Homeland Security Department: FY2010 Appropriations

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Summary

This report describes the FY2010 appropriations for the Department of Homeland Security (DHS). The Administration requested a net appropriation of $44.1 billion in budget authority for FY2010. This amounts to a $2.8 billion, or a 6.7% increase over the $41.2 billion enacted for FY2009 (not including supplemental funding). Total budget authority requested by the Administration for DHS for FY2010 amounts to $55.1 billion.

Net requested appropriations for major agencies within DHS were as follows: Customs and Border Protection (CBP), $10,049 million; Immigration and Customs Enforcement (ICE), $5,458 million; Transportation Security Administration (TSA), $5,267 million; Coast Guard, $9,734 million; Secret Service, $1,490 million; National Protection & Programs Directorate, $1,319 million; Federal Emergency Management Administration (FEMA), $7,235 million; Science and Technology, $968 million; and the Domestic Nuclear Detection Office, $366 million.

This report contains a detailed discussion of the President's budget request for DHS, but due to time constraints, the text does not include a detailed discussion of the House- or Senate-reported versions of the FY2010 bill. The tables reflect the House- and Senate-reported numbers.

The House Committee on Appropriations reported its version of the FY2010 DHS Appropriations bill on June 12, 2009. This report uses House-reported H.R. 2982 and the accompanying committee report (H.Rept. 111-157) as the source for the House-reported numbers. The House-reported H.R. 2982 recommends a net appropriation of $44.0 billion for DHS for FY2010. This amounts to a $205 million decrease as compared to the Administration's request, and a nearly $2.8 billion increase as compared to the $41.2 billion enacted for FY2009 (not including FY2009 supplemental funding).

The Senate Committee on Appropriations reported its version of the FY2010 DHS Appropriations bill on June 17, 2009. This report uses Senate-reported S.1298 and the accompanying committee report (S.Rept. 111-31) as the source for the Senate-reported numbers. The Senate-reported S.1298 recommends a net appropriation of $44.3 billion for DHS for FY2010. This amounts to a $97 million increase as compared to the Administration's request, and a nearly $3.1 billion increase as compared to the $41.2 billion enacted for FY2009 (not including FY2009 supplemental funding).

This report will be updated to reflect congressional action.

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Senate-Reported S.1298

The Senate Committee on Appropriations reported its version of the FY2010 DHS Appropriations bill on June 17, 2009. This report uses Senate-reported S.1298 and the accompanying committee report (S.Rept. 111-31) as the source for the Senate-reported numbers. The Senate-reported S.1298 recommends a net appropriation of $44.3 billion for DHS for FY2010. This amounts to a $97 million increase as compared to the Administration's request, and a nearly $3.1 billion increase as compared to the $41.2 billion enacted for FY2009 (not including FY2009 supplemental funding).

House-Reported H.R. 2892

The House Committee on Appropriations reported its version of the FY2010 DHS Appropriations bill on June 12, 2009. This report uses House-reported H.R. 2892 and the accompanying committee report (H.Rept. 111-157) as the source for the House-reported numbers. The House-reported H.R. 2892 recommends a net appropriation of $44.0 billion for DHS for FY2010. This amounts to a $205 million decrease as compared to the Administration's request, and a nearly $2.8 billion increase as compared to the $41.2 billion enacted for FY2009 (not including FY2009 supplemental funding).

President's FY2010 Budget Submitted

The Administration requested a net appropriation of $44.1 billion in budget authority for FY2010. This amounts to a $2.8 billion, or a 6.7% increase over the $41.2 billion enacted for FY2009 (not including supplemental funding). Total budget authority requested by the Administration for DHS for FY2010 amounts to $55.1 billion.

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Table 1. Legislative Status of Homeland Security Appropriations

Subcommittee Markup							
House	Senate	H.Rept. 111-157	House Passage	S.Rept. 111-31	Senate Passage	Conf. Report	Public Law
6/8 (vv)	6/17 (vv)	6/12 (vv)		6/18 (vv)			

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

Note on Most Recent Data

Data used in this report for FY2009 enacted, and FY2009 total amount are from the President's Budget Documents, the FY2010 *DHS Congressional Budget Justifications*, and the FY2010 DHS *Budget in Brief*. Data used in this report for the President's request and the House-reported amounts are from House-reported H.R.2892 and H.Rept. 111-157; the Senate-reported amounts are from Senate-reported S.1298 and S.Rept. 111-31. Data used in **Appendix C** are taken from the *Analytical Perspectives* volume of the FY2009 President's Budget. Except when discussing total amounts for the bill as a whole, all amounts contained in this report are rounded to the nearest million.

Background

This report describes the President's FY2010 request for funding for DHS programs and activities, as submitted to Congress on May 7, 2009. It compares the enacted FY2009 amounts to the request for FY2010, and tracks legislative action and congressional issues related to the FY2010 DHS appropriations bills with particular attention paid to discretionary funding amounts. The report does not follow specific funding issues related to mandatory funding—such as retirement pay—nor does the report systematically follow any legislation related to the authorization or amendment of DHS programs.

Department of Homeland Security

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

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

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

Through the FY2007 appropriation, Title III contained appropriations for the Preparedness Directorate, Infrastructure Protection and Information Security (IPIS) and the Federal Emergency Management Administration (FEMA). The President's FY2008 request included a proposal to shift a number of programs and offices to eliminate the Preparedness Directorate, create the

NPPD, and move several programs to FEMA. These changes were largely agreed to by Congress in the FY2008 appropriation, reflected by Title III in Division E of P.L. 110-161.

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

302(a) and 302(b) Allocations

The maximum budget authority for annual appropriations (including DHS) is determined through a two-stage congressional budget process. In the first stage, Congress sets overall spending totals in the annual concurrent resolution on the budget. Subsequently, these amounts are allocated among the appropriations committees, usually through the statement of managers for the conference report on the budget resolution. These amounts are known as the 302(a) allocations. They include discretionary totals available to the House and Senate Committees on Appropriations for enactment in annual appropriations bills through the subcommittees responsible for the development of the bills. In the second stage of the process, the appropriations committees allocate the 302(a) discretionary funds among their subcommittees for each of the appropriations bills. These amounts are known as the 302(b) allocations. These allocations must add up to no more than the 302(a) discretionary allocation and form the basis for enforcing budget discipline, since any bill reported with a total above the ceiling is subject to a point of order. 302(b) allocations may be adjusted during the year as the various appropriations bills progress towards final enactment.

The annual concurrent resolution on the budget sets forth the congressional budget. **Table 2** shows DHS's 302(b) allocations for FY2009 and the current appropriations cycle.

Table 2. FY2010 302(b) Discretionary Allocations for DHS

(budget authority in billions of dollars)

FY2009 Comparable	FY2010 Request Comparable	FY2010 House Allocation	FY2010 Senate Allocation	FY2010 Enacted Comparable
$41.2	$44.1			

Source: CRS analysis of the *FY2010 DHS Congressional Budget Justifications.*

Budget Authority, Obligations, and Outlays

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

Budget authority is established through appropriations acts or direct spending legislation and determines the amounts that are available for federal agencies to spend. The Antideficiency Act[1] prohibits federal agencies from obligating more funds than the budget authority that was enacted

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

by Congress. Budget authority may be also be indefinite, as when Congress enacts language providing "such sums as may be necessary" to complete a project or purpose. Budget authority may be available on a one-year, multi-year, or no-year basis. One-year budget authority is only available for obligation during a specific fiscal year; any unobligated funds at the end of that year are no longer available for spending. Multi-year budget authority specifies a range of time during which funds can be obligated for spending; no-year budget authority is available for obligation for an indefinite period of time.

Obligations are incurred when federal agencies employ personnel, enter into contracts, receive services, and engage in similar transactions in a given fiscal year. Outlays are the funds that are actually spent during the fiscal year.[2] Because multi-year and no-year budget authorities may be obligated over a number of years, outlays do not always match the budget authority enacted in a given year. Additionally, budget authority may be obligated in one fiscal year but spent in a future fiscal year, especially with certain contracts.

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

Discretionary and Mandatory Spending

Gross budget authority, or the total funds available for spending by a federal agency, may be composed of discretionary and mandatory spending. Discretionary spending is not mandated by existing law and is thus appropriated yearly by Congress through appropriations acts. The Budget Enforcement Act of 1990[3] defines discretionary appropriations as budget authority provided in annual appropriation acts and the outlays derived from that authority, but it excludes appropriations for entitlements. Mandatory spending, also known as direct spending, consists of budget authority and resulting outlays provided in laws other than appropriation acts and is typically not appropriated each year. However, some mandatory entitlement programs must be appropriated each year and are included in the appropriations acts. Within DHS, the Coast Guard retirement pay is an example of appropriated mandatory spending.

Offsetting Collections[4]

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

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

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

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

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

Table 3 tabulates all of the offsets within the DHS budget as enacted for FY2009 and in the FY2010 request.

Table 3. FY2010 Request: Moving From Gross Budget Authority to Net Appropriation—Fee Accounts, Offsetting Fees, and Trust and Public Enterprise Accounts

(budget authority in millions)

Account/Agency	Account Name	FY2009 Enacted	FY2010 Request
DHS gross budget authority (BA)[a] (gross discretionary + fees+ mandatory + funds)		**52,544**	**55,115**
Discretionary fee funded offsets			
ICE	Federal Protective Service	640	640
TSA	Aviation security fees	2,323	2,249
	TWIC	32	9
	Hazmat	15	15
	Registered Traveler		
FEMA/EPR	National Flood Insurance Fund	157	159
CBP	Small airports	7	8
	Subtotal discretionary fee funded offsets	**3,173**	**3,078**
Mandatory fee funded offsets			
CBP	Immigration inspection	570	522
	Immigration enforcement	3	2
	Land border	27	34
	COBRA	411	398
	APHIS	333	325
	Puerto Rico	97	92
ICE	Immigration inspection	119	110
	SEVIS	120	120
	Breached bond detention fund	60	75
TSA	Aviation security capital fund	250	250
	Checkpoint screening security fund		
	Alien flight school background checks	4	4
USCIS	Immigration examination fee	2,495	2,452
	H1b, and H1b & L fees	44	51

Account/Agency	Account Name	FY2009 Enacted	FY2010 Request
	Subtotal mandatory fee funded offsets	**4,533**	**4,850**
Mandatory budget authority			
Secret service	Secret service retired pay[b]	225	220
Coast guard	Coast guard retired pay[c]	[1,237]	[1,361]
	Subtotal mandatory budget authority	**225**	**220**
Trust funds and public enterprise funds			
CBP	Customs unclaimed goods	6	6
FEMA	National Flood Insurance Fund[d]	3,037	3,085
Coast Guard	Boat safety	134	131
	Oil spill recovery	149	91
	Subtotal trust and public enterprise funds	**3,326**	**3,313**
DHS gross budget authority[a]		**52,544**	**55,115**
Total offsets		**11,257**	**11,048**
Rescissions		**-81**	
DHS net appropriated BA (Mandatory + Discretionary)		**41,205**	**44,067**

Source: CRS analysis of the FY2010 President's Budget, and the DHS *FY2010 Budget in Brief*.

Notes: Totals may not add due to rounding. Totals *do not* include FY2009 supplemental funding.

a. DHS gross budget authority is the total budget authority available to the Department in a given fiscal year. This amount includes both appropriated and non-appropriated funding.

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

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

d. This fund is comprised of both discretionary and mandatory appropriations; thus its component parts appear twice in this table.

Appropriations for the Department of Homeland Security

DHS Appropriations Trends

Table 4 presents DHS Appropriations, as enacted, for FY2003 through the FY2010 request. The appropriation amounts are presented in current dollars and are not adjusted. The amounts shown in **Table 4** represent enacted amounts at the time of the start of the next fiscal year's appropriation cycle (with the exception of FY2009). Thus, the amount shown for FY2003 is the enacted amount shown in the House Committee report attached to the FY2004 DHS Appropriations bill. FY2008 is from the Joint Explanatory Statement for Division E of P.L. 110-161, and FY2009 and the FY2010 are from the FY2010 DHS Budget Justifications.

Table 4. DHS Appropriations, FY2003-FY2010

(budget authority in millions of dollars)

FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010 request
29,069[a]	30,175[b]	30,554[c]	31,679	35,311[d]	38,817[e]	41,205[f]	44,067

Sources: FY2003 enacted taken from H.Rept. 108-169; FY2004 enacted taken from H.Rept. 108-541; FY2005 enacted taken from H.Rept. 109-79; FY2006 enacted taken from H.Rept. 109-476; FY2007 appropriation amounts are from the H.Rept. 110-181; and FY2008 enacted amounts are from Division E of P.L. 110-161, and tables in the Joint Explanatory Statement for Division E, published in the Congressional Record, December 17, 2007, pp. H16107-H16121 (incorporating amendments to the budget request). FY2009 enacted taken from the DHS Joint Explanatory Statement as submitted in the Congressional Record, and in the House- and Senate-enrolled version of H.R. 2638, and FY2010 Request numbers are from the *FY2010 DHS Congressional Budget Justifications*.

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

a. S.Rept. 108-86 reported the FY2003 enacted amount as $29,287 million. CRS was unable to identify the reason for this discrepancy. For the purposes of this table the House number was used to maintain consistency with other fiscal years.

b. Amount does not include $4,703 million in advance appropriations for Project Bioshield.

c. Amount does not include $2,508 million in advance appropriations for Project Bioshield

d. Amount includes $1,829 million in emergency budget authority that was enacted as a part of the FY2007 DHS Appropriations Act (P.L. 109-295).

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

f. This amount has been adjusted to match the amount reported in the DHS FY2010 Congressional Budget Justifications. There is a $20 million discrepancy between the amount reported in the Joint Explanatory Statement (JES) in the Congressional Record. The JES reports a total for DHS for FY2009 as $41,225, while the Congressional Budget Justifications for FY2010 show this amount as $41,205 million.

Summary of DHS Appropriations

Table 5 is a summary table comparing the enacted appropriations for FY2009 and the request for appropriations for FY2010.

Table 5. DHS: Summary of Appropriations

(budget authority in millions of dollars)

Operational Component	FY2010 Appropriation				FY2010 Appropriation			
	FY2009 Enacted	FY2009 Supp.	FY2009 Resc.	FY2009 Total	FY2010 Request	FY2010 House-Reported	FY2010 Senate-Reported	Total FY2010
Title I								
Departmental Operations	645	200		845	905	782	861	
Analysis and Operations	327			327	357	346	348	
Office of the Inspector General	99	5		120	128	128	132	
Subtotal: Title I	**1,071**	**205**		**1,276**	**1,390**	**1,255**	**1,341**	
Title II								
Customs and Border Protection	9,821	680		10,501	10,049	9,967	10,170	
Immigration and Customs Enforcement	4,989	20		5,009	5,458	5,428	5,445	
Transportation Security Administration	4,369	1,000		5,369	5,396	5,294	5,312	
U.S. Coast Guard	9,341	352		9,693	9,729	9,968	10,239	
U.S. Secret Service	1,413			1,413	1,490	1,461	1,487	
Net subtotal: Title II	**29,931**	**2,052**		**31,983**	**32,122**	**32,120**	**32,653**	
Total fee collections	4,997	—		5,004	4,128	5,260	4,114	
Gross subtotal: Title II	**34,935**	**2,052**		**36,987**	**36,250**	**37,380**	**36,767**	
Title III								
National Protection & Programs Directorate	1,158	—		1,158	1,319	1,280	1,324	
Office of Health Affairs	157	—		157	138	128	135	
Federal Emergency Management Administration	7,038	610		7,573	7,235	7,353	7,078	
Net subtotal: Title III	**8,353**	**610**		**8,963**	**8,692**	**8,761**	**8,538**	
Total fee collections					640		1,115	

Operational Component	FY2010 Appropriation				FY2010 Appropriation			
	FY2009 Enacted	FY2009 Supp.	FY2009 Resc.	FY2009 Total	FY2010 Request	FY2010 House-Reported	FY2010 Senate-Reported	Total FY2010
Gross subtotal: Title III	**8,353**	**610**		**8,963**	**9,332**	**8,761**	**9,652**	
Title IV								
Citizenship and Immigration Services	102			102	364	248	136	
Federal Law Enforcement Training Center	333			333	289	283	288	
Science and Technology	933			933	968	968	995	
Domestic Nuclear Detection Office	514			514	366	366	374	
Net subtotal: Title IV	**1,882**			**1,882**	**1,987**	**1,865**	**1,792**	
Total fee collections	2,539			2,539	2,503	2,503	2,503	
Gross subtotal: Title IV	**4,421**			**4,421**	**4,490**	**4,368**	**4,295**	
Rescissions	**-28**			**-28**		**-14**	**-36**	
Gross DHS budget authority	**48,748**	**2,765**		**51,513**	**51,268**	**51,749**	**52,020**	
Total fee collections	-7,543	—		-7,543	-7,077	-7,763	-7,732	
Net DHS budget authority	**41,205**	**2,765**		**43,970**	**44,191**	**43,986**	**44,288**	

Sources: CRS Analysis of the *FY2010 DHS Congressional Budget Justifications*, the *FY2010 DHS Budget in Brief,* House-reported H.R. 2892 and H.Rept. 111-157, and Senate-reported S.1298 and S.Rept. 111-31.

Notes: Tables may not add due to rounding.

Title I: Departmental Management and Operations[5]

Title I covers the general administrative expenses of DHS. It includes the Office of the Secretary and Executive Management (OS&EM), which is comprised of the immediate Office of the Secretary and 12 entities that report directly to the Secretary; the Under Secretary for Management (USM) and its components, such as the offices of the Chief Administrative Officer, Chief Human Capital Officer, and Chief Procurement Officer; the Office of the Chief Financial Officer (OCFO); the Office of the Chief Information Officer (OCIO); Analysis and Operations Office (AOO); Office of the Federal Coordinator for Gulf Coast Rebuilding (OFCGCR); and Office of the Inspector General (OIG). **Table 6,** below, shows Title I appropriations for FY2009 and congressional action on the request for FY2010.

Table 6. Title I: Department Management and Operations

(budget authority in millions of dollars)

	FY2009 Appropriation				FY2010 Appropriation			
Operational Component	**FY2009 Enacted**	**FY2009 Supp.**	**FY2009 Resc.**	**FY2009 Total**	**FY2010 Request**	**FY2010 House-reported**	**FY2010 Senate-reported**	**Total FY2010**
Office of the Secretary and Executive Management	123	—		123	161	147	149	
Office of the Under Secretary for Management	192	200		392	338	269	308	
Office of the Chief Financial Officer	55	—		55	66	64	64	
Office of the Chief Information Officer	272	—		272	338	300	338	
Analysis and Operations	327	—		327	357	346	348	
Office of the Federal Coordinator for Gulf Coast Rebuilding	2	—		2	2	2	2	
Office of the Inspector General	115[a]	5		120	128	128[b]	132[b]	
Net Budget Authority: Title I	**1,086**	**205**		**1,291**	**1,390**	**1,255**	**1,341**	

Sources: CRS Analysis of the *FY2010 DHS Congressional Budget Justifications*, the *FY2010 DHS Budget in Brief,* House-reported H.R. 2892 and H.Rept. 111-157, and Senate-reported S.1298 and S.Rept. 111-31.

Note: Tables may not add due to rounding.

a. Does not include a $16 million transfer of funds from FEMA's Disaster Relief account.

b. Includes a $16 million transfer of funds from FEMA's Disaster Relief account.

[5] Prepared by Barbara L. Schwemle, Analyst in American National Government, Government and Finance Division.

President's FY2010 Request

FY2010 requests compared to the FY2009 enacted appropriations were as follow: OS&EM, $161 million, an increase of $38 million (+31%); USM, $338 million, an increase of $146 million (+43%) when compared to the FY2009 enacted, (or a decrease of $54 million (-14%) as compared with the total provided for FY2009 including supplemental amounts); OCFO, $66 million, an increase of $11 million (+20%); OCIO, $338 million, an increase of $66 million (+24%); AOO, $357 million, an increase of $30 million (+9%); OFCGCR, $2 million, the same amount; and OIG, $128 million, an increase of $8 million (+7%). The total FY2010 request for Title I was $1,390 million. This represents an increase of $97 million (+8%) over the FY2009 total (enacted and supplemental funding).[6]

Of the amounts requested, the largest increase would occur in the OS&EM (requesting $161 million and 678 full-time equivalent (FTE) employees). Within OS&EM, program increases are requested for the Office of Policy (requesting $62 million and 208 FTE) and the Office for Civil Rights and Civil Liberties (requesting $22 million and 99 FTE). Increased funding for the former office would be used for continued efforts to "strengthen DHS's ability to maintain policy and operational readiness necessary to protect the homeland" and for the latter office would support staff increases. Other areas of increased OS&EM funding include requests of: $7 million and 36 FTE for the Citizenship and Immigration Services Ombudsman to, among other activities, "establish a Virtual Ombudsman's Office to provide for online case problem submission, improved analysis and reporting capabilities, and an electronic interface with customers and stakeholders as another avenue to share concerns and solutions" and $4 million and 17 FTE for activities of the Office of Counternarcotics Enforcement, including "increase[d] involvement in counterdrug issues related to Afghanistan and Southwest Asia."[7]

Personnel Issues[8]

The Office of the Chief Human Capital Officer (OCHCO) manages and administers human resources at DHS and includes the Office of Human Capital (OHC). The OCHCO "establishes policy and procedures" and provides "oversight, guidance, and leadership within the Department" for the various functions under human capital management. These functions are policy and programs, learning and development, executive resources, human capital business systems, headquarters human resources management services, and business support and operations. The OCHCO reports to the Under Secretary for Management, and its appropriation is included in that of the Under Secretary. The OHC implements the Human Capital Operational Plan and is organized around the initiatives of talent management, performance culture, learning and development, and service excellence.[9]

Table 7, below, shows the funding and staff for the OCHCO for FY2009 and congressional action on the request for FY2010.

[6] DHS, FY2010 Budget Overview, pp. 2-3.

[7] FY2010 DHS Justifications, Departmental Management and Operations, Office of the Secretary and Executive Management, pp. OSEM-71 – OSEM-74.

[8] Prepared by Barbara L. Schwemle, Analyst in American National Government, Government and Finance Division.

[9] FY2010 DHS Justifications, Departmental Management and Operations, Under Secretary for Management, p. USM-2; and FY2010 DHS Justifications, Departmental Management and Operations, Under Secretary for Management, Strategic Context, p. USM-3.

Table 7. Office of the Chief Human Capital Officer Appropriations

(budget authority in millions of dollars)

Account	FY2009 Enacted	FY2010 Request	FY2010 House-reported	FY2010 Senate-reported	Total FY2010
Salaries and Expenses CHCO	$29	$34	34	34	
Human Resources—Operational Initiatives and HR Management Systems	$10	$10	10	10	
Total	**$39**	**$44**	**44**	**44**	
Staffing (full time equivalent, FTE, positions)	79	89	N/A	N/A	

Sources: FY2010 DHS Justifications, Departmental Management and Operations, Under Secretary for Management, p. USM-4, and the draft of House-reported version of the FY2010 DHS Appropriations bill, H.Rept. 111-157, and S.Rept. 111-31.

Note: Tables may not add due to rounding.

President's FY2010 Request

According to the DHS Justifications, the FY2010 budget requested $44 million[10] and 89 full-time equivalent (FTE) employees for the OCHCO.[11] The requested funding is $5 million above the $39 million provided for FY2009. The number of FTEs would increase by 10 over the 79 authorized for FY2009. An appropriation is not requested for the new human resources management system that was authorized in P.L. 107-296.[12]

The justification that accompanied the DHS budget request for FY2010 stated that the increased funding would be used for continued support of learning and development of the department's workforce through the Preparedness Center, the Leadership Institute, the Homeland Security Academy, and the Center for Academic and Interagency Outreach; human capital programs; and investments in programs to foster diversity, recruitment, and retention.[13] The competencies required for mission critical occupations within DHS will be reassessed in FY2010 and any gaps that are revealed will be closed through training and development, such as classroom courses, details, and rotations through various positions. The skill and proficiency levels of the department's human resources staff will be increased through continuing professional development.

[10] Salaries and benefits ($14 million) and other services ($22 million) account for 82% of the total of $44 million. Other services include contractual services with non-federal sources.

[11] FY2010 DHS Justifications, Departmental Management and Operations, Under Secretary for Management, p. USM-7.

[12] Title VIII, Subtitle E, Section 841 of P.L. 107-296, enacted on November 25, 2002 (116 Stat. 2135, at 2229-2234), established a new human resources management system for DHS. P.L. 110-329, enacted on September 30, 2008, prohibits the use of appropriated funds to implement the new personnel system and its development was halted by DHS effective on October 1, 2008.

[13] DHS Justifications, Departmental Management and Operations, Under Secretary for Management, Strategic Context, pp. USM-3-USM-4.

The Human Resources Information Technology (HRIT) program is designed to "merge and modernize the DHS HRIT infrastructure to provide flexibility and the management information that will allow DHS to continuously evolve." In 2010, a new enterprise performance management system is expected to be implemented under HRIT. Departmental goals to enhance workforce diversity include the establishment of a Diversity Outreach Advisory Forum and training of managers and executives on recruiting and supervising a diverse workforce.[14]

Analysis and Operations[15]

The DHS intelligence mission is outlined in Title II of the Homeland Security Act of 2002 (codified at 6 U.S.C. 121). Organizationally, and from a budget perspective, there have been several changes to the information, intelligence analysis, and infrastructure protection functions at DHS. Pursuant to the Homeland Security Act of 2002, the Information Analysis and Infrastructure Protection (IAIP) Directorate was established. The act created an Under Secretary for IAIP to whom two Assistant Secretaries, one each for Information Analysis (IA) and Infrastructure Protection (IP), reported. The act outlined 19 functions for the IAIP Directorate, including the following, among others:

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

Former Secretary Chertoff's Second Stage Review reorganization of the Department in 2005 made several changes to the DHS intelligence structure. IAIP was disbanded and the Office of Infrastructure Protection was placed within the newly-created National Protection and Programs Directorate. The Office of Information Analysis was renamed the Office of Intelligence and Analysis and became a stand alone entity. The Assistant Secretary for Intelligence Analysis was designated the Department's Chief Intelligence Officer.[31] Pursuant to the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53), the Homeland Security Act of 2002 (codified at 6 U.S.C. 201) was amended to codify the Office of Intelligence and Analysis and the Office of Infrastructure Protection and made the head of the Office of Intelligence and Analysis an Under Secretary position. It also designated the Under Secretary for Intelligence and

[14] DHS Justifications, Departmental Management and Operations, Under Secretary for Management, pp. USM-9 and USM-12 - USM-13.

[15] Prepared by Mark A. Randol, Specialist in Domestic Intelligence and Counterterrorism, Domestic Social Policy Division.

Analysis as the Department's Chief Intelligence Officer with responsibility for managing the entire DHS Intelligence Enterprise.[32]

In 2008, former Secretary Chertoff established the Office of Operations Coordination and Planning (OPS), built on the foundation of the former Office of Operations Coordination. OPS supports Departmental and interagency crisis and contingency planning and operations to support the Secretary of Homeland Security in his/her role as the principal Federal official for domestic incident management.[16]

President's FY2010 Request

The FY2010 request for the Analysis and Operations (AOO) account is $357 million, an increase of nearly $30 million (+9%) over the enacted FY2009 amount. It should be noted that funds included in this account support both the Office of Intelligence and Analysis (I&A) and the Office of Operations Coordination and Planning (OPS). I&A is responsible for managing the DHS Intelligence enterprise and for collecting, analyzing, and sharing intelligence information for and among all components of DHS, and with the State, local, tribal, and private sector homeland security partners. As a member of the Intelligence Community, I&A's budget is part of the National Intelligence Program, a classified program document. OPS develops and coordinates departmental and interagency operations plans and manages the National Operations Center, the primary 24/7 national-level hub for domestic incident management, operations coordination, and situational awareness, fusing law enforcement, national intelligence, emergency response, and private sector information.

Title II: Security Enforcement and Investigations

Title II contains the appropriations for the Bureau of Customs and Border Protection (CBP), the Bureau of Immigration and Customs Enforcement (ICE), the Transportation Security Administration (TSA), the US Coast Guard, and the US Secret Service. **Table 8** shows the FY2009 enacted and FY2010 appropriation action for Title II.

[16] According to Homeland Security Presidential Directive (HSPD)-5, *Management of Domestic Incidents*, (2003): "To prevent, prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies, the United States Government shall establish a single, comprehensive approach to domestic incident management.... The Secretary of Homeland Security is the principal Federal official for domestic incident management."

Table 8. Title II: Security, Enforcement, and Investigations

(budget authority in millions of dollars)

	FY2009 Appropriation				FY2010 Appropriation			
Operational Component	**FY2009 Enacted**	**FY2009 Supp.**	**FY2009 Resc.**	**FY2009 Total**	**FY2010 Request**	**FY2010 House-Reported**	**FY2010 Senate-Reported**	**Total FY2010**
Customs & Border Protection								
Salaries and expenses	7,603	160		7,763	7,623	7,577	8,076	
Automation modernization	511			511	462	462	462	
Air and Marine Interdictions	528			528	506	514	516	
Border Security Fencing, Infrastructure, and Technology	775	100		875	779	732	800	
Facilities Management (Construction)	403	420		823	679	682	316	
Fee accounts[a]	1,448			1,448	1,432	1,432	1,432	
Gross total	**11,268**	**680**		**11,948**	**11,481**	**11,399**	**11,602**	
Offsetting collections	-1,448			-1,448	-1,432	-1,432	-1,432	
Net total	**9,821**	**680**		**10,501**	**10,049**	**9,967**	**10,170**	
Immigration & Customs Enforcement								
Salaries and expenses	4,927			4,927	5,348	5,311	5,360	
Federal Protective Services (FPS)	640			640	[b]	1,115	[c]	
Automation & infrastructure modernization	57	20		77	110	110	85	
Construction	5			5		7		
Fee accounts[d]	299			299	318	318	304	
Gross total	**5,928**	**20**		**5,948**	**5,776**	**6,861**	**5,750**	
Offsetting FPS fees	-640			-640		-1,115		
Offsetting collections	-299			-299	-318	-318	-304	
Net total	**4,989**	**20**		**5,009**	**5,458**	**5,428**	**5,445**	

Operational Component	FY2009 Appropriation				FY2010 Appropriation			
	FY2009 Enacted	FY2009 Supp.	FY2009 Resc.	FY2009 Total	FY2010 Request	FY2010 House-Reported	FY2010 Senate-Reported	Total FY2010
Transportation Security Administration								
Aviation security (gross funding)	4,741	1,000		5,741	5,311	5,266	5,238	
Surface Transportation Security	63			63	128	103	143	
Transportation Threat Assessment and Credentialing	116			116	192	172	172	
Credentialing Fees[e]	47			47	28	45	28	
Transportation Security Support	950			950	1,005	993	1,000	
Federal Air Marshals	819			819	860	860	860	
Aviation security capital fund[f]	250			250	250	250	250	
Gross total	**6,986**	**1,000**		**7,986**	**7,774**	**7,689**	**7,690**	
Offsetting collections	-2,320			-2,320	-2,100	-2,100	-2,100	
Credentialing/Fee accounts	-47			-47	-28	-45	-28	
Aviation security capital fund (mandatory spending)	-250			-250	-250	-250	-250	
Net total	**4,367**	**1,000**		**5,367**	**5,396**	**5,294**	**5,312**	
U.S. Coast Guard								
Operating expenses	6,195	112		6,307	6,556[g]	6,822	6,838[h]	
Environmental compliance & restoration	13			13	13	13	13	
Reserve training	131			131	134	134	134	
Acquisition, construction, & improvements	1,495	98		1,593	1,384	1,347	1,598	
Alteration of bridges	16	142		158		10	4	
Research, development, tests, & evaluation	18			18	20	20	30	
Retired pay (mandatory, entitlement)	1,237			1,237	1,361	1,361	1,361	
Health care fund contribution	257			257	261	261	261	
Gross total	**9,341**	**352**		**9,693**	**9,729[g]**	**9,968**	**10,239[h]**	

Operational Component	FY2009 Appropriation				FY2010 Appropriation			
	FY2009 Enacted	FY2009 Supp.	FY2009 Resc.	FY2009 Total	FY2010 Request	FY2010 House-Reported	FY2010 Senate-Reported	Total FY2010
U.S. Secret Service								
Salaries and expenses	1,409			1,409	1,486	1,457	1,483	
Acquisition, construction, improvements, and related expenses	4			4	4	4	4	
Gross total	**1,413**			**1,413**	**1,490**	**1,461**	**1,487**	
Gross Budget Authority: Title II	**34,935**	**2,052**		**36,987**	**36,250**	**37,380**	**36,767**	
Offsetting collections:	**-5,004**			**-5,004**	**-4,128**	**-5,260**	**-4,114**	
Net Budget Authority: Title II	**29,931**	**2,052**		**31,983**	**32,122**	**32,120**	**32,653**	

Source: CRS Analysis of the *FY2010 DHS Congressional Budget Justifications*, the *FY2010 DHS Budget in Brief,* House-reported H.R. 2892 and H.Rept. 111-157, and Senate-reported S.1298 and S.Rept. 111-31.

Notes: Tables may not add due to rounding.

a. Fees include COBRA, Land Border, Immigration Inspection, Immigration Enforcement, and Puerto Rico.

b. The FY2010 requests proposes to move FPS to the NPPD under Title III, see **Table 14**.

c. The Senate-reported version of S. 1298 also moves FPS to the NPPD under Title III, see **Table 14**.

d. Fees include Exam, Student Exchange and Visitor Fee, Breached Bond, Immigration User, and Land Border.

e. Fees include TWIC, HAZMAT, Registered Traveler, and Alien Flight School Checks.

f. Aviation Security Capital Fund, used for installation of Explosive Detection Systems at airports.

g. Does not include $242 million for overseas contingency operations.

h. Includes $242 million for overseas contingency operations.

Customs and Border Protection (CBP)[17]

CBP is responsible for security at and between ports-of-entry along the border. Since September 11, 2001, CBP's primary mission is to prevent the entry of terrorists and the instruments of terrorism. CBP's ongoing responsibilities include inspecting people and goods to determine if they are authorized to enter the United States; interdicting terrorists and instruments of terrorism; intercepting illegal narcotics, firearms, and other types of contraband; interdicting unauthorized travelers and immigrants; and enforcing more than 400 laws and regulations at the border on behalf of more than 60 government agencies. CBP is comprised of the inspection functions of the legacy Customs Service, Immigration and Naturalization Service (INS), and the Animal and Plant Health Inspection Service (APHIS); the Office of Air and Marine Interdiction, now known as CBP Air and Marine (CBPAM); and the U.S. Border Patrol (USBP). See **Table 8** for account-level detail for all of the agencies in Title II, and **Table 9** for sub-account-level detail for CBP Salaries and Expenses (S&E) for FY2008 and FY2009.

Table 9. CBP S&E Sub-account Detail

(budget authority in millions of dollars)

Activity	FY2009 Enacted	FY2010 Request	FY2010 House-Reported	FY2010 Senate-Reported	FY2010 Enacted
Headquarters Management and Administration	**1,269**	**1,021**	**982**	**1,419**	
Border Security Inspections and Trade Facilitation @ POE	**2,561**	**2,736**	**2,728**	**2,770**	
Inspections, Trade & Travel Facilitation @ POE	2,094	2,255	2,250	2,269	
Container Security Initiative (CSI)/ International Cargo Screening (ICS)	149	165	162	165	
Other International Programs	11	11	11	11	
C-TPAT	64	63	63	63	
FAST/NEXUS/SENTRI	11	11	11	11	
Inspection and Detection Technology	146	144	144	164	
Systems for Targeting	33	33	33	33	
National Targeting Center	24	26	26	27	
Training at POE	25	25	25	25	
Harbor Maintenance Fee	3	3	3	3	
Border Security and Control Between POE	**3,501**	**3,557**	**3,558**	**3,577**	
Border Security and Control Between POE	3,426	3,505	3,505	3,525	

[17] Prepared by Jennifer E. Lake, Analysts in Domestic Security, and Chad C. Haddal, Analyst in Immigration Policy, Domestic Social Policy Division.

Activity	FY2009 Enacted	FY2010 Request	FY2010 House-Reported	FY2010 Senate-Reported	FY2010 Enacted
Training Between the POE	75	52	52	52	
Air and Marine Operations - Salaries	**272**	**310**	**310**	**310**	
Rescission	—	—	—	—	
CBP Salaries and Expenses Total:	**7,603**[a]	**7,623**	**7,577**	**8,076**	

Source: CRS Analysis of the *FY2010 DHS Congressional Budget Justifications*, the *FY2010 DHS Budget in Brief*, House-reported H.R. 2892 and H.Rept. 111-157, and Senate-reported S.1298 and S.Rept. 111-31.

Note: Tables may not add due to rounding.

a. This total does not include $160 million in emergency funding appropriated by P.L. 111-5.

President's FY2010 Request

The Administration requested an appropriation of $11,431 million in gross budget authority for CBP for FY2010, amounting to a $163 million (or 1%) increase over the enacted FY2009 level of $11,268 million. The Administration requested $10,049 million in net budget authority for CBP in FY2010, which amounts to a $228 million increase over the net FY2009 appropriation of $9,821 million.

Issues for Congress

Issues that Congress could consider during the FY2010 appropriations cycle include funding for and deployment of the Secure Border Initiative (SBI) technologies known as SBInet; CBP officers and Border Patrol agents hiring and staffing levels; the Western Hemisphere Travel Initiative (WHTI); the designation of CBP Officers as law enforcement officers for retirement purposes; and the declining request for appropriations for some cargo security initiatives.

Fencing, Infrastructure, and Technology

The Administration requested $779 million for the deployment of SBInet[18] related technologies and infrastructures in FY2010, a decrease of $4 million over the FY2009 enacted level of $775 million (this total does not include $100 million from the American Recovery and Reinvestment Act[19]). Within the FY2010 request, the Administration is proposing to allocate $494 million for developing and deploying additional technology and infrastructure solutions to the southwest border. An additional $200 million is requested for operations and maintenance of the cameras, sensors, and tactical infrastructure (TI) fencing. The Administration notes that this will fund the costs associated with operating and maintaining the technologies that have already been deployed

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

[19] P.L. 111-5.

to the border as part of the SBI program. CBP states that the 670 miles of pedestrian and vehicle fencing along the southwest border are largely completed, and their attention will now shift towards other priorities, including the deployment of multiple SBInet projects.[20] The management of SBInet, however, has come under scrutiny. The Government Accountability Office (GAO) noted that the Border Patrol was not consulted early enough in the process of developing the technology solutions that would be used by SBInet, and that this fact combined with some challenges relating to the integration of the technologies deployed by Boeing led to an eight month delay in the initial pilot program's deployment in Tucson Sector.[21] Oversight of the SBInet program's continuing deployment of technology at the border, including whether DHS is on track to meet its goals, may be an issue of concern to Congress as it considers the FY2010 request.

Western Hemisphere Travel Initiative (WHTI)

The Administration requested an increase of $21 million for WHTI in FY2010. WHTI requires U.S. citizens, and Canadian, Mexican, and some island nation nationals to present a passport, or some other document or combination of documents deemed sufficient to denote identity and citizenship status by the Secretary of Homeland Security, as per P.L. 108-458 §7209. DHS has already required all U.S. citizens entering the country at air and sea POE to present passports as of January 18, 2007. P.L. 110-161, the Consolidated Appropriations Act, 2008, which requires U.S. citizens to provide proof of identity and citizenship at the land border, took effect June 1, 2009. Moreover, as of January 31, 2008 DHS has ended the practice of accepting oral declarations of citizenship at the land border and is requiring U.S, citizens to present a passport, some other accepted biometric document, or the combination of a driver's license and a birth certificate, in order to re-enter the country[22] (although DHS has made public assurances that immigration inspectors will be allowed some discretion immediately following the WHTI requirements taking effect).[23] Issues for Congress include whether dissemination of WHTI documents is large enough to prevent a detrimental impact on the border regions, whether the proposed staffing increases and infrastructure modifications are adequate to meet the needs associated with the WHTI program, and whether the program to develop enhanced state driver's licenses that may be used to cross the land-border adequately addresses security concerns.[24]

Other Travel Programs

The new International Registered Traveler program enacted by the FY2008 Consolidated Appropriations Act, and which has been renamed Global Entry by the Administration, is currently

[20] *DHS FY2010 Justification*, p. CBP BSFIT 2.

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

[22] Department of Homeland Security, Press Release, *DHS Ends Oral Declarations at Borders, Reminds Travelers of New Procedures*, on January 31, January 18, 2008.

[23] Comments of Colleen Manahaer, Director, WHTI, at *New Administration, New Border Policy: International Conference and Congressional Briefing of the Border Trade Alliance*, Washington, DC, April 20, 2009.

[24] DHS entered into an agreement to with Washington State to develop driver's licenses that would be considered WHTI-compliant. These enhanced driver's licenses (EDL) have been issued since January 22, 2008 and several other states have signed agreements with DHS to develop their own EDLs. For additional information and discussion, see CRS Report RL32754, *Immigration: Analysis of the Major Provisions of the REAL ID Act of 2005*, by Michael John Garcia, Margaret Mikyung Lee, and Todd B. Tatelman.

being rolled out. The program gives pre-approved, low-risk travelers (U.S. Citizens and Legal Permanent Residents) expedited clearance into the United States at seven airports, and the program will eventually expand to the 20 busiest international airports.[25] An agreement with the Government of the Netherlands will allow qualified U.S. citizens to join Privium, the Dutch equivalent to Global Entry, and allow Dutch citizens to join Global Entry.[26] In addition, pursuant to requirements under Section 711 of the Implementing the Recommendations of the 9/11 Commission Act of 2007,[27] the Electronic System for Travel Authorization (ESTA) has been established to screen Visa Waiver Program travelers prior to travel to the United States. As eight countries were added to the Visa Waiver Program in 2008,[28] the ESTA program is projected to process over 17 million ESTA applications submitted by VWP travelers.[29]

Secure Freight Initiative (SFI)

The Secure Freight Initiative (SFI) is the next stage in the Department's effort to secure cargo containers in-bound to the U.S. from foreign countries. According to DHS, SFI is now being characterized as a "three-pronged approach to enhance supply chain security."[30] The three prongs of this approach are: the International Container Security project (ICS); the project to acquire data elements to improve risk-based targeting of containers, known as the Security Filing (SF) or "10+2"; and the efforts to identify and acquire technology to enhance cargo scanning and risk assessment capabilities.[31] The ICS is the component of the strategy whereby all U.S.-bound maritime containers are subject to an integrated scan (image and radiation detection) at the participating overseas port before being loaded on the U.S.-bound vessel. ICS is currently fully operational and scanning 100% of U.S.-bound containers at the Port of Southampton in the United Kingdom, the Port of Qasim in Pakistan, and at Puerto Cortes in Honduras.[32]

The SF initiative, also referred to as "10+2" by CBP, is the latest effort to collect additional data pertaining to U.S.-bound maritime shipments. The SF initiative will allow CBP to collect additional data earlier in the supply chain to enhance risk assessment capabilities before cargo is loaded onto U.S.-bound vessels. CBP issued the final rule setting out the implementation of the 10+2 data requirements November 25, 2008.[33] The rule took effect on January 26, 2009, but is being implemented under a "delayed compliance period" which is currently scheduled to last 12 months.

CBP Congressional Budget Justification materials indicated that the $165 million request for ICS in FY2010 includes a $16 million increase for Secure Freight, the majority of which is what is

[25] U.S. Customs and Border Protection, *Global Entry Program Overview*, Washington, DC, February 12, 2009, http://www.cbp.gov/xp/cgov/travel/trusted_traveler/global_entry/global_entry_discription.xml.

[26] U.S. Customs and Border Protection, *Global Entry with Expedited Entry into the Netherlands*, Washington, DC, May 5, 2009, http://www.cbp.gov/xp/cgov/travel/trusted_traveler/global_entry/global_entry_flux.xml.

[27] P.L. 110-53.

[28] These eight countries were Estonia, Czech Republic, Hungary, Latvia, Lithuania, Slovakia, South Korea, and Malta.

[29] *DHS FY2010 Budget Justification*, p. CBP S&E 15.

[30] DHS, *FY2009 Congressional Budget Justifications*, p. CBP-SE-26.

[31] DHS *FY2010 Congressional Budget Justifications*, p. CBP-S&E-23.

[32] Ibid. p. CBP-S&E-24.

[33] Department of Homeland Security, Customs and Border Protection, "19 CFR Parts 4, 12, 18, et al.: Importer Security Filing and Additional Carrier Requirements; Final Rule," 73 *Federal Register* 71730-71785, November 25, 2008.

characterized as a "base funding adjustment".[34] According to the budget justification materials, the goals for FY2010 include expanding 'as permitted' SFI to an additional 9 locations that would focus on high-risk trade corridors. An issue for Congress might be whether or not the requested increase of $16 million is sufficient to support the expansion of SFI, given that the majority of the requested increase has been characterized as an adjustment to base funding, rather than as a programmatic increase. Congress may also wish to examine the criteria CBP is using to select the additional SFI locations, and in particular their designation as high-risk.

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

Container Security Initiative

CSI is a program by which CBP stations CBP officers in foreign ports to target high-risk containers for inspection before they are loaded on U.S.-bound ships. CSI is currently operational in 58 ports. This year, the requested $165 million for FY2010 includes funding for CSI/ICS, SFI, the Security Filing (SF), and technology acquisition efforts. As noted above, the CBP Budget Justifications indicate a requested increase of nearly $16 million for the CSI/ICS program for FY2010. However, as noted above, the majority of the requested increase appears targeted to SFI, and thus the FY2010 budget request does not appear to include any additional funding for CSI. Congress may wish to explore in more detail the current and potential relationship between the CSI and SFI programs, and whether or not it would be beneficial to have a separate budgetary presentation for the CSI and SFI programs. Currently, it is difficult to assess what portion of the ICS account is dedicated to the CSI program.

Immigration and Customs Enforcement (ICE)[35]

ICE focuses on enforcement of immigration and customs laws within the United States. ICE develops intelligence to reduce illegal entry into the United States and is responsible for investigating and enforcing violations of the immigration laws (e.g., alien smuggling, hiring unauthorized alien workers). ICE is also responsible for locating and removing aliens who have overstayed their visas, entered illegally, or have become deportable. In addition, ICE develops intelligence to combat terrorist financing and money laundering, and to enforce export laws against smuggling, fraud, forced labor, trade agreement noncompliance, and vehicle and cargo theft. Furthermore, this bureau oversees the building security activities of the Federal Protective Service (FPS), formerly of the General Services Administration. For FY2010, the Administration has proposed moving the FPS from ICE to NPPD in Title III. See **Table 8** for account-level detail for all of the agencies in Title II, and **Table 10** for sub-account-level detail for ICE Salaries and Expenses (S&E) for FY2009 and FY2010.

[34] DHS, *FY2010 Congressional Budget Justification*, CBP-S&E-21, accessed at http://www.dhs.gov/xlibrary/assets/budget_fy2009.pdf.

[35] Prepared by Alison Siskin, Specialist in Immigration Policy, Domestic Social Policy Division.

President's FY2010 Request

The Administration requested $5,763 million in gross budget authority for ICE in FY2010. This represented a 2.7% decrease over the enacted FY2009 level of $5,928 million. However, this decrease is misleading, because of the proposed transfer of FPS from ICE to NPPD. The Administration requested an appropriation of $5,458 million in net budget authority for ICE in FY2010, representing a 9% increase over the FY2009 enacted level (including the Supplemental) of $4,989 million. **Table 10** provides activity-level detail for the Salaries and Expenses account. The request includes the following increases:

- $70 million for the Southwest Border Enforcement Program;
- $92 million for the co-location of ICE facilities;
- $39.1 million for Secure Communities;[36]
- $12 million for the Detention Facilities Inspection Group;
- $12 for the Office of State and Local Coordination;
- $34 million to move data center operations from Department of Justice's centers to DHS centers.

Table 10. ICE S&E Sub-account Detail

(budget authority in millions of dollars)

Activity	FY2009 Enacted[a]	FY2010 Request[a]	FY2010 House-Reported	FY2010 Senate-Reported	FY2010 Enacted
Management (HQ) & Administration	**0**	**0**	**486**	**522**	
Legal Proceeding	**240**	**260**	**222**	**222**	
Investigations - Domestic	1,696	1,884	1,643	1,667	
Investigations - International	111	119	113	113	
Visa Security Program[b]	28	32	30	30	
Total Investigations	**1,835**	**2,035**	**1,786**	**1,810**	
Intelligence	**64**	**80**	**68**	**72**	
DRO-Custody Operations	1,830	1,967	1,771	1,771	
DRO-Fugitive Operations	241	251	230	230	
DRO-Criminal Alien Program	209	222	193	193	
DRO-Alternatives to Detention	67	69	74	64	
DRO Transportation and Removal Program	281	281	282	282	
DRO Total	**2,628**	**2,790**	**2,549**	**2,539**	
Comprehensive Identification and Removal of Criminal Aliens	**161**[c]	**212**	**200**	**196**	
ICE Salaries and Expenses	**4,927**[d]	**5,348**	**5,311**	**5,360**	

[36] Secure communities is a program which seeks to remove all criminal aliens convicted of violent felonies and major drug crimes from the United States.

Sources: CRS Analysis of the *FY2010 DHS Congressional Budget Justifications*, the *FY2010 DHS Budget in Brief,* House-reported H.R. 2892 and H.Rept. 111-157, and Senate-reported S.1298 and S.Rept. 111-31.

Note: Tables may not add due to rounding. Although the total funding requests summed to the same amount, CRS noted a discrepancy in the account requests between the Budget Justifications and the Budget in Brief. As such, CRS chose to use the numbers presented by ICE in the budget justifications.

a. In P.L. 110-329, Congress appropriated $372 million for Headquarters and Administration. The President's request does not include a specific line item for Headquarters and Administration (now called Management and Administration (M & A)) and puts funding for M & A within the line item for office that is related to the purpose of the funds. Amounts shown in **Table 10** for the FY2009 enacted and the President's request for FY2010 are displayed in this manner. The House-reported version of the bill shows the M&A amount as a specific line item extracted from the line item for the office that is related to the purpose of the funds.

b. In the FY2009 appropriations, the Visa Security Program was included as part of Office of Investigations (OI) International Investigations funding

c. This amount includes funding for the Criminal Alien Program (CAP), Fugitive Operations, Office of Investigations support to locate criminal aliens, and State and Local Programs including 287(g) agreements. The INA §287(g) authorizes the Attorney General to enter into a written agreement with a state, or any political subdivision, to allow state and local law enforcement officers to perform the functions of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States.

d. Excludes $20 million from the FY2009 supplemental which was appropriated to aid in the transfer of unaccompanied minors from ICE or CBP custody to the custody of Department of Health and Human Services, Office of Refugee Resettlement (ORR).

Issues for Congress

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

Detention and Removal Operations

Detention and Removal Operations (DRO) in ICE provide custody management of the aliens who are in removal proceedings or who have been ordered removed from the United States.[37] DRO is also responsible for ensuring that aliens ordered removed actually depart from the United States. Many contend that DRO does not have enough detention space to house all those who should be detained. A U.S. Department of Justice, Office of the Inspector General study released in 2003 found that almost 94% of those detained with final orders of removal were deported, whereas only 11% of those not detained, who were issued final orders of removal, left the country.[38] Concerns have been raised that decisions regarding which aliens to release and when to release them may be based on the amount of detention space, not on the merits of individual cases, and that the amount of space may vary by area of the country leading to inequities and disparate

[37] For more information on detention issues see CRS Report RL32369, *Immigration-Related Detention: Current Legislative Issues*, by Alison Siskin. Under the INA aliens can be removed for reasons of health, criminal status, economic well-being, national security risks, and others that are specifically defined in the act.

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

policies in different geographic areas. Furthermore, there have been concerns raised about the adequacy of medical care received by aliens in detention.[39] The Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458, §5204) authorized, subject to appropriations, an increase in DRO bed space of 8,000 beds for each year, FY2006-FY2010. The total number of FY2009 detention beds was 33,400, and the President's FY2010 budget requests an increase of $36 million to maintain current amount of bed space.

State and Local Law Enforcement[40]

Currently, the INA provides limited avenues for state enforcement of its civil provisions. One of the broadest grants of authority for state and local immigration enforcement activity stems from INA §287(g), which authorizes the Attorney General to enter into a written agreement with a state, or any political subdivision, to allow state and local law enforcement officers to perform the functions of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States. The enforcement of immigration by state and local officials has sparked debate among many who question what the proper role of state and local law enforcement officials should be in enforcing federal immigration laws. Many have expressed concern over proper training, finite resources at the local level, possible civil rights violations, and the overall impact on communities. Nonetheless, some observers contend that the federal government has scarce resources to enforce immigration law and that state and local law enforcement entities should be utilized. Congress appropriated $54 million for the 287(g) program for FY2009. The President's FY2010 request for ICE includes $5 million for 287(g) agreements which is the FY2008 funding level.

Federal Protective Service[41]

The Federal Protective Service (FPS), presently within ICE, is responsible for the protection and security of federally owned and leased buildings, property, and personnel.[42] In general, FPS operations focus on security and law enforcement activities that reduce vulnerability to criminal and terrorist threats.[43] FPS protection and security operations include all-hazards based risk assessments; emplacement of criminal and terrorist countermeasures, such as vehicle barriers and closed-circuit cameras; law enforcement response; assistance to federal agencies through Facility Security Committees; and emergency and safety education programs. FPS also assists other federal agencies with additional security such as the U.S. Secret Service (USSS) at National Special Security Events (NSSE).[44] FPS is the lead Government Facilities Sector Agency for the National Infrastructure Protection Plan (NIPP).[45] Currently, FPS employs approximately 1,225

[39] For more on the issue of detainee medical care, see CRS Report RL34556, *Health Care for Noncitizens in Immigration Detention*, by Alison Siskin.

[40] This section adapted from CRS Report RL32270, *Enforcing Immigration Law: The Role of State and Local Law Enforcement*, by Lisa M. Seghetti, Karma Ester, and Michael John Garcia.

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

[42] 40 U.S.C. 1315.

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

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

[45] Information on the NIPP is available at http://www.dhs.gov/xprevprot/programs/editorial_0827.shtm.

law enforcement officers, investigators, and administrative personnel, and administers the services of approximately 15,000 contract security guards.[46]

President's Budget

The FPS congressional budget justification proposed $640 million for FPS in FY2010 to be collected in security fees (which is not an appropriation, but an accounting of other agencies' funding for security fees), the same amount Congress enacted in FY2009. FPS estimates collection of security leasing fees[47] to provide $420 million for basic security operations and $220 million for building specific security operations.[48] However, the budget appendix displays an amount of $1,031 million and CRS is unable to determine the difference in the congressional justification amount of $640 million and this $1,031 million in the budget appendix. Additionally, the Administration proposed to maintain FPS 1,225 positions and 1,225 FTE, and approximately 15,000 contract security guards in FY2010.[49] Finally, the FY2010 budget request proposed to transfer FPS to the National Protection and Programs Directorate (NPPD) of DHS.

Federal Protective Service Issues for Congress

There are potential issues Congress may wish to consider when debating the FY2010 FPS appropriations, including the continued use of contract security guards and the transfer of FPS from ICE to NPPD.

Contract Security Guards

According to the DHS Inspector General (DHS IG), contract guard services "represent the single largest item in the FPS operating budget, with an estimated FY2006 budget of $487 million."[50] FPS currently uses approximately 15,000 contract security guards who, along with approximately 950 FPS law enforcement officers, provide security and law enforcement coverage to all GSA owned and operated federal property.[51] FPS contract security guard responsibilities include federal building access control, employee and visitor identification checks, security equipment monitoring, and roving patrols of the interior and exterior of federal property.[52]

In FY2007, DHS realigned its workforce and reduced the number of FPS law enforcement officers and investigators. A GAO report, issued in June 2008, stated that FPS's staff decreased by approximately 20%, from about 1,400 employees at the end of FY2004 to approximately 1,100

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[46] U.S. Department of Homeland Security, National Protection and Programs Directorate, *Federal Protective Service: Fiscal Year 2010 Congressional Justification*, Washington, DC, May 2009, pp. FPS-1.

[47] The rate for basic security services is $0.66 per square foot of General Service Administration controlled property.

[48] The rate for building specific security operations is based on individual building and agency needs.

[49] U.S. Department of Homeland Security, National Protection and Programs Directorate, *Federal Protective Service: Fiscal Year 2010 Congressional Justification*, Washington, DC, May 2009, pp. FPS-1 – FPS-2.

[50] U.S. Department of Homeland Security, Office of Inspector General, *Federal Protective Service Needs to Improve its Oversight of the Contract Guard Program*, OIG-07-05, October 2006, p. 2.

[51] U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, Federal Protective Service, "Fiscal Year 2009 Congressional Justification," February 2008, p. 3.

[52] U.S. Department of Homeland Security, Office of Inspector General, *Federal Protective Service Needs to Improve its Oversight of the Contract Guard Program*, OIG-07-05, October 2006, p. 2.

employees at the end of FY2007.[53] According to the GAO, this reduction in FPS's staff resulted in the degradation of security at federal facilities and increased the risk of crime or terrorist attacks.[54] GAO concluded that the decision by FPS to eliminate proactive security patrols at federal facilities resulted in FPS law enforcement personnel not being able to conduct security operations. Such operations involve inspecting suspicious vehicles, monitoring suspicious individuals, or detecting and deterring criminal activity in and around federal buildings.[55] Subsequently, the number of FPS employees increased by 125 to 1,225 in FY2009. In FY2010, the Administration does not intend to decrease the number of FPS employees but maintain the same amount as FY2009 numbers. Consequently, Congress may wish to determine if the GAO report has merit, and may decide to require FPS to increase the number of its law enforcement officers.

FPS Transfer to NPPD

The FY2010 budget request proposes to transfer FPS from ICE to NPPD. The Administration states that this will allow ICE, which currently administers the FPS, to focus its law enforcement operations on protecting the nation by targeting the people, money, and materials that support terrorists and criminals relating to the nation's borders. Also, the Administration states that FPS should be transferred to NPPD given the directorate's responsibility of the NIPP. FPS, as the NIPP's Government Facilities Sector agency, is an infrastructure protection entity; by transferring FPS to NPPD, the Administration expects to "solidify" NPPD as DHS's lead for critical infrastructure.[56] This proposal is based primarily on: 1) allowing ICE to focus its operations on border security; and 2) reinforcing, or "solidifying" NPPD's role in infrastructure protection. Both of these reasons may be considered valid considering the increased congressional and national interest in ICE and border security, and, what appears to be, a logical location for DHS's infrastructure protection law enforcement agency. Conversely, one could argue that NPPD does not include any other law enforcement operational entity that has a similar infrastructure protection responsibility. ICE, however, is focused on border security in which FPS has no role.

Transportation Security Administration (TSA)[57]

The TSA was created by the Aviation and Transportation Security Act (ATSA, P.L. 107-71), and it was charged with protecting air, land, and rail transportation systems within the United States to ensure the freedom of movement for people and commerce. In 2002, the TSA was transferred to DHS with the passage of the Homeland Security Act (P.L. 107-296). The TSA's responsibilities include protecting the aviation system against terrorist threats, sabotage, and other acts of violence through the deployment of passenger and baggage screeners; detection systems for explosives, weapons, and other contraband; and other security technologies. The TSA also has certain responsibilities for marine and land modes of transportation including assessing the risk of terrorist attacks to all non-aviation transportation assets, including seaports; issuing regulations to

[53] U.S. Government Accountability Office, *Homeland Security: The Federal Protective Service Faces Several Challenges That Hamper Its Ability to Protect Federal Facilities* (Washington: June 2008), p. 12.

[54] Ibid.

[55] Ibid., p. 14.

[56] Ibid., p. FPS-1.

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

improve security; and enforcing these regulations to ensure the protection of these transportation systems. TSA is further charged with serving as the primary liaison for transportation security to the law enforcement and intelligence communities. See **Table 8** for account-level detail for all of the agencies in Title II, and **Table 11** for sub-account-level detail for TSA for FY2009 enacted levels and FY2010 amounts specified in the President's request.

President's FY2010 Request

The President's request seeks total gross funding of $7,774 million in FY2010 for the TSA, a nearly 12% increase over FY2009 enacted levels. The President has requested an increase of 12% for Aviation Security, and a twofold increase in Surface Transportation Security funding, totaling $128 million compared to the FY2009 enacted level of $63 million. The additional funding for Surface Transportation Security would primarily go toward deploying 15 additional Visual Intermodal Prevention and Response (VIPR) teams—which consist of TSA inspectors, officers, and canine teams that patrol surface modes (highway, rail, and transit), screen passengers, and act as a visible deterrent—at an added cost of $50 million.

The largest increase to Aviation Security funding specified in the President's Request is a $563 million increase for explosives detection systems (EDS) and explosives trace detection (ETD) systems purchase and installation to accelerate the implementation of optimal checked baggage explosives screening configurations. In addition to FY2009 appropriations of $294 million for this function, the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) provided for $1,000 million for Aviation Security, of which $700 million was designated by the TSA for EDS and ETD procurement and installation, to be expended over a two-year period. The combination of these additional funds, along with funding provided through the Aviation Security Capital Fund (ASCF), addresses concerns over the lengthy and costly process of optimizing checked baggage screening systems.

In contrast to the increase requested for checked baggage explosives detection system acquisition and installation, the President's request calls for a funding reduction of $121 million for Checkpoint Support compared to the FY2009 enacted level. Checkpoint Support funds are primarily intended for modernizing checkpoint screening technologies and improving capabilities to detect explosives on passengers and carry-on items. The proposed reduction is in response to additional funds provided in FY2009 by Congress above the President's request plus the designation of an additional $300 million for Checkpoint Support activities specified in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5). While the Bush Administration similarly sought to reduce Checkpoint Support activities in FY2009, Congress increased the FY2009 funding for checkpoint support to $250 million to match the amount provided in FY2008 through the Airport Checkpoint Screening Fund established by the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53).

The President's request has proposed establishing a new certified cargo screening program to fulfill the mandate of screening 100% of cargo placed on passenger airplanes by August 2010. It also calls for establishing a program to implement and oversee the Large Aircraft Security Program (LASP) to regulate security of large general aviation (GA) aircraft operations. The President's Request also seeks $10 million in new funding for aviation security to provide for security fee collections to carry out security threat assessments of airport and airline workers requiring Security Identification Display Area (SIDA) credentials for airport access.

The President's request also seeks a $76 million increase, a 65% increase over FY2009 enacted levels for Transportation Threat Assessment and Credentialing. The majority of this increase, $64 million, is slated for a Vetting Infrastructure Modernization initiative designed to implement a universal fee mechanism and common vetting infrastructure to reduce duplicative background checks and fees for transportation workers and bring TSA modal vetting programs inline with the strategic goals of the DHS Credentialing Framework Initiative (CFI).

Table 11. TSA Gross Budget Authority, by Budget Activity

(budget authority in millions of dollars)

Budget Activity	FY2009 Enacted[a]	FY2010 Request	FY2010 House-Reported	FY2010 Senate-Reported	FY2010 Enacted
Aviation Security	**4,741**	**5,310**	**5,266**	**5,238**	
Screening Partnership Program (SPP)	151	150	150	150	
Passenger & Baggage Screening (PC&B)	2,716	2,789	2,759	2,759	
Screener Training & Other	197	203	203	203	
Checkpoint Support	250	129	129	129	
EDS/ETD Purchase/Installation	294	857	807	807	
Screening Technology	306	327	327	327	
Operation Integration	21	21	21	21	
Aviation Regulation and Other Enforcement	249	254	254	254	
Airport Management, IT, and Support	402	448	448	448	
FFDO & Crew Training	25	25	25	25	
Air Cargo Security	123	108	115	115	
Airport Perimeter Security	4	—	[3][b]	[3][b]	
Indirect Air Cargo – Fee		3	[5[b]]	[5][b]	
Certified Cargo Screening Program	—	5	[2][b]	[2][b]	
Large Aircraft Security Plan	—	2	[10][b]	[10][b]	
Security Identification Display Area Checks	—	10	—	—	
Federal Air Marshal Service	**819**	**860**	**860**	**860**	
Management and Administration	725	763	763	763	
Travel and Training	94	98	98	98	
Threat Assessment and Credentialing (TTAC)	**116**	**192**	**172**	**172**	
Secure Flight	82	84	84	84	

Budget Activity	FY2009 Enacted[a]	FY2010 Request	FY2010 House-Reported	FY2010 Senate-Reported	FY2010 Enacted
Other/ TTAC Admin. & Ops.	34	108	88	88	
Credentialing Fees	**47**	**24**	**45**	**28**	
Registered Traveler Program	—	—			
TWIC – Fee	32	9	9	9	
HAZMAT CDL - Fee	15	15	15	15	
Certified Cargo Screening Program - Fee	—	—	5	—	
Large Aircraft Security Plan - Fee	—	—	2	—	
Security Identification Display Area Checks - Fee	—	—	10	—	
Alien Flight School - Fee	4	4	4	4	
Surface Transportation Security	**63**	**128**	**103**	**143**	
Operations and Staffing	34	42	42	42	
Security Inspectors	30	86	61	100	
Transportation Security Support	**950**	**1,005**	**993**	**1,000**	
Intelligence	24	28	28	28	
Headquarters Administration	235	249	249	249	
Human Capital Services	218	226	226	226	
Information Technology	473	501	490	496	
Sensitive Security Information - Fee	—	—	—	—	
Aviation Security Capital Fund (ASCF)	**250**	**250**	**250**	**250**	
TSA Gross Total	**6,991**	**7,774**	**7,689**	**7,690**	

Source: CRS Analysis of the *FY2010 DHS Congressional Budget Justifications*, the *FY2010 DHS Budget in Brief*, House-reported H.R. 2892 and H.Rept. 111-157, and Senate-reported S.1298 and S.Rept. 111-31.

Notes: Tables may not add due to rounding. **Table 11** Includes Alien Flight School funding of $4 million which is not included in **Tables 5 or 8**.

a. FY2009 appropriated amounts specified in this table include TSA distributions of an additional $20 million designated for implementing various requirements specified in P.L. 110-53. These distributions add roughly $4 million to Aviation Security under Aviation Regulation and Other Enforcement; $14 million to Surface Transportation Security ($9 million for Operations and Staffing and $5 million for Security Inspectors); and roughly $3 million to Transportation Security Support for Intelligence activities above levels specified in P.L. 110-329 for these specific activities (See DHS FY2010 Congressional Justification, p. TSA-Aviation-56).

b. The Indirect Air Cargo Fee, charged for conducting background checks of security workers in the air cargo supply chain, was authorized under FY2004 DHS Appropriations Act (P.L. 108-90) to fulfill requirements of the TSA's Air Cargo Security Final Rule. The FY2009 estimated fee collections for this activity are reflected in this table and are included in the totals for Aviation Security.

TSA Issues for Congress

Significant issues that may arise during debate over TSA appropriations may include funding for checkpoint screening technologies; funding to optimize checked baggage screening system configurations; strategies and resources for meeting the mandate to screen 100% of cargo placed on passenger airliners; and funding needs and oversight of the TSA's efforts to operationally deploy the long-delayed Secure Flight passenger prescreening system.

Funding for Checkpoint Screening Technologies

Funding for Checkpoint Support, and in particular the strategy and budgetary resources for deploying new checkpoint screening technologies may emerge as a specific issue of interest to Congress during the FY2010 DHS appropriations debate. Congress provided $250 million in FY2008 and in FY2009, significant increases above the President's request in those years, to accelerate the deployment of technologies to screen passengers and carry-on items for explosives. Also, Congress provided an additional $1,000 million in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) for checked baggage and checkpoint explosives detection equipment, of which the TSA designated $300 million for the acquisition and deployment of checkpoint explosives detection technologies, primarily whole-body imaging (WBI) technologies. The FY2010 President's request specified a 48% reduction compared to FY2009 appropriated amounts for Checkpoint Support.

Also, controversies remain over the choice of checkpoint screening technology and the application of that technology. While the TSA has abandoned the acquisition and operational utilization of trace detection portal (puffer) machines in favor WBI devices, privacy rights organizations and some Members of Congress have raised concerns over the privacy implications of these technologies. The Aircraft Passenger Whole-Body Imaging Limitations Act of 2009 (H.R. 2027) would prohibit the use of WBI for routine passenger screening, allow passengers to opt for a pat down search in lieu of whole-body screening, and would prohibit the storage, transfer, sharing, or copying of images generated by whole-body imagers. The TSA has taken steps to address privacy concerns including implementing privacy filters to degrade the image, reviewing images remotely, and not storing electronic WBI images. The Transportation Security Administration Authorization Act (H.R. 2200) would require the TSA to submit a report to the congressional oversight committees on the WBI test program, including specifics on how privacy protections were integrated. Privacy issues identified during field testing of WBI technologies may influence the deployment strategy and operational use of WBI systems and may be an issue of particular interest in the context of appropriations for checkpoint screening technologies.

Optimizing Airport Baggage Screening System Configurations

According to the TSA, only 68 out of 277 (roughly 25%) airports in need of additional EDS/ETD deployment and facility modifications, have fully optimized their EDS and ETD system configurations. Appropriations provided through FY2009 appropriations and the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) are funding 62 checked baggage explosives screening optimization projects. However, many more airports are in need of funding for EDS/ETD optimization. The President's budget is seeking roughly $563 million over FY2009 appropriated levels in FY2010. The TSA believes that this will allow it to fund 24 additional airport projects, compared to only four if FY2010 appropriations are maintained at FY2009 levels. Congress may debate whether this continued emphasis on accelerating EDS/ETD system

configuration at airports is appropriate and feasible. Congress may also consider whether the TSA has an appropriate strategy in place to work with airports to successfully carry out these projects, and whether it can adequately conduct oversight of airport projects being carried out under an accelerated timetable to avoid poor resource allocation and possible instances of fraud, waste, or abuse.

Meeting the Mandate for 100% Cargo Screening on Passenger Flights

The Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53) mandated the physical screening or inspection of all cargo items placed onboard passenger airliners using specified methods by August 2010. The Act further specified that 50% of such cargo must be inspected using these methods by an interim deadline of February 2009. While the TSA claims to be meeting the interim objective, there has been increasing concern that TSA may lack the technology and fiscal resources to meet the 100% screening mandate by August 2010.[58] Industry experts warn that trying to stick to the deadline may result in suboptimal solutions that could impede the flow of commerce, particularly for inbound international flights.[59]

Congressional appropriators may debate whether requested funding levels for air cargo security are sufficient to meet the mandate for screening all cargo placed on passenger airliners by August 2010. More broadly, Congress may debate concerns over the TSA's approach to meeting this mandate by relying mainly on private sector entities to carry out physical screening and inspections and implement enhanced supply chain security measures in cases where the screening is conducted off-airport. Congress may also take up debate over TSA investment in cargo screening technologies, canine teams, and other acceptable screening methods compared to cargo industry investment to deploy and operate cargo screening systems. Such debate could have significant implications for air cargo security appropriations.

Operationally Deploying the Secure Flight Passenger Prescreening System

Past appropriations measures have included language prohibiting the TSA from implementing Secure Flight beyond operational testing of the system until the GAO reported to Congress that specific issues regarding privacy protection, data security and integrity, and redress procedures had been adequately addressed in the system's design and implementation. The GAO recently reported that the Secure Flight program has mostly achieved the mandated requirements set forth in these appropriations measures.[60] The TSA intends to begin operational deployment of the Secure Flight program in phases with the goal of fully implementing it for all domestic flights by early 2010, and for all international flights by the end of 2010.[61] Congressional appropriators may debate the adequacy of funding for maintaining this timetable, as well as options for implementing oversight mechanisms to ensure that the concerns expressed by Congress and the issues examined by the GAO during development of the system—such as privacy protections and data security—do not erode and are not compromised as the system is operationally deployed.

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[58] Chris Strohm, "TSA Lacks Technology To Meet Air Cargo Screening Goal," *Congress Daily*, March 19, 2009.

[59] Ibid.

[60] U.S. Government Accountability Office, *Aviation Security: TSA Has Completed Key Activities Associated with Implementing Secure Flight, but Additional Actions Are Needed to Mitigate Risks*, GAO-09-292, May 13, 2009.

[61] Transportation Security Administration, "TSA and Ad Council Raise Awareness of Secure Flight Program as part of National Public Education Campaign," Press Release, May 21, 2009.

United States Coast Guard[62]

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

President's FY2010 Request

For FY2010, the President requested a total of $9,729 million for the Coast Guard, which accounts for about 18% of DHS's requested budget. The President requested $6,556 million for operating expenses (an increase of 4% over FY2009), $1,384 million for acquisition, construction, and improvements (a decrease of 7% from FY2009), $134 million for reserve training (an increase of 2% over FY2009), $20 million for research, development, tests, and evaluation (an increase of 10% from FY2009), $13 million for environmental compliance and restoration (a slight increase from FY2008), and zero funding for the bridge alteration program. **Table 12** provides more detail regarding the Coast Guard's Operating Expenses (OE) account and its Acquisition, Construction, and Improvements (ACI) account.

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

(budget authority in millions of dollars)

	FY2009 Enacted	FY2010 Request	FY2010 House-Reported	FY2010 Senate-Reported	FY2010 Enacted
Operating Expenses	**6,307**	**6,556**	**6,822**	**6,838**	
Military pay and allowances	3,062	3,245	3,271	3,256	
Civilian pay and benefits	645	700	700	700	
Training and recruiting	196	206	207	206	
Operating funds and unit level maintenance	1,177	1,150	1,160	1,155	
Centrally managed accounts	262	353	331	355	
Port/vessel security and environmental response	24	—		—	
Aviation mission hour gap	5	—		—	
Intermediate and depot level maintenance	824	903	912	925	
DOD Transfer	112[a]	—		—	
Overseas Contingency Operation		[b]	242[b]	242[b]	
Acquisition, Construction, and Improvements	**1,495**	**1,384**	**1,347**	**1,598**	

[62] Prepared by John Frittelli, Specialist in Transportation Policy, Resources, Science and Industry Division.

	FY2009 Enacted	FY2010 Request	FY2010 House-Reported	FY2010 Senate-Reported	FY2010 Enacted
Vessels and Critical Infrastructure	113	103	103	123	
Aircraft	—	—		—	
Other Equipment	89	120	120	148	
Integrated Deepwater System	1,034	1,051	1,015	1,195	
Shore facilities and Aids to Navigation	68	10	10	27	
Personnel and Related Support	93	100	100	105	
Coast Guard HQ	98	—		—	

Source: CRS Analysis of the *FY2010 DHS Congressional Budget Justifications*, the *FY2010 DHS Budget in Brief,* House-reported H.R. 2892 and H.Rept. 111-157, and Senate-reported S.1298 and S.Rept. 111-31.

Note: Tables may not add due to rounding.

a. Transfer from Navy's operations and maintenance account as per P.L. 110-252.

b. Both the President's budget request and the House-reported bill include $242 million for contingency operations funding for FY2010. The request treats this funding as a transfer, and therefore it is *not* included in the FY2010 amount. The House-reported bill treats it as an appropriation, and therefore it *is* included in the total for the House-reported column.

Issues for Congress

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

Deepwater

The Deepwater program is a 25-year acquisition program to replace or modernize 91 cutters, 124 small surface craft, and 247 aircraft at an estimated cost of over $25 billion. The Coast Guard's management and execution of the program has been strongly criticized and several hearings were held on the program in 2007 and 2008. The GAO and DHS IG have been very active in reviewing Deepwater and in 2007 the Coast Guard decided to phase out an outside system integrator (a team led by Lockheed Martin and Northrup Grumman) to execute the program. For FY2010, the President requested $591 million for Deepwater vessels, $306 million for aircraft, and $155 million for other related Deepwater assets and management. Issues for Congress include the Coast Guard's management of the program, which is the largest and most complex acquisition effort in Coast Guard history, the overall cost of the program, and the program's time-line for acquisition.[63]

[63] These issues are discussed in CRS Report RL33753, *Coast Guard Deepwater Acquisition Programs: Background, Oversight Issues, and Options for Congress*, by Ronald O'Rourke.

Security Mission

Some Members of Congress have expressed strong concerns that the Coast Guard does not have enough resources to carry out its homeland security mission. A GAO audit raised this concern with respect to the security of energy tankers,[64] and at a Senate hearing the GAO testified that Coast Guard resources were being challenged by a number of security requirements.[65] About 19% of the Coast Guard's FY2010 budget request is for its "port, waterways, and coastal security" (PWCS) mission.[66]

For monitoring harbor traffic, the President's FY2010 request included $2 million to continue operation of a nationwide system to detect, identify, track, and communicate with ships in U.S. harbors, called the Automatic Identification System (AIS), which has a range of about 50 nautical miles. This system is currently able to track ships, but not to communicate with them, in 55 ports and nine coastal waterways.[67] Tracking receivers are installed on land as well as on sea buoys, and elsewhere to extend the range of tracking. The FY2010 budget also requests $4 million for operating expenses for Long Range Identification and Tracking (LRIT) of ships which has a range of more than 1,000 nautical miles from the coast.[68] The GAO released an audit of the Coast Guard's vessel tracking systems in March 2009 and found that AIS and LRIT systems may be duplicative of a classified means of tracking vessels.[69]

The Coast Guard has set up interagency operations centers (IOCs) at some ports to enhance security. IOCs are fusion centers to be located in each Coast Guard sector that are intended to facilitate intelligence sharing and coordinated responses among federal and state or local law enforcement to harbor security activity, such as boardings of high-risk vessels. They have been established in a few major ports and are generally co-located with Vessel Traffic Services (VTSs) which were set up for safety purposes and are staffed by Coast Guard "watchstanders" who monitor harbor ship traffic and provide navigation information to ship captains. In FY2009, the Senate Appropriations Committee's report requested quarterly briefings by the Coast Guard on the status and development of (IOCs). For FY2010, the President's budget does not specifically mention operational centers except for a request of $1 million to continue Project Seahawk at the Port of Charleston. Seahawk is an interagency operations center that is different from the others in that it was originally established by the Department of Justice rather than the Coast Guard.

An unresolved issue is the usefulness of tracking smaller vessels, such as recreational boats, to counter the threat posed by suicide bombers or smugglers. There are too many smaller boats for the Coast Guard to track and recreational boaters oppose tracking because of cost and privacy concerns. Based on a recent DHS strategy report, it appears the Coast Guard has no immediate

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

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

[66] DHS FY2010 Budget in Brief, p. 88.

[67] Coast Guard FY2010 Budget Justification, p. CG-OE-22.

[68] Coast Guard FY2010 Budget Justification, p. CG-OE-18.

[69] GAO, Maritime Security: Vessel Tracking Systems Provide Key Information, but the Need for Duplicate Data Should Be Reviewed, GAO-09-337, March 2009.

plans to require smaller vessels be outfitted with AIS transponders but will continue to pursue methods to identify small craft.[70]

Non-Homeland Security Missions

Some Members of Congress have expressed concern that with the Coast Guard's emphasis on its maritime security mission, the agency may have difficulty sustaining its traditional, non-homeland security missions such as fisheries enforcement or marine environmental protection.[71]

Marine Safety

A congressional hearing was held on August 2, 2007 to examine the performance of the Coast Guard's Marine Safety Program.[72] Witnesses from the maritime industry complained about Coast Guard delays in documenting mariners and vessels and a lack of technical expertise and experience by Coast Guard marine inspectors. In response to these criticisms, the Commandant announced a plan to increase civilian positions in the marine safety program and strengthen their career paths to foster professional continuity in this area.[73] The FY2009 budget request noted that "the Coast Guard is encountering serious stakeholder concern about our capacity to conduct marine inspections, investigations, and rulemaking."[74] The FY2009 budget provided an additional $20 million in operating expenses in order to: add 276 marine inspector positions; respond to an increase in LNG vessel calls; conduct examinations of 5,200 towing vessels mandated in the FY2004 Coast Guard Authorization Act; review non-tank vessel oil spill response plans; and conduct oversight of ballast water management.[75] The FY2009 budget also provided $2.6 million to fund 25 rulemaking projects involving safety, security, and environmental protection.

For FY2010, the President requested $7.5 million for 74 additional marine safety personnel.

Rescue-21

During the FY2007 appropriations process, Congress expressed strong concern with the Coast Guard's management of the Rescue 21 program, the Coast Guard's new coastal zone communications network that is key to its search and rescue mission and which replaces its National Distress and Response System. A 2006 GAO audit of the program found a tripling of project cost from the original estimate and likely further delays in project completion, which was already five years behind schedule.[76] The GAO's FY2008 Coast Guard budget review noted that while Rescue-21 was originally intended to limit gaps to 2% of coverage area, that target has now

[70] DHS, Small Vessel Security Strategy, April 2008.

[71] See DHS OIG, Annual Review of the U.S. Coast Guard's Mission Performance (FY2007), OIG-09-13, December 2008 for the latest breakdown of resources by mission area. For information on Coast Guard environmental protection issues, see CRS Report RS22145, *Environmental Activities of the U.S. Coast Guard*, by Jonathan L. Ramseur.

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

[73] U.S. Coast Guard, "Enhancing the Coast Guard's Marine Safety Program," September 25, 2007.

[74] Coast Guard FY2009 Budget Justification, p. CG-SC-5.

[75] Coast Guard FY2009 Budget Justification, p. CG-OE-52 and DHS FY2009 Budget in Brief, p. 60-61.

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

expanded to a less than 10% coverage gap.[77] In the FY2008 Appropriations Act (P.L. 110-161), Congress expressed concern for the number of outages that had been recorded with the system, and requested that the Coast Guard provide quarterly briefings on its plans to address the outages. In FY2009, Congress provided $88 million for Rescue 21 for further deployment of the system's infrastructure at seven Coast Guard sectors[78] and additional watchstanders at 15 sectors receiving the most rescue traffic.[79] The Senate Committee report stated that the overall acquisition cost is estimated to be $1,066 million, an increase of $366 million, and the completion date had been extended six years to 2017.[80]

For FY2010, the President requested $117 million for California and New England sectors to receive Rescue-21 capability, and continued development in the Great Lakes region, Hawaii, Guam, and Puerto Rico.

LORAN-C

The LORAN-C (Long-Range Aids to Navigation) system is an older navigation system that can help vessels or aircraft determine their location using radio signals from 24 tower stations in the United States.[81] The Coast Guard has argued that this system in no longer needed in light of GPS (Global Positioning System) technology which is more precise than LORAN, and in recent budget submissions requested that the LORAN-C system be terminated. In FY2007, Congress funded continuation of the LORAN-C system and required the Coast Guard, among other things, to first notify the public before terminating the system. On January 8, 2007, DHS and the Department of Transportation issued a Federal Register notice seeking public comment on whether to decommission LORAN, maintain it, or upgrade it.[82] A review of some of the public comments filed indicate that lobsterman may use LORAN-C to locate their traps when their buoys are lost, fishing trawlers use it to re-locate certain fishing areas and to avoid objects that would interfere with their nets, charter boat and some recreational boaters still rely on it, and harbor pilots and other commercial shipping interests believe a land-based system like LORAN is needed as a back-up to satellite-based navigation, even though they no longer use LORAN.[83] Small aircraft operators also support maintaining LORAN as a back-up system but the commercial airlines and manufacturers (Boeing and Airbus) do not support maintaining the system. Proponents of maintaining the land-based LORAN system argue that GPS signals are weak and can sometimes be disrupted by bad weather or mountains and are vulnerable to solar storms or intentional jamming.[84]

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

[78] Coast Guard FY2009 Budget Justification, p. CG-AC&I-128.

[79] Coast Guard FY2009 Budget Justification, p. CG-OE-33 and 34.

[80] S.Rept. 110-396, p. 88.

[81] It dates back to World War II and a previous version known as LORAN-A.

[82] Federal Register, vol. 72, no. 4, January 8, 2007, pp. 796-797.

[83] Comments can be viewed at http://www.regulations.gov and searching under docket numbers USCG-2006-24685 and USCG-2007-28460.

[84] For a GAO review of the U.S. Air Force's planned improvements to GPS, see report # GAO-09-325, April 2009. See also, U.S. DOT, Volpe Center, Vulnerability Assessment of the Transportation Infrastructure Relying on the Global Positioning System, September 2001.

For FY2008, Congress denied the Administration's request to terminate LORAN-C and noted that an Administration policy decision on the future of LORAN-C was expected to be completed by March 1, 2008.[85] On February 7, 2008, the DHS announced that an enhanced LORAN system (eLoran) will be developed as a backup system to GPS.[86] The Bush Administration's FY2009 budget requested that the administration of the eLoran system be transferred to the National Preparedness and Programs Directorate (NPPD) of DHS (a transfer equating to $35 million) because the NPPD's mission was more related to critical infrastructure redundancy than was the Coast Guard's.[87] In FY2009, Congress denied the Administration's request to transfer these funds to NPPD.

For FY2010, the Obama Administration requests that LORAN-C be terminated, arguing that it is no longer needed in light of GPS and states that this will save $36 million in FY2010, $190 million over five years, and allow Coast Guard military personnel to be reassigned to other missions.[88] The budget justification for NPPD does not mention LORAN nor is funding for it mentioned under other agencies in the Budget Appendix.

Bridge Alteration Program

The bridge alteration program is a program to alter or remove road or railroad bridges that are obstructing navigation. The President requested no new funding for this program. In FY2009, Congress appropriated $16 million and in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) included $142 million in emergency supplemental funding for this program.

Arctic Activity

With the melting of Arctic sea ice, it is predicted that a Trans-Arctic commercial shipping lane could soon develop in addition to other increased shipping activity in order to extract natural resources from the region. Cruise ship activity has also increased in the Arctic and there is an immediate concern about the inability of rescuers to reach a passenger vessel in time if it were in distress. The Coast Guard is currently testing how its vessels, aircraft, and personnel operate in the Arctic. Three polar icebreaker ships are operated by the Coast Guard (one of them, the Polar Star, is in caretaker status) but funded from the National Science Foundation's (NSF) budget. In light of additional polar activities that may extend beyond scientific research, in FY2009, Congress directed the Coast Guard to negotiate with the NSF to return the budget of the polar icebreakers to the Coast Guard and provided $30 million to reactivate the Polar Star for 7 to 10 years of service life.[89] The President's FY2010 budget does not request any funds specifically for icebreakers.[90]

[85] For further information on LORAN-C and eLoran, see these two government reports: http://www.navcen.uscg.gov/Loran/geninfo/LORAN_PEIS_2008.pdf. and http://www.navcen.uscg.gov/pubs/frp2008/2008_Federal_Radionavigation_Plan.pdf.

[86] States News Service, Statement of DHS Press Secretary Laura Keehhner, February 7, 2008.

[87] Coast Guard FY2009 Budget Justification, p. CG-OE-18 and 19.

[88] Coast Guard Budget Justification, p. CG-OE-33.

[89] Congressional Record, September 24, 2008, p. H9800.200

[90] For further discussion of the U.S. icebreaker fleet, see CRS Report RL34391, *Coast Guard Polar Icebreaker Modernization: Background, Issues, and Options for Congress*, by Ronald O'Rourke.

U.S. Secret Service[91]

The U.S. Secret Service (USSS)[92] has two broad missions, criminal investigations and protection.[93] Criminal investigation activities encompass financial crimes, identity theft, counterfeiting, computer fraud, and computer-based attacks on the nation's financial, banking, and telecommunications infrastructure, among other areas. The protection mission is the most prominent, covering the President, Vice President, their families, and candidates for those offices, along with the White House and Vice President's residence, through the Service's Uniformed Division. Protective duties also extend to foreign missions in the District of Columbia and to designated individuals, such as the DHS Secretary and visiting foreign dignitaries. Aside from these specific mandated assignments, USSS is responsible for security activities at National Special Security Events (NSSE),[94] which include the major party quadrennial national conventions as well as international conferences and events held in the United States.[95] The NSSE designation by the President gives USSS authority to organize and coordinate security arrangements involving various law enforcement units from other federal agencies and state and local governments, as well as from the National Guard.

Table 13. U.S. Secret Service Appropriations

All amounts in millions

Programs and Activities	FY2009 Enacted	FY2010 Budget Request	FY2010 House-Reported	FY2010 Senate-Reported	FY2010 Enacted
Protection of persons and facilities	806[a]	756	756	760	
Protective intelligence activities	60	68	68	68	
National Special Security Events	1	1	1	1	
Candidate nominee protection	41	—		—	
White House mail screening	34	25	22	22	
Management and administration	182	221	200	221	
Rowley Training Center	53	54	54	54	
Domestic field operations	242	261	261	261	
International field operations	30	31	31	31	

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

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

[93] U.S. Department of Homeland Security, *U.S. Secret Service: Salaries and Expenses*, Washington, DC, May 2009, pp. USSS-1.

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

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

Programs and Activities	FY2009 Enacted	FY2010 Budget Request	FY2010 House-Reported	FY2010 Senate-Reported	FY2010 Enacted
Electronic crimes program	52	57	57	57	
Forensic support to the National Center for Missing and Exploited Children	8	8	8	8	
Acquisition, construction, and improvements	4	4	4	4	
Uniformed Division modernization	—	4		—	
Total	**1,513**	**1,490**	**1,461**	**1,487**	

Source: CRS Analysis of the *FY2010 DHS Congressional Budget Justifications*, the *FY2010 DHS Budget in Brief*, House-reported H.R. 2892 and H.Rept. 111-157, and Senate-reported S.1298 and S.Rept. 111-31.

Notes:

a. This amount includes the $100 million appropriated for protection of persons and facilities in P.L. 111-8, the FY2009 omnibus.

President's Budget

For FY2010, the Administration has requested an appropriation of $1,490 million for protection and criminal investigation missions of USSS (**Table 13**).[96] This reflects a decrease of $23 million from the FY2009 total of $1,513 million for the USSS.

USSS Issues for Congress

Federal funding for NSSE costs incurred by state, and local entities is one issue Congress may wish to address. In FY2009, Congress appropriated $1 million for NSSE costs within USSS.[97] This appropriation was used to fund USSS development and implementation of security operations at such NSSEs as the 2008 presidential nominating conventions; however, it was not used to reimburse state and local law enforcement's NSSE overtime costs. Congress appropriated a total of $100 million for the 2008 presidential nominating conventions' security through the Department of Justice's (DOJ) Office of Grant Programs. The DOJ appropriation was used for security and related costs incurred by state and local governments, including overtime, associated with these two NSSEs.

One issue that Congress may wish to address concerns whether the $1 million requested by the Administration in FY2010 is sufficient to cover multiple or unexpected NSSE costs, although USSS has never requested supplemental funding to support NSSE operations. In addition to the NSSE funding through USS and DOJ, state and local jurisdictions can use DHS grants, such as the State Homeland Security Grant Program (SHSGP) and the Urban Area Security Initiative (UASI), for NSSE-related security activities. However, the grant approval process for these programs is not flexible; the programs have limited application to NSSEs in that states and

[96] U.S. Department of Homeland Security, U.S. Secret Service: *Fiscal Year 2010 Overview Congressional Justification*, Washington, DC, May 2009, p. i.

[97] P.L. 110-329, Title II.

localities would need to include SHSGP and UASI funding for NSSE security in their grant applications. For unexpected NSSEs, states and localities are unable to plan ahead and therefore cannot use SHSGP or UASI funds to cover these unexpected security costs. DHS does authorize states and localities to reprogram SHSGP and UASI funding with the DHS Secretary's approval; however, that may result in states and localities not funding other planned homeland security activities.

A related issue that Congress may wish to consider could include whether more coordination of NSSE funding is needed at the federal level. Currently USSS, DOJ, and the Federal Emergency Management Agency's Grant Programs Directorate each have separate funding streams that can be used to fund different components of NSSEs. However, there is no overarching coordinating mechanism in place to oversee this funding.

Title III: Preparedness and Response

Title III includes appropriations for the Federal Emergency Management Agency (FEMA), the National Protection and Programs Directorate (NPPD), and the Office of Health Affairs (OHA). Congress expanded FEMA's authorities and responsibilities in the Post-Katrina Emergency Reform Act (P.L. 109-295) and explicitly kept certain DHS functions out of the "new FEMA."[98] In response to these statutory exclusions, DHS officials created the NPPD to house functions not transferred to FEMA, and the OHA was established for the Office of the Chief Medical Officer. **Table 14** provides account-level appropriations detail for Title III.

[98] P.L. 109-295, 120 Stat. 1400.

Table 14. Title III: Preparedness and Response

(budget authority in millions of dollars)

	FY2009 Appropriation				FY2010 Appropriation			
Operational Component	**FY2009 Enacted**	**FY2009 Supp.**	**FY2009 Resc.**	**FY2009 Total**	**FY2010 Request**	**FY2010 House-Reported**	**FY2010 Senate-Reported**	**Total FY2010**
National Protection and Programs Directorate								
Administration	51			51	45	45	45	
Infrastructure Protection and Information Security	807			807	918	883	901	
US-VISIT	300			300	356	352	378	
Federal Protective Service (FPS)					640		1,115	
Gross Total	**1,158**			**1,158**	**1,959**	**1,280**	**2,439**	
Offsetting collections					-640		-1,115	
Net total	**1,158**			**1,158**	**1,319**	**1,280**	**1,324**	
Office of Health Affairs	**157**			**157**	**138**	**128**	**135**	
Federal Emergency Management Agency								
Management and Administration	837[a]			837[a]	852	845	860[e]	
Grant Programs Directorate	3,471[b]	300		3,721[b]	3,867[c]	3,959[c]	4,217[c]	
Firefighter Assistance Grants	775	210		985				
U.S. Fire Administration	45			45	46	46	46	
Public health programs	—							
Disaster relief	1,400[d]			1,400[d]	2,000[e]	1,984[f]	1,441[f]	
Disaster readiness and support activities	—							
Flood map modernization fund	220			220	220	220	220	
National flood insurance fund (NFIF)[g]	—							
National flood mitigation[h]	—							

Operational Component	FY2009 Appropriation				FY2010 Appropriation			
	FY2009 Enacted	FY2009 Supp.	FY2009 Resc.	FY2009 Total	FY2010 Request	FY2010 House-Reported	FY2010 Senate-Reported	Total FY2010
Pre-disaster mitigation fund	90			90	150	100	120	
Emergency food and shelter	200	100		300	100	200	175	
Disaster assistance direct loan account	—							
Radiological Emergency Preparedness								
Net total	**7,038**	**610**		**7,648**	**7,235**	**7,353**	**7,078**	
Net budget authority subtotal: Title III	**8,353**	**610**		**8,963**	**8,692**	**8,761**	**8,538**	
Offsetting collections					640		1,115	
Gross budget authority Title III	**8,353**	**610**		**8,963**	**9,332**	**8,761**	**9,652**	

Source: CRS Analysis of the *FY2010 DHS Congressional Budget Justifications*, the *FY2010 DHS Budget in Brief,* House-reported H.R. 2892 and H.Rept. 111-157, and Senate-reported S.1298 and S.Rept. 111-31.

Notes: Tables may not add due to rounding.

a. Does not include $94 million in transfers from the Department of Defense.

b. Includes State and Local Grants, Emergency Performance Management Grants (EMPG), and $50 million in Real ID grants.

c. Includes State and Local Grants, Emergency Performance Management Grants (EMPG), Assistance to Firefighters grants, and $50 million in Real ID grants

d. Does not include transfers *from* the Disaster Relief Fund (DRF) of $106 million to FEMA's Management and Administration account, and of $16 million to the DHS Office of Inspector General in Title I.

e. Does not include transfers from the DRF of $50 million to FEMA's Management and Administration account.

f. Does not include transfers from the DRF of $90 million to FEMA's Management and Administration account but does include transfer from the DRF of $16 million to DHS OIG in Title I..

g. Funds derived from premium payments or transfers from the U.S. Treasury.

h. Funds derived from National Flood Insurance Fund (NFIF) transfers.

Federal Emergency Management Agency

The primary mission of the Federal Emergency Management Agency (FEMA) "is to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation."[99]

In support of FEMA's mission, some of the main issues addressed in the President's budget submission include updating technology systems and improving processes related to disaster assistance programs, improved evacuation procedures through additional state and local plans and evacuee tracking systems, and improving operational capabilities for responding to emergencies and major disasters. FEMA has also announced it will be making efforts to enhance the capabilities of Incident Management Assistance Teams (IMAT), and implement standardized hiring, training and credentialing of disaster responders. There is also a move to provide additional funding for logistics planning, operations and management.

Additionally, FEMA plans to expand the agency's National Continuity Program (NCP), improve the National Preparedness Directorate's (NPD) training, exercise, technological hazards and community preparedness programs to implement the National Preparedness System,[100] and transition the Flood Map Modernization program to a system that will review and update flood maps every five years. The President's budget submission also included a request for increased funding for its Gap Analysis Program (GAP) to examine the strengths and weaknesses of each state's emergency and evacuation plans. Traditionally, the GAP program focused primarily on hurricane-prone regions and rural and suburban areas rather than including each state.[101]

The President's Budget in Brief[102]

For FY2010, the President's budget submission requested an appropriation of $7,235 million for FEMA, an increase of 3% over the FY2009 total of $7,038 million. The President requested $2,000 million for the Disaster Relief Fund (DRF) (an increase of 43% over the FY2009 total of $1,400 million). The President's budget submission also requested a total of $3,867 million for State and local programs in FY2010, $909 million less than appropriated in FY2009, which was $4,776 million (representing a decrease of 19%). The FY2009 enacted amount for the Radiological Emergency Preparedness Program (REPP) was $27,980 million; the President requested $28,485 million (an increase of 2%).[103]

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[99] Federal Emergency Management Agency, *About FEMA: FEMA Mission*, Washington DC, November 2008, http://www.fema.gov/about/index.shtm.

[100] Assessments on the program's progress will be published in a National Preparedness Report (NPR).

[101] Department of Homeland Security: Federal Emergency Management Agency, *Fiscal Year 2010: Strategic Context*, Congressional Justification, Washington DC, April 2009, pp. 2-11.

[102] Prepared by Bruce R. Lindsay, Analyst in Emergency Management Policy, Government and Finance Division.

[103] The REPP fund is financed from user fees assessed and collected from the Nuclear Regulatory Commission (NRC) licensees to cover budgeted costs for radiological emergency planning, preparedness, and response activities in the following year.

State and Local Programs[104]

FEMA is responsible for administering grant programs that assist states, localities, and critical infrastructure meet their homeland security needs.[105] These programs are used primarily by first responders, which include firefighters, emergency medical personnel, emergency managers, and law enforcement officers. Specifically, the appropriations for these programs fund grants, training, exercises, and other support activities that assist states, territories, and tribal and joint jurisdictions to prepare for terrorism, emergencies, and major disasters. The programs are administered by two different organizations within FEMA, the Grants Programs Directorate (GPD) and the National Preparedness Directorate (NPD).

GPD programs include:

- State Homeland Security Grant Program (SHSGP),
- Firefighter Assistance Grants Program (FIRE),
- Driver's License Security Grants Program (DLSGP, formerly known as REAL ID),
- Citizen Corps Grant Program (CCP),
- Interoperable Emergency Communications Grant Program (IECGP),
- Regional Catastrophic Preparedness Grant Program (RCPGP),
- Medical Surge Grant Program (MSGP, formerly known as the Metropolitan Medical Response System),
- Emergency Management Performance Grants (EMPG),
- Urban Area Security Initiative (UASI), and
- Transportation Infrastructure Protection (including port, rail/transit, and Buffer Zone Protection security programs).[106]

NPD is responsible for administering the Training, Measurement, and Exercise Programs, which include exercises, training, technical assistance and evaluations. The Administration proposes that in FY2010 this include the National Exercise Program (NEP), State and Local Training Programs, Technical Assistance (TA) Programs, and Evaluations and National Assessments.[107]

As previously mentioned, the President's budget proposed $909 million less for these programs than was appropriated in FY2009; however, some programs would receive increased funding in FY2010. The reduction is primarily the result of the Administration not requesting funding for Emergency Operations Centers, Commercial Equipment Direct Assistance Program, Over-the-

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

[105] For more information on these grant programs and an analysis of some policy issues, see CRS Report R40246, *Department of Homeland Security Assistance to States and Localities: A Summary and Issues for the 111th Congress*, by Shawn Reese.

[106] U.S. Department of Homeland Security, *Federal Emergency Management Agecny, State and Local Programs: Fiscal Year 2010 Congressional Budget Submission*, Washington, DC, May 2009, pp. FEMA-SLP-1 - FEMA-SLP-2.

[107] Ibid., p. FEMA-SLP-3.

Road Bus Security Program, the Trucking Security Grant program, and the Center for Counterterrorism and Cyber Crime. In addition, the Administration has requested a funding reduction for the State Local Training Program, Transportation and Infrastructure Protection, and Assistance to Firefighters.

The Administration categorizes all these programs into: Homeland Security Prevention and Protection Programs; Homeland Security Response and Recovery Programs; and Other National, State and Local Programs/Training, Measurement, and Exercise Program. See **Table 15,** below, for specific amounts requested.

Table 15. FY2009 Enacted and FY2010 Requested Budget Authority for State and Local Programs

(All amounts in millions)

Programs	FY2009 Enacted	FY2010 Budget Request	FY2010 House-Reported	FY2010 Senate-Reported	FY2010 Enacted
Homeland Security Prevention and Protection Programs					
Urban Area Security Initiative	838	887	887	887	
State Homeland Security Grant Program	950[a]	950[b]	950[b]	950	
Driver's License Security Program (REAL ID)	50	50	50	50	
Buffer Zone Protection Program	50	50	50	50	
Transportation Security Grant Program	1,120[c]	500[d]	512	706	
Homeland Security Response and Recovery Programs					
Assistance to Firefighters	985[e]	590[f]	800	800	
Emergency Management Performance Grants	315	315	330	350	
Medical Surge Grants	41	40	40	40	
Citizen Corps Programs	15	15	15	15	
Regional Catastrophic Preparedness	35	35		35	
Interoperable Emergency Communications Grants	50	50	50	50	
Mississippi Interoperable Communications	20	0			
Emergency Operations Centers	35	0	40	20	
Other National, State and Local Grant Programs/Training, Measurement and Exercise Program					
Commercial Equipment Direct Assistance Program	8	0			
Continuing Training Grants	31	23	31	27	

Programs	FY2009 Enacted	FY2010 Budget Request	FY2010 House-Reported	FY2010 Senate-Reported	FY2010 Enacted
National Domestic Preparedness Consortium	102	52	92	102	
Cybercrime Counterterrorism Training	2	0		2	
Center for Domestic Preparedness/Noble Training Center	62	63	40	63	
National Exercise Program	40	42	40	40	
Technical Assistance Programs	11	13	13	13	
Evaluations and Assessments	16	18	16	18	
Rural Domestic Preparedness Consortium			3		
Management and Administration	—[g]	175			
Total	**4,776**	**3,868**	**3,959**	**4,217**	

Source: CRS Analysis of the *FY2010 DHS Congressional Budget Justifications*, the *FY2010 DHS Budget in Brief*, House-reported H.R. 2892 and H.Rept. 111-157, and Senate-reported S.1298 and S.Rept. 111-31.

Notes: Totals may not add due to rounding.

a. This amount includes $60 million for Operation Stone Garden.

b. This amount includes $60 million for Operation Stone Garden.

c. This amount includes $550 million for port security, $550 million for rail security, $12 million for bus security, and $8 million for trucking security.

d. This amount includes $250 million for port security, and $250 million for rail security.

e. This amount includes $565 million for fire grants, and $420 million for the SAFER program.

f. This amount includes $170 million for fire grants, and $420 million for the SAFER program.

g. In FY2010, the Administration requests a specific budget authority for Management and Administration.

FEMA Issues for Congress

Pre-Disaster Mitigation[108]

The Pre-Disaster Mitigation (PDM) Program, Section 203 of the Stafford Act, awards mitigation grants on an annual basis and is not directly connected to disaster declarations.[109] It is intended to reduce the risk and impact of disasters prior to those events. (The Hazard Mitigation Grant Program, Section 404 of the Stafford Act, is a post-disaster program.[110]) The FY2010 budget requested a $60 million increase above last years appropriated level, from $90 million to $150 million. This would return the program to the level of funding requested in 2005 and 2006.

[108] Prepared by Francis X. McCarthy, Analyst in Emergency Management Policy, Government and Finance Division.

[109] 42 U.S.C. 5133

[110] 42 U.S.C. 5170c.

Authority for the PDM program will terminate on September 30, 2009.[111] The House has passed H.R. 1746, which extends authorization through FY2012. The Senate has yet to take action on the extension of authorization.

Authorized by the Disaster Mitigation Act of 2000, the PDM program has been directed by Congress since FY2007 to be run, in part, as a competitive grant program. This was a significant change as the authorizing legislation was shaped around minimum state allocations and community awards rather than on an individual project basis.[112] Since FY2008, PDM has also been subject to a significant number of congressionally directed awards. Taken as a whole, the authorized allocations, along with the earmarks, left relatively few program funds for the competitive process awards. The Federal Emergency Management Agency (FEMA) is proposing in the FY2010 budget to "implement a base-plus-risk allocation program that will assist states, territories, and tribes."[113] This change would reflect FEMA's assessment of disaster risk and allocate all funding based on the statutory minimum allocation to each state of $500,000, plus any remaining funding that would also be allocated through a national level risk analysis. [114]

Emergency Food and Shelter[115]

The FY2010 request for the Emergency Food and Shelter (EFS) Program (Title III of the McKinney-Vento Homeless Assistance Act) is $100 million. The $100 million figure is the same amount requested by the previous Administration for the program in the FY2009 budget request. The budget request for FY2010 is a reduction of $200 million from the total program appropriations in FY2009, which included an additional $100 million from the Stimulus bill for the EFS program.[116] With the inclusion of stimulus funding, the total funds available to local homeless assistance providers in the current fiscal year through the EFS program is $300 million, the largest amount in the program's 26 year history. The existence of the extra stimulus funds may have influenced the reduced request. However, since the funds are only available to the recipient agencies until December 31, 2009, a significant reduction would be absorbed through most of FY2010.[117] The budget document places the program, a unique public-private partnership, under DHS goal 2: 'Build a nimble, effective emergency response system and promote national resilience." The justification for the reduction is attributed to a "refocus of resources on the primary mission of preparing for and coordinating disaster response and recovery efforts while still providing substantial support for the EFS program."[118]

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[111] P.L. 110-329, 122 Stat. 3690.

[112] P.L. 108-7, 117 Stat. 515.

[113] U.S. Department of Homeland Security, Federal Emergency Management Agency, Fiscal Year 2010, Strategic Context, Congressional Justification, p. FEMA-11.

[114] The pending legislation to reauthorize PDM (H.R. 1746) would also increase the state minimum amount to $575,000.

[115] Prepared by Francis X. McCarthy, Analyst in Emergency Management Policy, Government and Finance Division.

[116] P.L. 111-5, the American Recovery and Reinvestment Act of 2009, Feb.17, 2009, 123 Stat. 164.

[117] The Emergency Food and Shelter National Board, *Current Phase Deadlines*, at http://www.efsp.unitedway.org/.

[118] Department of Homeland Security, Federal Emergency Management Agency, Fiscal Year 2010, Congressional Justification, Emergency Food and Shelter Program, p. EFS-14. Note: The EFS program is separate from Individual Assistance funds provided for disaster relief. However, the EFS National Board has provided additional funding to areas hit by catastrophic disasters, such as Florida following Hurricane Andrew, and Louisiana following Hurricane Katrina, as a response to the needs of homeless populations in those areas exacerbated by the disaster events.

State and Local Programs[119]

In FY2010, Congress could elect to address three issues when considering appropriating funds for DHS's state and local assistance programs. The first issue is the overall reduction in funding for state and local assistance programs, the second issue is the allocation method DHS uses to determine state and local grant awards, and the third issue is the reduction in appropriations for Assistance to Firefighters Program.

- **Reduction in Total State and Local Assistance Funding.** The issue that appears to continue to dominate DHS's assistance programs for states and localities is the overall reduction in funding, despite increases in some program funding. The Administration proposed to reduce the overall funding for these programs in FY2010 by $909 million from what was enacted in FY2009. This proposed reduction includes eliminating funding for transportation security programs such as the Over-the-Road Bus Security Program and Trucking Security Program. The Administration also proposed to reduce funding to such programs as the Assistance to Firefighters Program and the National Domestic Preparedness Consortium. This overall reduction in funding may result from a focus on maintaining existing programs instead of increasing or adding additional grant programs.

- **Allocation Methodology.** Since FY2003, Congress has debated the allocation methodology DHS uses to determine some state and local grant awards. Some degree of resolution was reached in P.L. 110-53.[120] The FY2009 DHS appropriations, P.L. 110-329, required GAO to report to Congress on the data, assumptions, and methodology that DHS uses to assess risk in determining SHSGP and UASI allocations. Specifically, this report was to include information on the reliability and validity of the data used, the basis for the assumptions used, how the methodology was applied to determine the risk scores for individual locations, an analysis of the usefulness of placing states and cities into tier groups, and the allocation of grants to eligible recipients. Additionally, the *Congressional Record* version of the FY2009 DHS explanatory statement stated that FEMA is "expected to continue to fully engage agencies with subject matter expertise within the Department, when appropriate, in the development of grant guidance and the determination of awards."[121] Congress could require similar language in the FY2010 appropriations legislation in order to maintain oversight of DHS's allocation methodology.

- **Reduction in Funding for the Assistance to Firefighters Program.**[122] For FY2010, the Administration proposed $170 million for Assistance to Firefighter Grants (AFG), a 70% decrease from the FY2009 level, and $420 million for SAFER (Staffing for Adequate Fire and Emergency Response Firefighters), double the amount appropriated in FY2009. The total amount requested for firefighter assistance (AFG and SAFER) is $590 million, a 24% decrease from FY2009. The FY2010 budget proposal states that the firefighter assistance grant process will give priority to

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

[120] For further information, see CRS Report RL34181, *Distribution of Homeland Security Grants in FY2007 and P.L. 110-53, Implementing Recommendations of the 9/11 Commission Act*, by Shawn Reese and Steven Maguire.

[121] *Congressional Record*, daily edition, vol. 154, September 24, 2008, p. H9804.

[122] This section prepared by Lennard G. Kruger, Specialist in Science and Technology, Resources, Science, and Industry Division.

applications that enhance capabilities for terrorism response and other major incidents.

AFG grants are used primarily for firefighting equipment, while SAFER grants are used for hiring (by career departments) and recruitment/retention (by volunteer departments). The $170 million request for AFG, if approved by Congress, would be the lowest level for the program since FY2001, the program's initial year. On the other hand, the proposed doubling of the SAFER budget to $420 million would be the highest level for this program since its inception. In evaluating the budget proposal, Congress may assess whether there is an appropriate balance between funding for firefighter equipment and hiring/recruitment.

Flood Map Modernization[123]

The Administration has proposed transitioning the Flood Map Modernization program to a system that will review and update flood maps every five years. The President's budget submission did not request additional funding for the program. Some may question whether the increase in reviewing and updating of flood maps can be achieved without additional funding.

The Disaster Relief Fund[124]

In the report "*A New Era of Responsibility,*" the Office of Management and Budget's (OMB) claimed that prior FEMA budgets did not account for large disasters, permitting past Administrations to project deficits that were lower than were likely to occur.[125] The President's FY2010 budget submission increased the DRF by $600 million to account for large-scale disasters. Congress has traditionally appropriated funds to maintain the DRF at a certain level, and then provided additional financing for assistance through supplemental appropriations following a specific large disaster. Currently, the DRF funds disaster relief for emergencies and major disasters that cost $500 million dollars or less. Major disasters costing more than $500 million dollars are generally funded with emergency supplemental appropriations.

Is an additional $600 million a sufficient amount to obviate the need for emergency supplemental appropriations? If not, it may not meet the President's and the OMB's stated goal of creating a budget that accounts for large disasters because there will be a continued need for emergency supplemental appropriations.

Still, some may argue that using emergency supplemental appropriations are a better mechanism for funding large disasters because large disasters tend to be infrequent. Proponents of using emergency supplemental appropriations to fund large disasters may claim that keeping the DRF at a lower level prevents the likelihood that some of the funding in the account will be transferred for other uses.

[123] Prepared by Bruce R. Lindsay, Analyst in Emergency Management Policy, Government and Finance Division.

[124] Prepared by Bruce R. Lindsay, Analyst in Emergency Management Policy, Government and Finance Division.

[125] Office of Management and Budget, *A New Era of Responsibility: Renewing America's Promise*, Washington DC, February 26, 2009, p. 36.

Office of Health Affairs[126]

The Office of Health Affairs (OHA) coordinates public health and medical programs throughout DHS, and administers several of them, including the BioWatch program, the National Biosurveillance Integration System (NBIS), and the department's occupational health and safety programs.[127] OHA is administered by the DHS Assistant Secretary for Health Affairs and Chief Medical Officer.[128] Dr. Jeffrey Runge, the first person to hold the position, stepped down in August, 2008. The position is now filled by Acting Assistant Secretary for Health Affairs and Chief Medical Officer Dr. Jon R. Krohmer. OHA received $157 million in FY2009 appropriations.

President's FY2010 Request

The President requested $138 million for OHA for FY2010, $19 million (12%) less than was provided in FY2009. The requested funding level would support 84 FTEs, 4 more than in FY2009. Most of the proposed decrease ($17 million) would affect the BioWatch program, discussed below. In addition, $3 million would be cut from the Planning and Coordination account (under which numerous leadership and coordination activities are implemented) through decreases in compensation, travel, and use of contractor services. A $1 million increase was proposed for Salaries and Expenses, to include an increase for information technology equipment costs for the National Capital Region.[129]

Office of Health Affairs Issues for Congress

BioWatch: Effectiveness and Deployment

The BioWatch program deploys sensors in more than 30 large U.S. cities to detect the possible aerosol release of a bioterrorism pathogen. OHA has coordinated with S&T and others to develop a "real-time" (autonomous) replacement for the sensors currently in use, which require off-site laboratory testing that can delay detection for more than 24 hours. However, in the Spring of 2009 New York City discontinued its use of an autonomous sensor prototype when it was found to have performance problems.

Some Members of Congress and others have been concerned about certain aspects of the BioWatch program for several years. In FY2008, Congress provided funding for the National Academy of Sciences (NAS) to study the effectiveness of BioWatch. This review is pending. In its FY2009 recommendation, the House Committee recommended BioWatch funding substantially below the request, and expressed concern about OHA's plans to deploy two different versions of autonomous sensors concurrently while the NAS review was pending.[130] The FY2010

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

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

[128] The dual title applies to one individual. The position of Chief Medical Officer is established at 6 U.S.C. § 321e. Senate confirmation is required, and certain qualifications are stipulated.

[129] OHA, *Fiscal Year 2010 Congressional Justification*, pp. OHA-38–OHA-47.

[130] U.S. Congress, House Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2009*, report to accompany H.R. 6947, 110th Cong., 2nd sess., September 18, 2008, H.Rept. 110-862 (Washington: GPO, 2008), pp. 106-107.

budget request proposed $95 million for BioWatch, a $17 million decrease from the FY2009 enacted amount. The proposed cut primarily reflects the Administration's proposal to scale back procurement and deployment of new autonomous sensors.

Proposed Transfer of the BioShield Special Reserve Fund[131]

OHA manages the Special Reserve Fund, the account Congress established for DHS and the Department of Health and Human Services (HHS) to purchase medical countermeasures against chemical, biological, radiological, and nuclear (CBRN) agents, through Project BioShield.[132] For FY2010, the Administration proposed transferring management of this account and all of its remaining funds from DHS to HHS. The Department of Homeland Security Appropriations Act, 2004 (P.L. 108-90) advance-appropriated $5,593 million for this account. The Administration estimated the transferred balance will be $1,569 million, after accounting for congressional rescissions, congressional transfers of funds to other programs, and actual and planned Project BioShield countermeasure obligations from FY2004-FY2009. This amount would be transferred to the HHS Public Health and Social Services Emergency Fund. Of this amount, the Administration plans to keep in reserve $1,264 million available for the purchase of medical countermeasures. The remaining $305 million would fund countermeasure development through the Biodefense Advanced Research and Development Authority (BARDA) in an attempt to spur the development of countermeasures that might be purchased through Project BioShield.[133] This follows a similar transfer of $275 million from this account to BARDA by the Omnibus Appropriations Act, 2009 (P.L. 111-8).[134]

National Protection and Programs Directorate[135]

The National Protection and Programs Directorate (NPPD) was formed by the Secretary for Homeland Security in response to the Post-Katrina Emergency Management Reform Act of 2006. The Directorate includes the Office of Infrastructure Protection, the Office of Cybersecurity and Communications, the Office of Risk Management and Analysis, and the U.S. Visitor and Immigrant Status Indicator Technology Program (US-VISIT). In FY2010, DHS is proposing moving the Federal Protective Service into the Directorate. The programs and activities of the Office of the Under Secretary for National Protection and Programs and the Office of Risk Management and Analysis, are supported within the Directorate's Management and Administration Program. The programs and activities of the Office of Infrastructure Protection and the Office of Cybersecurity and Communications are supported through the Infrastructure Protection and Information Security Program. The President's FY2010 budget requests $1,319 million in budget authority for NPPD.

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[131] Prepared by Frank Gottron, Specialist in Science and Technology Policy, Resources, Science, and Industry Division.

[132] For more on Project BioShield, see CRS Report RS21507, *Project BioShield: Purposes and Authorities*, by Frank Gottron.

[133] Department of Health and Human Services, *Fiscal Year 2010 Budget in Brief*, May 7, 2009, p. 108, http://www.hhs.gov/asrt/ob/docbudget/.

[134] U.S. Congress, House Appropriations, *Omnibus Appropriations Act, 2009 (H.R. 1105; P.L. 111-8)*, committee print, 111th Cong., 1st sess., March 2009, p. 1301.

[135] Prepared by John Moteff, Specialist in Science and Technology Policy, Resources, Science and Industry Division.

Management and Administration

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

The Office of Risk Management and Analysis (RMA) was established as part of the Post-Katrina Emergency Reform Act of 2006. It had formerly been a division within the Office of Infrastructure Protection. The RMA now reports directly to the Under Secretary. The responsibility of this office is to help develop and implement a common risk management framework[136] and to leverage risk management expertise throughout the entire department.

President's FY2010 Request

DHS requested $45 million for NPPD Management and Administration (**Table 16**). This is nearly $7 million below last year's enacted appropriation, even after requesting 40 new positions (26 within Directorate Administration and 14 within the Office of Risk Management and Analysis). A net reduction in the account's base funding accounted for the lower funding. Funding for the additional positions were offset by reductions in program funds. Most of these offsets came from contracted services. The additional reduction in Directorate Administration was due the transfer of rent costs out of the Directorate Administration's base budget. Neither activity requested changes in current services.

Table 16. FY2009 Budget Activity for NPPD Management and Administration Appropriation

(budget authority in millions of dollars)

Program Project Activity	FY2009 Enacted	FY2010 Request	FY2010 House-Reported	FY2010 Senate-reported	FY2010 Enacted
Directorate Administration	42	35	35	35	
Risk Management and Analysis	10	10	10	10	
Total	**51**	**45**	**45**	**45**	

Sources: CRS Analysis of the *FY2010 DHS Congressional Budget Justifications*, the *FY2010 DHS Budget in Brief,* House-reported H.R. 2892 and H.Rept. 111-157, and Senate-reported S.1298 and S.Rept. 111-31.

Note: Tables may not add due to rounding.

Issues for Congress

This year's budget request does not appear to raise any significant issues. Of the offices located within the Directorate Administration, only the Office of Resource Administration identified new

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

hires in its budget justification language. Through its oversight responsibility, Congress might ask where the requested new hires will be located and what they will be doing. They may be doing the work formerly being done by contractors.

Within the Office of Risk Management and Analysis, Congress might ask how the development of RAPID, the Risk Assessment Process for Informed Decision-making, is progressing. RAPID is being designed to be incorporated into the Department's planning, programming, and budgeting system, to help the Department allocate resources in a more analytical risk-informed process. Since incorporating this process involves buy-in from across the Department, Congress might ask how the program is progressing from the perspective of a variety of DHS components.

U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT)[137]

Until FY2006, US-VISIT was coordinated out of the Directorate of Border and Transportation Security (BTS). DHS Secretary Chertoff's second stage review, among other things, eliminated BTS and proposed placing US-VISIT within a new Screening Coordination Office (SCO) that would have combined a number of screening programs within DHS[138] and that would have reported directly to the Secretary. The appropriators did not provide funding for the SCO, however, and US-VISIT became a stand-alone office within Title II of the DHS appropriation in FY2006.[139] In FY2008, DHS transferred US-VISIT into a new entity, the National Protection Programs Directorate (NPPD). In its Section 872 letter, DHS stated that it was relocating US-VISIT to the NPPD "to support coordination for the program's protection mission and to strengthen DHS management oversight."[140]

President's Request

The Administration requested $356 million for US-VISIT in FY2010, an increase of $56 million from the FY2009 enacted level of $300 million. Included in the Administration's request is an increase of $42 million for additional US-VISIT infrastructure technology enhancements and development of new capabilities supporting Automated Biometric Identification System (IDENT) and the Arrival and Departure Information System (ADIS). Other program changes identified by US-VISIT include program management services, identity management and screening, data center mirror and migration, and unique identity.

[137] Prepared by Chad C. Haddal, Analyst in Immigration Policy, Domestic Social Policy Division.

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

[139] H.Rept. 109-241.

[140] U.S. Department of Homeland Security, letter from Secretary Michael Chertoff to the Honorable Joseph I. Lieberman, Chairman, Committee on Homeland Security and Government Affairs, U.S. Senate, Washington, DC, January 18, 2007, p. 8.

US-VISIT Issues for Congress

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

10 Fingerprint Entry

In FY2009, US-VISIT plans to finish deploying 3,000 new 10 fingerprint scanners to the 292 POE where the US-VISIT system is currently operational—an action taken after US-VISIT deemed successful an FY2008 pilot program to assess the impact of the program's expansion on the infrastructure at POE and wait times for travelers entering the United States. Issues for Congress could include what kind of impact the ongoing database integration efforts with other databases could have on the accuracy and operation of IDENT,[141] whether the 10 fingerprint technology that gets implemented can produce fast and effective results, and what kind of an impact the deployment of the system to all ports of entry will have on the travel times for individuals entering the country.

Exit Component at Air and Sea Ports

Deployment of a biometric exit system has been of concern to Congress for a number of years. Without verifying the identity of travelers who leave the United States, DHS has no easy way of identifying individuals who overstay their visas and remain in the country illegally. For the past several years, US-VISIT has been heavily criticized for not implementing an exit system at ports of entry. Although the budget justifications provided by US-VISIT are unclear on the extent to which an exit system has been developed, the justifications do note that in FY2009 IDENT users will be informed that biometric data will be collected from non-citizens exiting from the United States from air and sea ports. US-VISIT has not requested any specific appropriations relating to an exit system.[142] The exact nature of US-VISIT's exit system strategy may be an issue that Congress will examine, given the intense congressional interest on this topic in the past.

Infrastructure Protection and Information Security[143]

The Infrastructure Protection and Information Security Program (IPIS) supports the activities of the Office of Infrastructure Protection (OIP), and the Office of Cybersecurity and Communications. The latter includes the National Cyber Security Division (NCSD), the National Communication System (NCS), and the Office of Emergency Communications (OEC). OIP coordinates the national effort to reduce the risks associated with the loss or damage to the

[141] IDENT is a system used CBP that is composed of two databases: (1) a "lookout" database that contains fingerprints and photographs of aliens who have been previously deported or have a criminal history; and (2) a "recidivist" database that contains fingerprints and photographs of illegal aliens who have been apprehended by the border patrol. IDENT uses a biometric identifier (the left and right index fingerprints and a photo) to obtain information on selected aliens seeking entry into the United States.

[142] *DHS FY2010 Justification*, p. NPPD US-VISIT 22-23.

[143] Prepared by John Moteff, Specialist in Science and Technology Policy, Resources, Science and Industry Division.

nation's critical infrastructure due to terrorist attack or natural events. This effort is a cooperative one between the federal government, state, local and tribal governments, and the private sector, to identify critical elements of the nation's infrastructure, their vulnerabilities, the potential consequences of their loss or damage, and ways to mitigate those losses. The NCSD performs a similar function, but specifically focuses on the nation's information networks. The NCS also performs similar function, but specifically focuses on the nation's communication systems, in particular the communications systems and programs that ensure the President can communicate with selected federal agencies, state, local, and tribal governments, and certain private sector entities during times of national emergencies. The OEC is responsible for promoting the ability of state, local and federal emergency response providers to communicate with each other during an emergency through the development and distribution of interoperable communication equipment.

President's FY2010 Request

DHS requested approximately $111 million more for FY2010 than was appropriated in FY2009 (**Table 17**). Approximately $24 million of this increase is due to adjustments in the account's base funding, the remaining $87 million is the net increase associated with requested program changes (including the addition of 38 FTEs). The National Cyber Security Division program received the bulk of these requested increases ($69 million). This included requested increases in Network Security Deployment[144] ($40 million), US-CERT Operations ($16 million), and Cybersecurity Coordination ($13 million). Outside of the National Cyber Security Division, the largest requested increase was for Infrastructure Security Compliance in Mitigation Programs ($19 million).[145] The three largest requested reductions in programs were for National Infrastructure Protection Plan Management and Critical Infrastructure and Key Resources Partnerships in the Coordination and Information Sharing program (-$11 million), termination of the National Command and Coordination Capability (-$6 million), and Wireless Priority Service in the Priority Telecommunications Service program (-$5 million). DHS also requested $4 million less for the National Infrastructure Simulation and Analysis Center (NISAC) within the Identification and Analysis program. Other reductions included relatively small programs Congress added to the budget in FY2009.

Table 17. FY2009 Budget Activity for the Infrastructure Protection and Information Security Appropriation

(budget authority in millions of dollars)

Program Project Activity[a]	FY2009 Enacted	FY2010 Request	FY2010 House-Reported	FY2010 Senate-Reported	FY2010 Enacted
IP	**314**	**333**	**346**	**346**	
Identification and Analysis	(87)	87	87	91	
Coordination and Information Sharing	(56)	51	63	60	

[144] The Network Security Deployment activity involves the placement of intrusion detection sensors throughout the federal government's computer networks. The activity has been called Einstein in the past. The increase in funding would be to expand the deployment with improved sensors.

[145] Infrastructure Security Compliance enforces DHS security regulations related to sites containing certain amount of harmful chemicals and ammonium nitrate.

Program Project Activity[a]	FY2009 Enacted	FY2010 Request	FY2010 House-Reported	FY2010 Senate-Reported	FY2010 Enacted
Mitigation Programs	(171)	196	197	196	
NCSD	**314**	**401**	**382**	**399**	
NCS	**141**	**140**	**110**	**112**	
Priority Telecom Service	(59)	57	57	57	
Programs to Study and Enhance Telecom	(15)	19	17	17	
Critical Infrastructure Protection	(11)	14	11	14	
Next Generation Networks	(50)	50	25	25	
Nat'l Command and Coordination Capability	(6)	0			
OEC	**38**	**44**	**45**	**44**	
Total	**807**	**918**	**883**	**901**	

Source: CRS Analysis of the *FY2010 DHS Congressional Budget Justifications*, the *FY2010 DHS Budget in Brief*, House-reported H.R. 2892 and H.Rept. 111-157, and Senate-reported S.1298 and S.Rept. 111-31.

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

a. The table reflects the FY2010 proposed program realignments and restructuring. In other words, the FY2009 figures in the table are what the FY2009 appropriations would have looked like given the new realignment/restructuring. In addition, DHS presented the major PPAs differently for FY2010 than in FY2009, breaking IP and NCS down into the next level of PPAs, though not for NCSD or OEC. Therefore, IP and NCS are left blank in FY2010, and their component elements in FY2009 are shown in parentheses.

IPIS Issues for Congress

The requested increase of $13 million for Cyber Security Coordination represents a new activity within the NCSD program. However, it does not include funding for any new FTEs. Nor is it clear how the functions described in the budget justification differ from those associated with US-CERT Operations. As part of its oversight responsibilities, Congress might ask for more clarification on how the additional $13 million will be spent.

Also, it is not clear how the Obama Administration's internal review of its cyber security initiatives relates to or is reflected in this budget request. Congress might ask for further clarification on this point.

The reductions sought by the budget request are programs that Congress has added, or added to, in the past, and may be an issue as the Congress considers the request.

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

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

(S&T), and the Domestic Nuclear Detection Office (DNDO). **Table 18** provides account-level details of Title IV appropriations.

Table 18. Title IV: Research and Development, Training, Assessments, and Services

(budget authority in millions of dollars)

	FY2009 Appropriation				FY2010 Appropriation			
Operational Component	**FY2009 Enacted**	**FY2009 Supp.**	**FY2009 Resc.**	**FY2009 Total**	**FY2010 Request**	**FY2010 House-Reported**	**FY2010 Senate-Reported**	**FY2010 Enacted**
Citizenship and Immigration Services								
Total available budget authority	2,641			2,641	2,867	2,751	2,639	
Offsetting Fees[a]	-2,539			-2,539	-2,503	-2,503	-2,503	
Net subtotal (Direct appropriation)	**102**			**102**	**364**	**248**	**136**	
Federal Law Enforcement Training Center	**333**			**333**	**289**	**283**	**288**	
Science and Technology								
Management and Administration	132			132	142	142	143	
Research, Development, Acquisition, and Operations	800			800	826	825	852	
Net Subtotal	**933**			**933**	**968**	**968**	**995**	
Domestic Nuclear Detection Office								
Management and Administration	38			38	40	40	38	
Research, Development, and Operations	323			323	327	327	327	
Systems Acquisition	153			153			10	
Net Subtotal	**514**			**514**	**366**	**366**	**374**	
Gross budget authority: Title IV	**4,421**			**4,421**	**4,490**	**4,368**	**4,295**	
Offsetting collections: Title IV	-2,539			-2,539	-2,503	-2,503	-2,503	
Net budget authority: Title IV	**1,882**			**1,882**	**1,987**	**1,865**	**1,792**	

Source: CRS Analysis of the *FY2010 DHS Congressional Budget Justifications*, the *FY2010 DHS Budget in Brief,* House-reported H.R. 2892 and H.Rept. 111-157, and Senate-reported S.1298 and S.Rept. 111-31.

Notes: Tables may not add due to rounding.

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

U.S. Citizenship and Immigration Services (USCIS)[146]

There are three major activities that dominate the work of the U.S. Citizenship and Immigration Services (USCIS): the adjudication of immigration petitions (including nonimmigrant change of status petitions, relative petitions, employment-based petitions, work authorizations, and travel documents); the adjudication of naturalization petitions for legal permanent residents to become citizens; and the consideration of refugee and asylum claims, and related humanitarian and international concerns. USCIS funds the processing and adjudication of immigrant, nonimmigrant, refugee, asylum, and citizenship benefits largely through funds generated by the Examinations Fee Account.[147] **Table 19** shows FY2009 appropriations and the FY2010 request.

President's FY2010 Request

USCIS is a fee supported agency. As part of the former Immigration and Naturalization Service (INS), USCIS was directed to transform its revenue structure with the creation of the Examinations Fee Account.[148] Although the agency has received direct appropriations in the last decade, these appropriations have been largely directed towards specific projects such as backlog reduction initiatives. The vast majority of the agency's revenues, however, comes from the adjudication fees of immigration benefit applications and petitions. In the President's FY2010 budget request, the agency requested $364 million in direct appropriations. The remaining $2,503 million in gross budget authority requested would be funded by revenues from collected fees.

As **Table 19** shows, the requested USCIS gross budget authority for FY2010 is approximately $2,867 million. The requested direct appropriation of $364 million would include $112 million for the E-Verify program, and $25 million for REAL ID Act implementation. Moreover, the agency requested $10 million for a new Immigrant Integration Initiative and $11 million for data center development. USCIS is also proposing to fund asylum and refugee applications and military naturalizations—all which have no fees attached—with a direct appropriation of $206 million. All other programs and operations would be fee funded. Of the fee-collected funds for FY2010, $1,953 million would fund the USCIS adjudication services. The President's budget request also includes requested funding levels of $154 million for information and customer services, $375 million for administration, and $21 million for the Systematic Alien Verification for Entitlements (SAVE) Program.

[146] Prepared by Chad C. Haddal, Analyst in Immigration Policy, Domestic Social Policy Division.

[147] §286 of the Immigration and Nationality Act, 8 U.S.C. §1356.

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

Table 19. USCIS Budget Account Detail

(budget authority in millions of dollars)

Program/Project Activity	FY2009 Enacted	FY2010 Request	FY2010 House-Reported	FY2010 Senate-Reported	FY2010 Enacted
Appropriations	**102**	**364**	**248**	**136**	
REAL ID Act Implementation	—[a]	25	25	—	
Asylum/Refugee Operating Expenses	1	—			
E-Verify	100	112	112	119	
Data Development Center	—	11		11	
Citizenship Education Grants	1	—			
Immigrant Integration Initiative	—	10	11	1	
Asylum, Refugees, & Military Naturalizations Processing	—	206	100	5	
Fee Collections	**2,539**	**2,503**	**2,503**	**2,503**	
Adjudication Services	1,979	2,207	1,952	2,027	
Information and Customer Services	168	89	154	89	
Administration	374	366	375	366	
SAVE	19	21	21	21	
Total USCIS Funding	**2,641**	**2,867**	**2,751**	**2,639**	

Sources: CRS Analysis of the *FY2010 DHS Congressional Budget Justifications*, the *FY2010 DHS Budget in Brief,* House-reported H.R. 2892 and H.Rept. 111-157, and Senate-reported S.1298 and S.Rept. 111-31.

Notes: Tables may not add due to rounding.

a. USCIS requested $50 million for REAL ID implementation in the FY2009 Budget Request. This funding was provided in the general provisions of P.L. 110-329.

USCIS Issues for Congress

For the FY2010 budget cycle, some potential issues for Congress include the decline in immigrant and nonimmigrant applications and the use of fee-generated funding, as well as the USCIS request for appropriations to process refugee, asylees, and military naturalization applications.

Application Declines and Fee-generated Funding

Because USCIS has been almost completely fee supported for many years, accurate projections of the number of applications that will require processing are essential in order to avoid building backlogs or over-budgeting projects. In the past few years, USCIS has been criticized for its handling of application backlogs and allegedly being underprepared for the surge of applications

in the wake of the 2007 fee increases.[149] More recently, the global economic downturn has highlighted projection concerns, as some observers believe the number of applications submitted to USCIS could decrease (thereby decreasing the agency's revenues). If such revenue declines do occur, USCIS may need to forgo certain future projects or request appropriated funds from Congress. In order to address this issue, USCIS has among other things taken steps to ensure more accurate application projections as a means of informing the budgeting process.[150]

Appropriations for Waiver Applications

In the FY2010 presidential budget request, USCIS has requested direct appropriations of $206 million for funding applications for refugees, asylum-seekers, and military naturalizations. Historically, these applications (for which the fees are waived for the applicants) have been funded through revenues generated by application fees charged to other applicants. In previous years, Congress has had debates over providing USCIS with direct appropriations for application processing and the fees. Thus, the proposal to fund these applications with direct appropriations may be an issue of concern to Congress as it considers the FY2010 request.

Federal Law Enforcement Training Center[151]

The Federal Law Enforcement Training Center (FLETC) provides law enforcement instruction, such as firearms training, high speed vehicle pursuit, and defendant interview techniques for 81 federal entities with law enforcement responsibilities. FLETC also provides training to state and local law enforcement entities and international law enforcement agencies. Training policies, programs, and standards are developed by an interagency Board of Directors, and focus on providing training that develop the skills and knowledge needed to perform law enforcement activities safely, effectively, and professionally. FLETC administers four training sites throughout the United States and employs more than 1,000 personnel. **Table 18** shows the enacted FY2009 and FY2010 appropriations for FLETC.

President's Budget

The overall request for FLETC in FY2010 was $289 million, a decrease of $44 million from the FY2009 appropriation of $333 million. The Administration intends to implement a one-time decrease of 53 FLETC positions and 52 FTEs in FY2010.[152] In FY2010, FLETC officials intend to:

- train over 85,000 students;
- receive re-accreditation for its Law Enforcement Fitness Coordinator Training Program, the Law Enforcement Instructor In-Service Training Program, the

[149] For more information, see CRS Report RL34040, *U.S. Citizenship and Immigration Services' Immigration Fees and Adjudication Costs: The FY2008 Adjustments and Historical Context*, by Chad C. Haddal.

[150] Information is based upon CRS discussions with USCIS Chief Financial Officer.

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

[152] U.S. Department of Homeland Security, Federal Law Enforcement Training Center, *Fiscal Year 2010 Strategic Context, Congressional Submission*, Washington, DC, May 2009, pp. FLETC-1 - FLETC-2.

Criminal Investigator Training Program, and the Inland Boat Operators Training Program; and

- continue construction of the multi-phased Practical Application/Counterterrorism Operational Training facility.[153]

Science and Technology (S&T)[154]

The Directorate of Science and Technology (S&T) is the primary DHS organization for research and development (R&D).[155] It performs R&D in several laboratories of its own and funds R&D performed by the national laboratories, industry, and universities. See **Table 20** for details of the directorate's appropriation.

President's FY2010 Request

The Administration requested a total of $968 million for the S&T Directorate for FY2010. This was 4% more than the FY2009 appropriation of $933 million. The Command, Control, and Interoperability Division includes a proposed net increase of $5 million to a total of $80 million. Within this $80 million total, a proposed increase of $15 million for next-generation cyber security R&D was largely offset by reductions in the division's other activities. A proposed increase of $25 million for the Explosives Division included $10 million to develop technologies for high-throughput screening of air cargo and $15 million to develop technologies for detection of improvised explosive devices in mass transit and at large events. A proposed reduction of $31 million for the Infrastructure and Geophysical Division included the elimination of funding for local and regional initiatives previously established or funded at congressional direction. The request for Laboratory Facilities included $36 million for the planned National Bio and Agro Defense Facility (NBAF), about the same as in FY2009. A proposed increase of $16 million for the Transition program included $5 million for the Homeland Security Studies and Analysis Institute, formerly the Homeland Security Institute, which was funded as a separate item in FY2009.

[153] Ibid.

[154] Prepared by Daniel Morgan, Specialist in Science and Technology Policy, Resources, Science, and Industry Division.

[155] Two other DHS organizations also conduct R&D: the Domestic Nuclear Detection Office (see next section) and the U.S. Coast Guard (see Title II above).

Table 20. Directorate of Science and Technology Accounts and Activities, FY2009-FY2010

(budget authority in millions of dollars)

	FY2009 Enacted	FY2010 Request	FY2010 House	FY2010 Senate	FY2010 Enacted
Directorate of Science and Technology - Total	**933**	**968**	**968**	**995**	
Management and Administration	**132**	**142**	**142**	**143**	
R&D, Acquisition, and Operations	**800**	**826**	**825**	**852**	
Border and Maritime	33	40	40	40	
Chemical and Biological	200	207	222	207	
Command, Control, and Interoperability	75	80	81	83	
Explosives	96	121	121	121	
Human Factors / Behavioral Sciences	12	15	17	12	
Infrastructure and Geophysical	76	45	52	68	
Innovation	33	44	44	44	
Laboratory Facilities	162	154	123	155	
Test and Evaluation, Standards	29	29	29	29	
Transition	29	45	46	45	
University Programs	50	46	50	48	
Homeland Security Institute	5	0	0	0	

Source: CRS Analysis of the *FY2010 DHS Congressional Budget Justifications*, the *FY2010 DHS Budget in Brief*, House-reported H.R. 2892 and H.Rept. 111-157, and Senate-reported S.1298 and S.Rept. 111-31.

Note: Totals may not add because of rounding.

Issues for Congress

Among the issues facing Congress are the S&T Directorate's priorities and how they are set; its relationships with other federal R&D organizations both inside and outside DHS; its budgeting and financial management; the allocation of its R&D resources to national laboratories, industry, and universities; and plans over the next few years to establish new university centers of excellence and terminate or merge several existing ones.[156]

The start of NBAF construction in FY2011 will likely require significant increases in Laboratory Facilities funding over the next several years. It may also result in increased Congressional oversight. For construction of NBAF and decommissioning of the Plum Island Animal Disease Center (PIADC), which NBAF will replace, DHS expects to need appropriations of $687 million

[156] For more information, see CRS Report RL34356, *The DHS Directorate of Science and Technology: Key Issues for Congress*, by Dana A. Shea and Daniel Morgan.

between FY2011 and FY2014. The estimated total cost of the NBAF project, excluding PIADC decommissioning and site-specific infrastructure and utility upgrades, increased from $451 million in December 2006 to $615 million in May 2009. Decommissioning PIADC is expected to cost $190 million. In the Department of Homeland Security Appropriations Act, 2009 (P.L. 110-329, Div. D, Sec. 540) Congress authorized DHS to offset NBAF construction and PIADC decommissioning costs by selling Plum Island. Site-specific costs of $110 million will be contributed in-kind by Kansas State University.[157]

Statutory authority for the Homeland Security Institute (HSI) expired in April 2009. Under its general authority to establish federally funded R&D centers, the S&T Directorate has replaced HSI with the Homeland Security Studies and Analysis Institute. It has also established a new Homeland Security Systems Engineering and Development Institute. Both institutes will be funded mostly on a cost-reimbursement basis by other S&T programs and other DHS and non-DHS agencies. The FY2010 DHS congressional budget justification estimated that reimbursable obligations by the two institutes would total $122 million in FY2009 and $143 million in FY2010.

Domestic Nuclear Detection Office[158]

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

President's FY2010 Request

The Administration requested a total of $366 million for DNDO for FY2010. This was a 29% reduction from the FY2009 appropriation of $514 million. The requested funding for Management and Administration and Research, Development, and Operations was approximately the same as in FY2009. No funds were requested for Systems Acquisition, which received $153 million in FY2009. According to the DHS congressional budget justification, new funds for Systems Acquisition are not needed in FY2010 because unobligated funds are available from previous fiscal years and because secretarial certification of Advanced Spectroscopic Portal (ASP) technology has been delayed.

[157] For more information on NBAF, see CRS Report RL34160, *The National Bio- and Agro-Defense Facility: Issues for Congress*, by Dana A. Shea, Jim Monke, and Frank Gottron.

[158] Prepared by Daniel Morgan, Specialist in Science and Technology Policy, Resources, Science, and Industry Division.

Table 21. Domestic Nuclear Detection Office Accounts and Activities, FY2009-FY2010

(budget authority in millions of dollars)

	FY2009 Enacted	FY2010 Request	FY2010 House	FY2010 Senate	FY2010 Enacted
Domestic Nuclear Detection Office Total	**514**	**366**	**366**	**374**	
Management and Administration	**38**	**40**	**40**	**38**	
Research, Development, and Operations	**323**	**327**	**327**	**327**	
Systems Engineering and Architecture	25	25	25	25	
Systems Development	108	100	100	100	
Transformational Research and Development	103	111	111	111	
Assessments	32	32	32	32	
Operations Support	38	38	38	38	
National Technical Nuclear Forensics	17	20	20	20	
Systems Acquisition	**153**	**0**	**0**	**10**	
Radiation Portal Monitoring Program	120	0	0		
Securing the Cities	20	0	0	10	
Human Portable Radiation Detection Systems	13	0	0		

Source: CRS Analysis of the *FY2010 DHS Congressional Budget Justifications*, the *FY2010 DHS Budget in Brief*, House-reported H.R. 2892 and H.Rept. 111-157, and Senate-reported S.1298 and S.Rept. 111-31.

Note: Totals may not add because of rounding.

Issues for Congress

Congressional attention has focused on the testing and analysis DNDO conducted to support its decision to purchase and deploy ASPs, a type of next-generation radiation portal monitor. A requirement for secretarial certification before full-scale ASP procurement has been included in each appropriations act since FY2007. The expected date for certification has been postponed several times. For more information, see CRS Report RL34750, *The Advanced Spectroscopic Portal Program: Background and Issues for Congress*, by Dana A. Shea, John D. Moteff, and Daniel Morgan.

The global nuclear detection architecture overseen by DNDO and the relative roles of DNDO and the S&T Directorate in research, development, testing, and evaluation also remain issues of congressional interest. For more information on the global nuclear detection architecture, see CRS Report RL34574, *The Global Nuclear Detection Architecture: Issues for Congress*, by Dana A. Shea.

The mission of DNDO, as established by Congress in the SAFE Port Act (P.L. 109-347), includes serving as the primary federal entity "to further develop, acquire, and support the deployment of an enhanced domestic system" for detection of nuclear and radiological devices and material (6 U.S.C. 592). Congress may wish to consider whether the acquisition portion of that mission is consistent with the Administration's request of no new funding for Systems Acquisition and the following statement in the President's *Budget Appendix* (pp. 560-561):

> In the past, DNDO acquired and deployed radiation detection technologies for DHS components, primarily the Coast Guard and the Customs and Border Patrol, or state and local users. Funding requests for radiation detection equipment will now be sought by the end users that will operate them.

FY2010-Related Legislation

Budget Resolution

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

> this resolution assumes funding above the President's requested level for 2009, and additional amounts in subsequent years, in the four budget functions—Function 400 (Transportation), Function 450 (Community and Regional Development), Function 550 (Health), and Function 750 (Administration of Justice)—that fund most nondefense homeland security activities.[159]

The Senate budget resolution (S.Con.Res. 70) was passed in the Senate on March 14, 2008. On June 5, 2008, the House and Senate reached agreement on S.Con.Res. 70. The final agreement contained language similar to the House language excerpted above, and also noted that:

> the homeland security funding provided in this resolution will help to strengthen the security of our Nation's transportation system, particularly our ports where significant security shortfalls still exist and foreign ports, by expanding efforts to identify and scan all high-risk United States-bound cargo, equip, train and support first responders (including enhancing interoperable communications and emergency management), strengthen border patrol, and increase the preparedness of the public health system.[160]

[159] H.Con.Res. 312, §603

[160] S.Con.Res. 70, §512.

Appendix A. DHS Funding in P.L. 111-5

Title VI of P.L. 111-5, the American Recovery and Reinvestment Act of 2009, included a number of provisions providing emergency funding to DHS components; these provisions were also included in the accompanying conference language in Title VI of H.Rept. 111-16. The following funding provisions are included for the Department of Homeland Security:

- $200 million for the Office of the Under Secretary of Management. These funds are for the planning, design, and construction costs necessary to consolidate the DHS headquarters.
- $5 million for the Office of Inspector General. Funds are to be used for oversight and auditing of programs, grants and projects funded under the DHS Title of the stimulus bill.
- $160 million for the CBP Salaries and Expenses account. This includes $100 million for the procurement and deployment of new or replacement non-intrusive inspection (NII) systems, and $60 million for tactical communications.
- $100 million for the CBP Border Security Fencing, Infrastructure, and Technology account for the expedited development and deployment of border security technology on the Southwest border. A DHS expenditure plan is required within 45 days of enactment of P.L. 111-5.
- $420 million for the CBP Construction account. These funds are designated for the planning, design, management, alteration, and construction of land ports-of-entry. A DHS expenditure plan is required within 45 days of enactment of P.L. 111-2.
- $20 million for ICE's Automation Modernization account for the procurement and deployment of tactical communications equipment and radios. A DHS expenditure plan is required within 45 days of enactment of P.L. 111-5.
- $1,000 million for TSA's Aviation Security account to procure and install checked baggage explosives detection systems and checkpoint explosives detection equipment. A DHS expenditure plan is required within 45 days of enactment of P.L. 111-5.
- $98 million for the Coast Guard Acquisition, Construction, and Improvements account for shore facilities and aids to navigation facilities, priority procurements due to material and labor cost increases, and for costs to repair, renovate assess, or improve vessels. The funding cannot be used for pre-acquisition survey, design, or construction of a new polar icebreaker. A DHS expenditure plan is required within 45 days of enactment of P.L. 111-5.
- $142 million for the Coast Guard Alteration of Bridges account to be used for the alteration or removal of obstructive bridges. A DHS expenditure plan is required within 45 days of enactment of P.L. 111-5.
- $300 million to FEMA's State and Local Program account, of which $150 million is for Public Transportation Security Assistance and Railroad Security Assistance, including Amtrak security, and $150 million is for Port Security Grants.

- $210 million for FEMA's Firefighter Assistance Grants account to be used for the modification, upgrade or construction of non-Federal fire stations.
- $100 million for FEMA's Emergency Food and Shelter account.

In addition to the broad funding distribution listed above, the general provisions of the Title VI of H.Rept. 111-16 includes so-called "buy American" requirements. With certain exceptions, this provision states that funds appropriated or otherwise made available to DHS in the Act may not be used for the procurement of fabric or fiber-related items if the item is not grown, reprocessed, reused, or produced in the United States. Generally, DHS can procure items with 10% or less of total value of non-compliant fibers. Exceptions to this requirement are made for vessels in foreign waters, emergency procurements, small purchases, and circumstances wherein the Secretary of DHS determines that qualifying items of satisfactory quality or quantity cannot be procured.

Appendix B. FY2009 Supplemental Appropriations

Supplemental Appropriations Act, 2009

Title VI of the Senate-reported version of the Supplemental Appropriations Act, 2009 (S. 1054), contains a total of $287 million for DHS. Of this amount, $140 million is fully recommended to support activities along the southwest border with Mexico in response to reports of increasing drug-related violence. The recommended budget authority includes the following amounts by account:

- CBP Salaries and Expenses: $46 million, of which $40 million is for various activities along the southwest border and $6 million for the care and transport of unaccompanied illegal alien children;
- CBP Air and Marine Interdiction, Operations, Maintenance, and Procurement: $5 million to support additional air operations along the southwest border;
- ICE Salaries and Expenses: $67 million, of which $50 million is for various activities along the southwest border, and $12 million is for the care and transport of unaccompanied illegal alien children to HHS;
- U.S. Coast Guard Operating Expenses: $140 million, of which $129 million is for operational support to the Department of Defense requirements for Operation Iraqi Freedom and Operation Enduring Freedom, and $10 million is for the High Endurance Cutter that plays a part in the Coast Guard's interdiction strategy;
- FEMA State and Local Programs: $30 million for Operation Stonegarden.

The Senate Committee on Appropriations reported S. 1054 on May 14, 2009. The House passed H.R. 2346 on May 14, 2009. H.R. 2346 as passed by the House contained no supplemental budget authority for DHS.

Appendix C. DHS Appropriations in Context

Federal-Wide Homeland Security Funding

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

With regard to DHS funding, it is important to note that DHS funding does not comprise all federal spending on homeland security efforts. In fact, while the largest component of federal spending on homeland security is contained within DHS, the DHS homeland security request for FY2010 accounts for approximately 50% of total federal funding for homeland security. The Department of Defense comprises the next highest proportion at 28% of all federal spending on homeland security. The Department of Health and Human Services at 7%, the Department of Justice at 6% and the Department of Energy at 3% round out the top five agencies in spending on homeland security. These five agencies collectively account for nearly 94% of all federal spending on homeland security. It is also important to note that not all DHS funding is classified as pertaining to homeland security activities. The legacy agencies that became a part of DHS also conduct activities that are not homeland security related. Therefore, while the FY2010 request included total *homeland security* budget authority of $34.7 billion for DHS, the requested *total gross budget authority* was $55.1 billion. The same is true of the other agencies listed in the table.

Table C-1. Federal Homeland Security Funding by Agency, FY2003-FY2010

(budget authority in millions of dollars)

Department	FY2002	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010 Request	FY2010 as % of Total
Department of Homeland Security (DHS)	17,381	23,063	22,923	24,549	26,571	29,554	32,486	36,860	34,732	50%
Department of Defense (DOD)[a]	16,126	8,442	7,024	17,188	17,510	16,538	18,032	19,779	19,303	28%
Department of Health and Human Services (HHS)	1,913	4,144	4,062	4,229	4,352	4,327	4,301	4,677	4,840	7%
Department of Justice (DOJ)	2,143	2,349	2,180	2,767	3,026	3,518	3,528	3,688	3,974	6%
Department of Energy (DOE)	1,220	1,408	1,364	1,562	1,702	1,719	1,827	1,939	2,008	3%
Department of State (DOS)	477	634	696	824	1,108	1,242	1,719	1,809	1,768	3%
Department of Agriculture (AG)	553	410	411	596	597	541	575	507	575	1%
National Science Foundation (NSF)	260	285	340	342	344	385	365	407	386	1%
Department of Veterans Affairs (VA)	49	154	271	249	298	260	309	305	369	1%
Department of Commerce	116	112	125	167	181	205	207	271	268	0%
Other Agencies	3,613	1,445	1,437	1,910	1,429	1,545	1,751	1,960	1,624	2%
Total Federal Budget Authority	**43,848**	**42,447**	**40,834**	**54,383**	**57,118**	**59,833**	**65,099**	**72,201**	**69,845**	**100%**

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

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

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

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