Daniel Akaka and Representative Danny Davis introduced the Federal Merit System Reauthorization Act of 2007, S. 2057 and H.R. 3551, on September 17, 2007, and it was referred to the Senate Committee on Homeland Security and Governmental Affairs and the House Committee on Oversight and Government Reform.

Office of Personnel Management (OPM).[62] The President's budget requests an FY2009 appropriation of $92.8 million for salaries and expenses for

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[60] This section was written by Gerald Mayer, Analyst in Public Finance, Domestic Social Policy Division.

[61] This section was written by Barbara Schwemle, Analyst in American National Government, Government and Finance Division.

[62] Ibid.

OPM, an amount that is 8.8% less than the $101.7 million provided for salaries and expenses for FY2008. This amount includes funding of $5.8 million for the Enterprise Human Resources Integration project and more than $1.3 million for the Human Resources Line of Business project. The agency's full-time equivalent (FTE) employment level would be 4,940 for FY2009, 48 less than the 4,988 for FY2008. Among the initiatives stated in OPM's budget submission are these: a legislative proposal has been submitted to Congress to offer a third benefit option under the Federal Employees' Health Benefits Program (FEHBP) and to broaden the types of health plans offered by the FEHBP, continued development of market-sensitive pay systems, the transitioning of the personnel and payroll records for 1.8 million active federal employees into the modernized, electronically accessible federal retirement system, and improving the federal hiring process, by, among other things, streamlining the application process.

Office of Special Counsel (OSC).[63] The President's budget requests an FY2009 appropriation of $17.5 million for the OSC, the same level of funding that was enacted in FY2008. The agency's full-time equivalent (FTE) employment level would increase by one, to 111, for FY2009. OSC's budget submission projected a continued increase in the number of prohibited personnel practices cases and disclosure cases received and notes that strategic management and cross-training of employees is being emphasized to ensure the maximum use of agency resources.

The authorization for the agency expired on September 30, 2007. The Federal Merit System Reauthorization Act of 2007, S. 2057 and H.R. 3551, is currently pending in the Senate Committee on Homeland Security and Governmental Affairs and House Committee on Oversight and Government Reform. The legislation, introduced by Senator Daniel Akaka and Representative Danny Davis, would reauthorize the OSC for three years and includes provisions to enhance the agency's reporting requirements.

National Archives and Records Administration (NARA).[64] The custodian of the historically valuable records of the federal government since NARA's 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; prepares for publication 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.

As indicated in **Table 7**, the President's FY2009 request for NARA is $392 million, which is about $8 million less than the $400 million appropriated for FY2008. Of this requested amount, almost $328 million is sought for operating

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[63] Ibid.

[64] This section was written by Harold Relyea, Specialist in American National Government, Government and Finance Division.

expenses, an increase of $13 million over the FY2008 appropriation for this account. For the electronic records archive, $67 million is sought, a $9 million increase over the previous fiscal year allocation; for repairs and restoration, a little more than $9 million is sought, which is much below the FY2008 appropriation of over $28 million; and for the NHPRC, no appropriation is requested, which was the President's request for the previous two fiscal years, although Congress allocated $7 million for FY2007 and over $9 million for FY2008.

The President's budget also attempts to deny funding for the recently created Office of Government Information Services (OGIS) established within NARA by amendments to the Freedom of Information Act (FOIA), which were signed into law by the President on December 31, 2007.[65] The OGIS was established to (1) review agency compliance with FOIA policies, (2) recommend policy changes to Congress and the President, and (3) offer mediation services between FOIA requesters and agencies as a non-exclusive alternative to litigation. The OGIS is authorized to issue advisory opinions if mediation fails to resolve a dispute. The President's budget proposes no funding for the OGIS and having the Department of Justice carry out the responsibilities of the office using funds from its general administration account.[66] Amending language would have to be included in appropriations legislation in order to fully effectuate this proposed arrangement.

National Credit Union Administration (NCUA).[67] The NCUA is an independent federal agency funded entirely by the credit unions that the agency charters, insures, and regulates. Two entities managed by the NCUA are addressed by the Financial Services and General Government bill. One of these, the Community Development Revolving Loan Fund (CDRLF), makes low-interest loans and technical assistance grants to low-income credit unions. The Consolidated Appropriations Act of 2008 (P.L. 110-161) appropriated $975,000 for FY2008. The President requests $1million for FY2009.

The other entity managed by NCUA, the Central Liquidity Facility (CLF), provides a source of seasonal and emergency liquidity for credit unions. The CLF can finance loans using its assets, and it can also borrow from the Federal Financing Bank. Provisions in the appropriations bill set a borrowing limit for the CLF each fiscal year. Congress also determines the level of CLF operating expenses, which are not funded through appropriations, but by earned income. The Consolidated Appropriations Act of 2008 (P.L. 110-161) provided a $1.5 billion limitation on direct loans from the CLF for FY2008. The President requests that the $1.5 billion cap remain unchanged for FY2009.

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[65] 121 Stat. 2524.

[66] U.S. Office of Management and Budget, *Budget of the United States Government, Fiscal Year 2009 — Appendix* (Washington: GPO, 2008), p. 239.

[67] This section was written by Pauline Smale, Economic Analyst, Government and Finance Division.

Privacy and Civil Liberties Oversight Board (PCLOB).[68] Originally established by the Intelligence Reform and Terrorism Prevention Act of 2004 as an agency within the Executive Office of the President (EOP),[69] the PCLOB was reconstituted as an independent agency within the executive branch by the Implementing Recommendations of the 9/11 Commission Act of 2007.[70] The board assumed its new status on January 30, 2008; its FY2009 appropriation will be its first funding as an independent agency.[71] Among its responsibilities, the five-member board is to (1) ensure that concerns with respect to privacy and civil liberties are appropriately considered in the implementation of laws, regulations, and executive branch policies related to efforts to protect the nation against terrorism; (2) review the implementation of laws, regulations, and executive branch policies related to efforts to protect the nation from terrorism, including the implementation of information sharing guidelines; and (3) analyze and review actions the executive branch takes to protect the nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties. The board advises the President and the heads of executive branch departments and agencies on issues concerning, and findings pertaining to, privacy and civil liberties. The board provides annual reports to Congress detailing its activities during the year, and board members appear and testify before congressional committees upon request.

As indicated in **Table 7**, the President's FY2009 request for the PCLOB is $2 million, which was the same amount appropriated for the board for FY2008 when it was an EOP agency.

Securities and Exchange Commission (SEC).[72] The SEC administers and enforces federal securities laws to protect investors from fraud, to ensure that sellers of corporate securities disclose accurate financial information, and to maintain fair and orderly trading markets. The SEC's budget is set through the normal appropriations process, but funds for the agency come from fees on sales of stock, new issues of stocks and bonds, corporate mergers, and other securities market transactions. When the fees are collected, they go to a special offsetting account available to appropriators, not to the Treasury's general fund. The SEC is required to adjust the fee rates periodically in order to make the amount collected approximately equal to the agency's budget.

For FY2008, the Administration requested $905.3 million. Of that amount, $875 million was to come from current-year offsetting fee collections, and the remaining $30.3 million from prior-year unobligated balances. The House approved $908.4 million, of which $867.0 million was to come from current-year fee

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[68] This section was written by Harold C. Relyea, Specialist in American National Government, Government and Finance Division.

[69] 118 Stat. 3638 at 3684.

[70] 121 Stat. 266 at 352.

[71] See CRS Report RL34385, *Privacy and Civil Liberties Oversight Board: New Independent Agency Status*, by Harold C. Relyea.

[72] This section was written by Mark Jickling, Specialist in Public Finance, Government and Finance Division.

collections and $41.4 from prior year balances. The Senate approved $905.3 million, with an identical $41.4 million to come from prior year fee collections. The conference approved $906.0 million, of which $63.3 million was to come from prior year unobligated balances, and the remainder from current-year collections. There was no direct appropriation from the general fund.

For FY2009, the President requests $913.0 million for the SEC, an increase of 0.8% over FY2008. Of that amount, $871.0 million would come from current-year fee collections, and $42.0 from prior year unobligated balances. There would be no direct appropriation from the general fund.

Selective Service System (SSS).[73] The SSS is an independent federal agency operating with permanent authorization under the Military Selective Service Act (50 U.S.C. App. §451 et seq.). It is not part of the Department of Defense, but its mission is to serve the emergency manpower needs of the military by conscripting personnel when directed by Congress and the President.[74] All males ages 18 through 25 and living in the United States are required to register with the SSS. The induction of men into the military via Selective Service (i.e., the draft) terminated in 1972. In January 1980, President Carter asked Congress to authorize standby draft registration of both men and women. Congress approved funds for male-only registration in June 1980.

Since 1972, Congress has not renewed any President's authority to begin inducting (i.e., drafting) anyone into the armed services. In 2004, an effort to provide the President with induction authority was rejected.[75]

Funding of the Selective Service has remained relatively stable over the last decade. For FY2008, the enacted amount, $22 million, is the same as the House approved, the Senate reported, and the President requested. For FY2009, the President again requests $22 million.

Small Business Administration (SBA).[76] The SBA is an independent federal agency created by the Small Business Act of 1953. Although the agency administers a number of programs intended to assist small firms, arguably its three most important functions are to guarantee — principally through the agency's Section 7(a) general business loan program — business loans made by banks and other financial institutions; to make long-term, low-interest loans to small businesses, nonprofits, and households that are victims of hurricanes, earthquakes, other physical disasters, and acts of terrorism; and to serve as an advocate for small business within the federal government.

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[73] This section was written by David Burrelli, Specialist in National Defense, Foreign Affairs, Defense, and Trade Division.

[74] See [http://www.sss.gov/].

[75] See H.R. 163, October 5, 2004, failed by Yeas and Nays: (2/3 required): 2 402 (Roll no. 494).

[76] This section was written by Eric Weiss, Analyst in Economics, Government and Finance Division.

The Administration requests $658.5 million in new budget authority for FY2009. This is an increase of $89.5 million from FY2008's enacted $569.0 million. The Administration requests $174.4 in new budget authority for the disaster loan program account for FY2009; in FY2008 the disaster loan program received no new funding. Excluding the disaster loan program account, the Administration's request of $484.1 million for FY2009 is a decrease of $84.9 million from FY2008's $569.0 million enacted.

Lending authority would stay the same for all loan programs.

United States Postal Service (USPS).[77] The U.S. Postal Service generates nearly all of its funding — about $74 billion annually — by charging users of the mail for the costs of the services it provides.[78] However, Congress does provide an annual appropriation to compensate the USPS for revenue it forgoes in providing free mailing privileges to the blind[79] and overseas voters.[80] Appropriations for these purposes were authorized by the Revenue Forgone Reform Act of 1993 (RFRA).[81] This act also authorized Congress to provide the USPS with a $29 million annual reimbursement until 2035 to pay for the costs of postal services provided at below-cost rates to not-for-profit organizations in the early 1990s.[82]

The USPS requested a $117.7 million appropriation to the Postal Service Fund in its FY2009 budget submission.[83] Of this amount, $88.7 million would be for revenue forgone, and $29 million would be for the annual RFRA reimbursement. USPS's request was $0.2 million less than its FY2008 appropriation (P.L. 110-161, Title V).

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[77] This section was written by Kevin Kosar, Analyst in American National Government, Government and Finance Division. Also see CRS Report RS21025, *The Postal Revenue Forgone Appropriation: Overview and Current Issues*, by Kevin Kosar.

[78] U.S. Postal Service, *United States Postal Service Annual Report 2007* (Washington: USPS, 2007), p. 3.

[79] 84 Stat. 757; 39 U.S.C. 3403. See also USPS, *Mailing Free Matter for Blind and Visually Handicapped Persons: Questions and Answers*, Publication 347 (Washington: USPS, May 2005), at [http://www.usps.com/cpim/ftp/pubs/pub347.pdf].

[80] Members of the armed forces and U.S. citizens who live abroad are eligible to register and vote absentee in federal elections under the provisions of the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (42 U.S.C. 1973ff-ff-6). See CRS Report RS20764, *The Uniformed and Overseas Citizens Absentee Voting Act: Background and Issues*, by Kevin J. Coleman.

[81] 107 Stat. 1267, 39 U.S.C. 2401(c)-(d).

[82] See CRS Report RS21025, *The Postal Revenue Forgone Appropriation: Overview and Current Issues*, by Kevin R. Kosar.

[83] USPS, "Fiscal Year 2009 Appropriation Request," Dec. 11, 2007, at [http://www.usps.com/financials/_pdf/Appropriations2009_Final.pdf].

The President's FY2009 budget proposes an $82.8 million appropriation to the Postal Service Fund for revenue forgone. It would not provide funds for the annual RFRA reimbursement.[84]

The Postal Accountability and Enhancement Act (PAEA), which was enacted on December 20, 2006, first affected the postal appropriations process in FY2009.[85] While PAEA did not authorize any additional appropriations to the Postal Service Fund, it did alter the budget submission process for the USPS's Office of Inspector General (USPOIG) and the Postal Rate Commission (PRC). In the past, the USPOIG and the PRC submitted their budget requests to the USPS's Board of Governors. Accordingly, past presidential budgets did not include funding proposals for the USPOIG and the PRC.

Under PAEA, both the USPOIG and the PRC — which PAEA renamed the Postal Regulatory Commission — must submit their budget requests to Congress and to the Office of Management and Budget (120 Stat. 3240-3241). As in the past, the USPOIG and the PRC would be paid from the Postal Service Fund.

Hence, the President's FY2009 budget request for USPS also lists a "transfer of funds" to the USPOIG of $239.4 million. This brings the President's total FY2009 USPS budget request to $322.2 million.

The President's FY2009 budget does include a "transfer of funds" to the PRC of $14.0 million. This transfer, however, is not included in the USPS budget request because the PRC is a regulatory agency that is independent of USPS.

United States Tax Courts (USTC).[86] A court of record under Article I of the Constitution, the United States Tax Court is an independent judicial body that has jurisdiction over various tax matters as set forth in Title 26 of the *United States Code*. The court is headquartered in Washington, DC, but its judges conduct trials in many cities across the country.

The President requests $48.5 million for USTC for FY2009, an increase of $3.2 million over the agency's FY2008 enacted appropriation.

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[84] The Administration also did not propose funds for the annual RFRA reimbursement in its FY2005, FY2006, FY2007, and FY2008 budgets. Congress, however, has provided $29 million for the annual RFRA reimbursement each fiscal year since FY1994.

[85] P.L. 109-435; 120 Stat. 3198. On PAEA's major provisions, see CRS Report RS22573, *The Postal Accountability and Enhancement Act*, by Kevin R. Kosar.

[86] This section was written by Garrett Hatch, Analyst in American National Government, Government and Finance Division.

General Provisions Government-Wide[87]

The Financial Services and General Government appropriations language includes general provisions which apply either government-wide or to specific agencies or programs. There also may be general provisions at the end of an individual title within the appropriations act which relate only to agencies and accounts within that specific title. The Administration's proposed language for government-wide general provisions is included in the FY2009 Budget, Appendix.[88] Most of the provisions continue language that has appeared under the General Provisions title for several years. For various reasons, Congress has opted to reiterate the language rather than making the provisions permanent. Presented below are some of the government-wide general provisions that were included in P.L. 110-161, the Consolidated Appropriations Act for FY2008, but that are not included in the FY2009 budget proposal. (The section numbers refer to the provisions as they appeared in P.L. 110-161.)

- Section 709, which prohibits payment to political appointees who are filling positions for which they have been nominated, but not confirmed.

- Section 717, which prohibits the payment of any employee who prohibits, threatens, prevents, or otherwise penalizes another employee from communicating with Congress.

- Section 718, which prohibits the obligation or expenditure of appropriated funds for employee training that (1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties; (2) contains elements likely to induce high levels of emotional response or psychological stress in some participants; (3) does not require prior employee notification of the contents and methods to be used in the training and written end of course evaluation; (4) contains any methods or contents associated with religious or quasi-religious belief systems or "new age" belief systems; or (5) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace.

- Section 719, which prohibits the use of appropriated funds to implement or enforce employee non-disclosure agreements if they do not contain whistleblower protection clauses.

- Section 722, which requires the approval of the Committees on Appropriations for the release of any "non-public" information, such as mailing or telephone lists, to any person or any organization outside the federal government.

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[87] This section was written by Barbara Schwemle, Analyst in American National Government, Government and Finance Division.

[88] *FY2009 Budget, Appendix*, pp. 9-16.

- Section 733, which states that Congress recognizes the United States Anti-Doping Agency as the official anti-doping agency for Olympic, Pan American, and Paralympic sports in the United States.

- Section 735, which prohibits the use of appropriated funds to implement or enforce restrictions or limitations on the Coast Guard Congressional Fellowship Program or to implement OPM's proposed regulations limiting the detail of executive branch employees to the legislative branch.

- Section 737, which requires agencies to provide information on e-government initiatives, including lines of business, in their FY2009 budget justifications.

- Section 738, which requires appropriate executive department and agency heads either to transfer funds to, or reimburse, the Federal Aviation Administration to ensure the uninterrupted, continuous operation of the Midway Atoll airfield.

- Section 739, which prohibits the use of funds to convert an activity or function of an executive agency to contractor performance if more than 10 federal employees perform the activity, unless the analysis reveals that savings would exceed 10% of the most efficient organization's personnel-related costs for performance of the activity or function by federal employees, or $10 million, whichever is lesser.

- Section 742, which precludes contravention of the Privacy Act.

- Section 744, which requires OMB to submit a crosscut budget report on restoration activities for the Great Lakes.

- Section 745, which prohibits funds to be used for federal contracts with expatriated entities.

- Section 747, which prohibits the expenditure of funds on public-private competitions under OMB Circular A-76 or direct conversions related to the Human Resources Lines of Business initiative until 60 days after OMB submits a report to the House and Senate Committees on Appropriations addressing issues of concern.

- Section 748, which requires OMB to establish a pilot program to develop and implement an inventory to track the cost and size of service contracts, particularly those that have been performed poorly, in at least three cabinet-level departments.

The FY2009 budget proposes a new Section 734 to provide a 2.9% pay (annual and locality pay combined) adjustment for federal civilian employees.