Financial Services and General Government (FSGG): FY2010 Appropriations

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Summary

The Financial Services and General Government (FSGG) appropriations bill includes funding for the Department of the Treasury, the Executive Office of the President (EOP), the judiciary, the District of Columbia, and 26 independent agencies. Among the independent agencies funded by the bill are the General Services Administration (GSA), the Office of Personnel Management (OPM), the Small Business Administration (SBA), the Security and Exchange Commission (SEC), and the United States Postal Service (USPS).

On May 7, 2009, the Obama Administration delivered its FY2010 budget request to Congress. The Administration requested $46.439 billion for FSGG agencies and programs, a 4.2% increase from FY2009 enacted appropriations, excluding emergency and supplemental appropriations. On July 16, 2009, the House passed H.R. 3170, the Financial Services and General Government Appropriations Act, FY2010. The House bill would provide $46.389 billion for FSGG programs and agencies, a 4.1% increase from FY2009 enacted appropriations and $50 million less than the Administration requested. On July 9, 2009, the Senate Appropriations Committee reported S. 1432, which would provide $46.479 billion for FSGG programs and agencies. This represents a 4.3% increase from FY2009 enacted appropriations and $40 million more than the Administration requested. No further action has been taken on S. 1432. A continuing resolution (CR) went into effect October 1, 2009, which generally provided funding for FSGG programs and activities at FY2009 levels through October 31, 2009. P.L. 111-88, enacted October 30, 2009, extended funding under the CR through December 18, 2009. FSGG appropriations were ultimately provided through a consolidated budget bill (H.R. 3288) that was signed into law (P.L. 111-117) by President Obama on December 16, 2009. FSGG agencies were provided $46.435 billion in enacted appropriations for FY2010, which is $4 million less than the Administration requested.

The wide scope of FSGG appropriations—which provide funding for two of the three branches of the federal government, a city government, and 26 independent agencies with a range of functions—encompasses a number of potentially controversial issues, some of which are identified below.

- **Department of the Treasury.** Is the proposed funding for enforcement, taxpayer services, and business systems modernization at the Internal Revenue Service adequate for lowering the federal tax gap?
- **Executive Office of the President (EOP).** Should Congress consider proposals from the Obama Administration to combine the White House Office and the Office of Policy Development accounts, and to increase National Security Council funding and staff levels under the EOP appropriation?
- **The Judiciary.** What level of funding should Congress provide for judicial security enhancements and other administrative issues, such as hiring of additional staff to meet the demands of rising workloads due to increases in bankruptcy filings and criminal cases, and increasing the hourly rates paid to public defenders?
- **United States Postal Service.** In light of the U.S. Postal Service's financial challenges, should Congress consider removing the six-day delivery requirement that has appeared in annual appropriations laws?

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The Financial Services and General Government (FSGG) appropriations were provided through a consolidated budget bill (H.R. 3288) that was signed into law (P.L. 111-117) by President Obama on December 16, 2009. Prior to the enactment of the consolidated bill, two continuing resolutions had provided funding for FSGG programs and activities between October 1, 2009, and December 18, 2009, generally at FY2009 rates.[1]

The House passed H.R. 3170, the Financial Services and General Government Appropriations Act, FY2010, on July 16, 2009. The House approved $46.389 billion for FSGG programs and agencies, a 4.1% increase from FY2009 enacted appropriations.[2] The Senate Appropriations Committee reported its FY2010 FSGG appropriations bill, S. 1432, on July 9, 2009. The Senate bill would have provided $46.479 billion for FSGG programs and agencies, a 4.3% increase from FY2009 enacted appropriations.[3] P.L. 111-117 provides $46.435 for FSGG agencies, a 4.0% increase from FY2009 enacted levels.[4] **Table 1**, below, reflects the status of various FY2010 FSGG appropriations bills at key points in the appropriations process.

Table 1. Status of FY2010 Financial Services and General Government Appropriations

Subcommittee Markup		House Report	House Passage	Senate Report	Senate Passage	Conference Report	Conference Report Passed		Public Law
House	Senate						House	Senate	
06/25/09	07/08/09	H.Rept. 111-202 07/07/09	07/16/09	S.Rept. 111-43 07/09/09	—	H.Rept. 111-366 12/08/09	12/10/09	12/13/09	111-117

On February 1, 2010, President Obama issued his FY2011 budget request. On March 10, 2010, the chairman of the House Appropriations Committee announced that the committee "will not approve requests for earmarks directed to for-profit entities."[5] Also on March 10, 2010, the chairman of the Senate Committee on Appropriations said that such a ban would "discriminate against for-profit organizations" and would not address "earmark growth" in the non-profit

[1] P.L. 111-68. Sec. 126 of Division B permits the District of Columbia to expend local funds for programs and activities under Title IV of S. 1432 (111th Congress) at the rate set forth under "District of Columbia Funds" in the Second Fiscal Year 2010 Budget Request Act (D.C. Act 18-188). The CR also allowed the USPS to reduce by $4.0 billion a payment that was designed to prefund retiree health benefits.

[2] House approved amount includes $46.228 billion from H.R. 3170, the Financial Services and General Government Appropriations Act, 2010, and $161 million for the Commodity Futures Trading Commission (CFTC), provided through H.R. 2997, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010. Appropriations for the CFTC are under the jurisdiction of the Financial Services and General Government (FSGG) Subcommittee in the Senate, and the Agriculture Subcommittee in the House. CFTC funding is included in House Committee totals throughout this report for purposes of comparison with Senate funding amounts and prior year appropriations. FY2009 enacted appropriations do not include supplemental appropriations.

[3] S.Rept. 111-43.

[4] Figure includes $169 million provided for the CFTC in P.L. 111-80.

[5] U.S. Congress, House Committee on Appropriations, "Appropriations Committee Bans For-Profit Earmarks," press release, March 10, 2010, p. 1. CRS does not define earmarks. House rules pertaining to "Congressional earmarks" are found in House Rule XXI, clause 9.

sector.[6] Members of Congress disclosed 279 earmarks in the enacted FY2009 FSGG appropriations bill, although it is not known how many were directed to for-profit and non-profit organizations.[7]

Introduction

The House and Senate Committees on Appropriations reorganized their subcommittee structures in early 2007. Each chamber created a new Subcommittee on Financial Services and General Government (FSGG). In the House, the jurisdiction of the FSGG Subcommittee was formed primarily of agencies that had been under the jurisdiction of the Subcommittee on Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies, commonly referred to as "TTHUD."[8] In addition, the House FSGG Subcommittee was assigned four independent agencies that had been under the jurisdiction of the Science, State, Justice, Commerce, and Related Agencies Subcommittee.[9]

In the Senate, the jurisdiction of the new FSGG Subcommittee was a combination of agencies from the jurisdiction of three previously existing subcommittees. The District of Columbia, which had its own subcommittee in the 109th Congress, was placed under the purview of the FSGG Subcommittee, as were four independent agencies that had been under the jurisdiction of the Commerce, Justice, Science, and Related Agencies Subcommittee.[10] Additionally, most of the agencies that had been under the jurisdiction of the Subcommittee on Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies were assigned to the FSGG Subcommittee.[11] As a result of this reorganization, the House and Senate FSGG Subcommittees have nearly identical jurisdictions.[12]

Overview of FY2010 Appropriations

On May 7, 2009, the Obama Administration delivered its FY2010 budget request to Congress. The Administration requested $46.439 billion for FSGG agencies and programs, an increase of $1.857 billion (+4.2%) over FY2009 enacted appropriations.[13] The House approved $46.389

6 U.S. Senate, Committee on Appropriations, "Chairman Inouye Statement on Earmarks," press release, March 10, 2010, p.1. CRS does not define earmarks. Senate rules pertaining to earmarks are found in Senate Rule XLIV.

7 CRS Report R40976, *Earmarks Disclosed by Congress: FY2008 and FY2009 Regular Appropriations Bills*, by (name redacted) and (name redacted).

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

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

10 The agencies are the FCC, FTC, SEC, and SBA.

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

12 The Commodity Futures Trading Commission is under the jurisdiction of the FSGG Subcommittee in the Senate but not in the House.

13 S.Rept. 111-43. FY2009 enacted figures do not include emergency or supplemental appropriations.

billion for FSGG agencies, an increase of $1.807 billion (+4.1%) over FY2009 enacted appropriations, and $50 million less than the Administration requested.[14] The Senate Appropriations Committee recommended $46.479 billion, an increase of $1.897 billion (+4.3%) over FY2009 enacted appropriations, and $40 million more than the Administration requested. P.L. 111-117, Consolidated Appropriations Act, 2010, provides $46.265 billion for FSGG agencies in FY2010, and P.L. 111-80 provides an additional $169 million for the Commodity Futures Trading Commission (CFTC), for a total of $46.435 billion. **Table 2** lists the enacted amounts for FY2009, emergency appropriations for FY2009, the Administration's FY2010 request, the House approved amounts for FY2010, the Senate Appropriations Committee's recommendations for FY2010, and enacted appropriations for FY2010.

Table 2. Financial Services and General Government Appropriations, FY2009-FY2010

(in millions of dollars)

	FY2009 Enacted	FY2009 Emergency	FY2009 Total	FY2010 Request	FY2010 House Passed	FY2010 Senate Committee	FY2010 Enacted
Department of the Treasury	$12,687	$187	$12,874	$13,368	$13,446	$13,482	$13,465
Executive Office of the President	728	3	731	904	754	785	772
The Judiciary	6,481	10	6,491	7,036	6,942	6,929	6,861
District of Columbia	742	0	742	739	768	727	752
Independent Agencies	23,942	6,689	30,631	24,392	24,479	24,556	24,585
Total	**$44,582**	**$6,889**	**$51,471**	**$46,439**	**$46,389**	**$46,479**	**$46,435**

Sources: FY2010 House Passed figures are taken from H.Rept. 111-202 and H.Rept. 111-181. Figures from all other columns are taken from S.Rept. 111-43, except enacted figures, which are from H.Rept. 111-366.

Notes: All columns include CFTC funding. Columns may not add to total due to rounding.

Key Issues

The wide scope of FSGG appropriations—which provide funding for two of the three branches of the federal government, a city government, and 26 independent agencies with a range of functions—encompasses a number of potentially controversial issues, some of which are identified below.

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

[14] FY2010 House approved figure includes funding for the CFTC.

- **Executive Office of the President (EOP).** Should Congress consider proposals from the Obama Administration to combine the White House Office and the Office of Policy Development accounts, and to increase National Security Council funding and staff levels under the EOP appropriation?
- **The Judiciary.** What level of funding should Congress provide for judicial security enhancements and other administrative issues, such as hiring of additional staff to meet the demands of rising workloads due to increases in bankruptcy filings and criminal cases, and increasing the hourly rates paid to public defenders?
- **United States Postal Service.** In light of the U.S. Postal Service's financial challenges, should Congress consider removing the six-day delivery requirement that has appeared in annual appropriations laws?

Department of the Treasury[15]

This section examines FY2010 appropriations for the Treasury Department and its operating bureaus, including the Internal Revenue Service (IRS). **Table 3** shows the enacted amounts for FY2009, the Obama Administration's budget request for FY2010, the amounts for FY2010 in H.R. 3170 as passed by the House, and the Senate Appropriations Committee's recommendations for FY2010 in S. 1432 and the enacted amounts for FY2010.

Table 3. Department of the Treasury Appropriations, FY2009 to FY2010

(in millions of dollars)

Program or Account	FY2009 Enacted	FY2010 Request	FY2010 House Passed	FY2010 Senate Committee	FY2010 Enacted
Departmental Offices	$279	$302	$303	$306	$305
Department-wide Systems and Capital Investments	27	10	10	10	10
Office of Inspector General	26	27	30	30	30
Treasury Inspector General for Tax Administration	146	149	149	152	152
Community Development Financial Institutions Fund	107	244	244	247	247
Financial Crimes Enforcement Network	91	103	118[a]	104	111
Financial Management Service	240	244	244	244	244
Alcohol and Tobacco Tax and Trade Bureau	99	105[d]	100	103	103
Bureau of the Public Debt	177	182	182	182	182
Payment of Losses in Shipment	2	2	2	2	2

[15] This section was written by (name redacted), Analyst in Industry Economics, Government and Finance Division.

Program or Account	FY2009 Enacted	FY2010 Request	FY2010 House Passed	FY2010 Senate Committee	FY2010 Enacted
Internal Revenue Service, Total	11,523[b]	12,126	12,130	12,152	12,146
Taxpayer Services	2,293	2,270	2,274	2,276	2,279
Enforcement	5,117	4,904	4,904	5,504	4,904
Enhanced Tax Enforcement Activities	-	600	600	-	600
Operations Support	3,867	4,083	4,083	4,083	4,084
Business Systems Modernization	230	254	254	274	264
Health Insurance Tax Credit Administration	15	16	16	16	16
Rescissions: Treasury Forfeiture Fund	(-30)	(-50)	(-50)	(-50)	(-90)
Total: Department of the Treasury	**$12,687**[c]	**$13,368**[e]	**$13,446**	**$13,482**	**$13,463**

Sources: FY2009 Enacted, FY2010 Request, and House-passed FY2010 figures are taken from H.Rept. 111-202. Senate Committee FY2010 figures are taken from S.Rept. 111-43.

Note: Columns may not equal the total due to rounding.

a. Includes $15 million that was added through an amendment adopted by the House by voice vote.

b. Does not include an emergency appropriation of $80 million provided through P.L. 111-5.

c. Does not include $187 million in supplemental appropriations provided through P.L. 111-5.

d. Total proposed budget authority is $105 million, with $75 million to be funded through collections and $30 million through direct appropriations.

e. Total does not include $75 million in budget authority for the Alcohol, Tobacco Tax and Trade Bureau which would be funded through collections.

Department of the Treasury: Budget and Policy Issues

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

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

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

Overview of FY2009 Appropriations for Treasury Offices and Bureaus

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

In FY2009, Treasury is receiving $12.687 billion in appropriated funds (excluding $187 million in supplemental appropriations authorized by the American Recovery and Reinvestment Act of 2009—ARRA, P.L. 111-5), or 3.5% more than the amount enacted for FY2008. As usual, most of this money is being used to finance the operations of the IRS, which is receiving $11.523 billion in FY2009, or 91% of total appropriations for Treasury. The remaining $1.164 billion is spread among Treasury's other main appropriations accounts in the following amounts: departmental offices (which includes the Office of Terrorism and Financial Intelligence—or TFI—and the Office of Foreign Assets Control) is receiving $279 million; department-wide systems and capital investments, $27 million; OIG, $26 million; TIGTA, $146 million; CDFI, $107 million; FinCEN, $91 million; FMS, $240 million; ATB, $99 million; and Bureau of the Public Debt, $177 million.

FY2010 Appropriations for Treasury Offices and Bureaus

On the whole, the Obama Administration is requesting $13.366 billion in direct appropriations for Treasury in FY2010, or 5.3% more than the amount enacted for FY2009. Under the budget proposal, the IRS would receive $12.126 billion (or again 91% of the total). The remaining $1.240 billion would be divided among Treasury's other appropriations accounts in the following amounts: departmental offices would receive $302 million; departmental systems and capital investments, $10 million; OIG, $27 million; TIGTA, $149 million; CDFI, $244 million; FinCEN, $103 million; FMS, $244 million; ATB, $105 million (with a direct appropriation of $30 million); and Bureau of the Public Debt, $182 million. All the accounts except departmental systems and capital investments would be funded at or above the amounts enacted for FY2009.

The budget request is built on the assumption that these offices and bureaus will receive $476 million in payments for services from other federal agencies and state governments in FY2010, bringing their total funding for FY2010 to $13.842 billion ($13.366 direct appropriations + $476 million in what is referred to as offsetting collections or reimbursables in Treasury budget documents).

To bolster the federal government's resources for stabilizing the domestic financial system, the Administration is also seeking a $250 billion contingent reserve, which could be used to support

$750 billion in asset purchases from troubled financial institutions. The reserve does not represent a specific budget request, but it is a net cost to the federal government.[16]

What follows is a detailed examination of the Obama Administration's FY2010 budget request for each of Treasury's offices and bureaus (including the IRS) that receive direct appropriations and congressional action on the request. In some cases, there is a discussion of policy issues that Congress may wish to address when it considers the Obama Administration's budget request for Treasury in FY2011 Departmental Offices(DO).

Purpose: This account provides funding for Treasury offices that perform some of the critical tasks related to the Department's mission, which is to promote the "economic prosperity and financial security of the United States."[17] Among the offices covered by this account are the Office of the Secretary and Deputy Secretary, the Office of International Affairs, the Office of Domestic Finance, the Office of Terrorism and Financial Intelligence (TFI), the Office of Tax Policy, and the Office of Economic Policy. Funds from this account allow Treasury to recommend and implement domestic and international economic and tax policy, formulate fiscal policy, track and disrupt efforts to channel money to domestic and foreign terrorist groups, protect the U.S. and world financial systems from financial crimes such as money laundering, manage the public debt and government finances, oversee international development policy, and finance its operations, among other things.

Obama Administration's FY2010 Budget Request: The Obama Administration asked for $302 million in appropriated funds for DO in FY2010, or $23 million more than the amount enacted for FY2009. According to Treasury budget documents, about $20 million of the proposed increase in budget authority would be used to bolster Treasury's expertise and manpower in housing finance, capital markets, tax administration, and information technology management, and to administer the tax credit exchange program authorized by the ARRA.[18] Under the Administration's request, funding for TFI would rise from $62 million in FY2009 to $67 million in FY2010. A proposed increase of $11.5 million in appropriations for financial policies and programs would account for nearly half of the proposed increase in DO direct appropriations for FY2010. Funding for the Office of Financial Stability (OFS) comes through that account. OFS is responsible for implementing and managing the programs aimed at stabilizing financial markets and restoring the flow of credit to consumers and companies that Treasury established in the wake of the passage of the Emergency Economic Stabilization Act of 2008 (P.L. 110-343, EESA)

Senate Action on the Request: DO would receive $306 million in direct appropriations under a bill (S. 1432) approved by the Senate Appropriations Committee on July 9, 2009. In its report on the bill (S.Rept. 111-43), the Committee noted that the entire amount of its recommended $3.3 million increase over the Administration's DO budget request should be used to finance two studies by the National Academy of Sciences (one of which would involve an assessment of the federal tax provisions that have the biggest impact on current carbon and other greenhouse gas emissions) and the financial literacy programs administered by Treasury's Office of Financial Education.[19] The Committee also endorsed the proposed increases in funding for several DO programs from FY2009.

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[16] U.S. Department of the Treasury, *The Budget in Brief FY2010* (Washington, 2009), p. 5.

[17] Ibid., p. 1.

[18] Ibid., p. 11.

[19] U.S. Congress, House Committee on Appropriations, *Financial Services and General Government Appropriations* (continued...)

In its report, the Committee also expressed its concerns about several programs managed by Treasury offices that receive most of their funding through the DO appropriation. Specifically, it directed Treasury to find a better way to explain to Congress and the general public how the Troubled Assets Relief Program (TARP) is supposed to operate, and to require more detailed reporting by financial firms receiving TARP funds. The Committee also asked Treasury to "expand its efforts to address the foreclosure crisis beyond the scope of voluntary programs," and to provide the Committee with a monthly report on the number and value of foreclosures prevented through Treasury programs to date.[20] Another concern addressed in the report was TFI's management of existing economic and trade sanctions. The Committee urged Treasury to "fully implement all sanctions and divestment measures, particularly those applicable to North Korea, Burma, Iran, Sudan and Zimbabwe."[21]

House Action on the Request: A bill (H.R. 3170) passed by the House on July 16 would provide $303 million in direct appropriations for DO, or $1 million more than the budget request. Nearly half of that additional amount would be used to expand current efforts by the Department's Office of Financial Education to improve the financial literacy of elementary school and high school students. Another $1.5 million would be used to pay for a so-called carbon audit of the federal tax code that was authorized by the Economic Stabilization Act of 2008 (P.L. 110-343).

The report (H.Rept. 111-202) on H.R. 3170 issued by the House Appropriations Committee expressed some concern about the manner in which the Obama Administration is reviewing the operating budget for the Special Inspector General for the Troubled Asset Relief Program (SIGTARP). The office was established by the Emergency Economic Stabilization Act of 2008 (EESA). SIGTARP's main purpose is to oversee Treasury's management of the TARP and the trillions of dollars that could be spent under it to stabilize and revive domestic financial markets. Under the act, SIGTARP's budget authority was set initially at $50 million. In its review of the budget, the Administration is trying to determine whether additional funds will be needed in the next year or two. The Committee wants the Administration to submit a FY2010 budget amendment "well before the conclusion of the current fiscal year," if it should decide more funding is needed.[22]

Exercising its powers of oversight, the Committee also directed the Department to submit quarterly reports for the next year, beginning September 1, 2009, on its efforts to implement recommendations made by the Government Accountability Office (GAO), SIGTARP, and the Congressional Oversight Panel for TARP on how to use TARP funds to achieve their intended benefits at the lowest possible cost. Treasury is also supposed to report to the Committee no later than September 1 on the Department's plans for using those funds beyond the end of 2009, whether Treasury has the staff and funds needed to carry out any such plans, and how those plans would promote the main goals of federal financial stabilization programs.[23]

(...continued)

Bill, 2010 report to accompany S. 1432, 111th Cong., 1st sess., S.Rept. 111-43 (Washington: GPO, 2009), p. 10.

[20] Ibid., p. 12.

[21] Ibid., p. 13.

[22] U.S. Congress, House Appropriations Committee, *Financial Services and General Government Appropriations Bill, 2010*, report to accompany H.R. 3170, 111th Cong., 1st sess. (Washington: GPO, 2009), p. 13.

[23] Ibid., p. 10.

Final Action: Under the conference agreement for the FY2010 Transportation, Housing, and Urban Development, and Related Agencies Appropriations bill (H.R. 3288) approved by the House and Senate, DO is receiving $305 million in direct appropriations in FY2010. Of this amount, $65 million is designated for terrorism and financial intelligence, $49 million for financial policies and programs, and $47 million for economic policies and programs. Like the House-passed version of H.R. 3170, the agreement directed Treasury's Office of Financial Education to spend $1 million more than the amount requested by the administration on continuing efforts to improve financial literacy. The agreement also set aside $1.5 million within the budget for economic policies and programs for a "comprehensive" carbon audit of the Internal Revenue Code. House and Senate conferees agreed that Treasury should "fully implement" existing trade and financial sanctions against North Korea, Burma, Zimbabwe, Iran, and Sudan and notify the Appropriations Committees if it lacks the resources to do so in FY2010. In addition, they endorsed the detailed reporting requirements for Treasury's management of TARP spelled out in H.Rept. 111-202 and directed Treasury to find a better way to communicate with Congress and other stakeholders about its efforts to stabilize financial markets and promote economic growth, require entities receiving TARP funds to provide more detailed reports on their use of the funds, and provide Congress with monthly reports on the number and value of foreclosures prevented so far through Treasury programs.

Department-Wide Systems and Other Capital Investment Programs (DSCIP)

Purpose: This account provides funding mainly for programs to modernize Treasury's business processes through investments in information technology that affect more than one Treasury bureau or its connections to other federal agencies.

Administration's FY2010 Budget Request: The Obama Administration requested $9.5 million in appropriated funds for DSCIP, or $17.4 million less than the amount enacted for FY2009. Of the requested funding, $4.5 million would be used to continue the ongoing Treasury annex repair and maintenance project; $3 million would be used to improve the security of Treasury's information systems and other cyber assets; and $2 million would be used to enhance the capabilities of the Treasury Foreign Intelligence Network.

Senate Action on the Request: As passed by the Senate Appropriations Committee, S. 1432 endorses the Administration's funding request for DSCIP. According to the Committee's report on the bill, the decrease in funding for the account from FY2009 would reflect the termination of three previous DSCIP initiatives: the E-government initiative, enterprise content management, and the Treasury secure data network.

House Action on the Request: As passed by the House, H.R. 3170 also endorsed the Administration's FY2010 funding request for DSCIP. The House Appropriations Committee report on the measure specified that all appropriated funds would be available for use until September 30, 2012.

Final Action: The conference agreement for H.R. 3288 allotted $9.5 million in direct appropriations for DSCIP and specified that the funds will remain available through FY2011. Nearly half that amount ($4.5 million) is to be used for repairs to the Treasury Annex Building.

Office of Inspector General (OIG)

Purpose: OIG conducts audits and investigations of all Treasury operations in an effort to prevent or resolve problems that can lead to waste, fraud, and mismanagement. The office undertakes three kinds of audits: contract, program, and financial statement. Contract audits advise OIG contract officers on accounting and financial matters related to contracts they manage; program audits review and assess all aspects of Treasury operations; and financial statement audits examine the accuracy of OIG financial statements, whether current accounting controls are adequate, and the results of operations.

Administration's FY2010 Budget Request: The Obama Administration asked for $27 million in direct appropriations for OIG in FY2010, or about $1 million more than the amount enacted for FY2009. According to Treasury budget documents, the requested funding would allow OIG to carry out its mandated responsibilities, including investigations of failures of financial institutions regulated by the Office of the Comptroller of the Currency (OCC) or the Office of Thrift Supervision (OTS) that result in material losses to the federal deposit insurance fund. In addition, the proposed funding was intended to enable OIG to conduct audits of Treasury's five riskiest operations and programs. These include programs to ensure the safety and soundness of domestic financial markets, programs to foster economic recovery, and programs to combat terrorist financing and money laundering.[24]

Senate Action on the Bill: Under S. 1432, as reported by the Senate Appropriations Committee, OIG would receive $30 million in appropriated funds in FY2010. The Committee cited the increased workload on OIG staff from conducting "required reviews of certain bank failures" as the chief justification for recommending $3 million more in funding than the budget request.[25]

House Action on the Request: The version of H.R. 3170 passed by the House would also provide OIG with $30 million in appropriated funds in FY2010. According to the House Appropriations Committee report on the bill, the increase is intended to allow the office to both undertake its "core" audits and investigations and conduct required reviews of the material losses of failed banks regulated by OCC or OTS.[26]

Final Action: The conference agreement on H.R. 3288 gave OIG $30 million in appropriated funds for FY2010.

Special Inspector General for the Troubled Asset Relief Program (SIGTARP)

Final Action: No funding for SIGTARP was included in the Obama Administration's budget request for FY2010. And neither H.R. 3170 (as passed by the House) nor S. 1432 (as passed by the Senate Appropriations Committee) provided funding for SIGTARP as a separate appropriations account. The principal reason for this absence lay in the act that established the entity: EESA. Under the act, SIGTARP received a direct appropriation of $50 million to cover its projected operating costs until the program ceased to exist. But the conference agreement on H.R. 3288 included an additional $23 million for salaries and other expenses of the entity in FY2010.

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[24] Treasury Department, *Budget in Brief FY2010*, p. 21.

[25] Senate Appropriations Committee, *Financial Services and General Government Appropriations Bill, 2010*, p. 15.

[26] House Appropriations Committee, *Financial Services and General Government Appropriations Bill, 2010*, p. 14.

The conferees were concerned that the initial appropriation would allow SIGTARP to continue its work for only part of the current fiscal year.

Treasury Inspector General for Tax Administration (TIGTA)

Purpose: TIGTA traces its origins to the Internal Revenue Service Restructuring and Reform Act of 1998. It conducts audits, investigations, and assessments of IRS programs and operations and related entities, such as the IRS Oversight Board. Those audits and investigations are mainly intended to promote the efficient and effective administration of federal tax laws, detect and deter fraud, abuse, and mismanagement in IRS programs and operations, and recommend steps the IRS could take to remedy any problems that are discovered. TIGTA also assesses the impact of current laws and regulations governing the IRS and proposed changes to them on the efficiency and effectiveness of tax administration.

Administration's Budget Request for FY2010: The Obama Administration sought $149 million in direct appropriations for TIGTA in FY2010, or an increase of $3 million in the amount enacted for FY2009. This added amount would allow TIGTA to maintain its current operating level. Among the bureau's priorities in FY2010 are assessing the risks to the IRS posed by its BSM program, the tax gap, and the challenge of recruiting and training thousands of new employees; improving the integrity of IRS operations; and responding to threats to and attacks on IRS employees, property, and sensitive information.[27]

Senate Action on the Request: S. 1432, as reported by the Senate Appropriations Committee, would give TIGTA $152 million in direct appropriations for FY2010, or $3 million more than the amount requested by the Obama Administration. In recommending this increase, the Committee pointed to the added demands on the office's resources as it addresses increasingly complex issues related to IRS programs and operations.[28] These issues include the investigation of electronic crimes, review of IRS's procurement activities, and the protection of taxpayer privacy.

House Action on the Request: H.R. 3170, as passed by the House, would provide the same level of funding for TIGTA as the budget request.

Final Action: Under the conference agreement for H.R. 3288, TIGTA is receiving $152 million in appropriated funds in FY2010.

Community Development Financial Institutions Fund (CDFI)

Purpose: The CDFI expands the supply of credit, investment capital, and financial services in economically distressed urban and rural communities. It does so primarily by making investments in the form of grants, loans, deposits, equity shares, and technical assistance in so-called community development financial institutions. Foremost amount those institutions are community development banks, credit unions, venture capital funds, revolving loan funds, and microloan funds. Recipients of CDFI investments use the funds to support local affordable housing projects, small firms, and community development efforts in underserved areas. CDFI

[27] Treasury Department, *Budget in Brief 2010*, p. 27.

[28] Senate Appropriations Committee, *Financial Services and General Government Appropriations Bill, 2010*, p. 16.

also administers the Bank Enterprise Award (BEA) program and the New Markets Tax Credit (NMTC).

Administration's Budget Request for FY2010: The Obama Administration requested $244 million in direct appropriations for CDFI in FY2010, or an increase of $137 million in the amount enacted for FY2009. A newly authorized program called the Capital Magnet Fund would account for $80 million (or 58%) of that increase. The Fund offers competitive grants for the construction, preservation, rehabilitation, or acquisition of affordable housing for low-income families, and for economic development projects in communities where this housing is located. Another $54 million (or 39%) of the proposed increase in CDFI appropriations would be used to expand the program grants made by CDFI. These grants bolster the capacity of community development financial institutions to offer loans, equity investments, and financial services in underserved communities; according to Treasury budget documents, each dollar of a program grant supports or leverages $15 of private investment in underserved communities.[29] The Administration's budget request also called for relatively small increases in funding for the BEA program ($3 million) and the Native American Initiatives ($1.5 million). In addition, it asked for a waiver in FY2010 of both the statutory $5 million cap on grant amounts and the matching funds requirement for grant recipients.

Senate Action on the Request: As passed by the Senate Appropriations Committee, S. 1432 would provide $247 million in direct appropriations for CDFI in FY2010, or $3 million more than the budget request. Of this amount, $12 million would be set aside for the Native American Initiatives, and $3 million would be used to finance a pilot program in Hawaii for financial education and home ownership counseling. The bill also recommends that the Capital Magnet Fund receive $80 million in direct appropriations, but only as a temporary injection of start-up capital until Fannie Mae and Freddie Mac are capable of making their required contributions to the fund.[30] In its report on H.R. 3170, the Committee backed the Administration's request for a continuation in FY2010 of the existing waiver of the matching funds requirement for CDFI program grants.

House Action on the Request: As passed by the House, H.R. 3170 would provide the same amount in direct appropriations for CDFI in FY2010 as the budget request. Of the $244 million recommended in the bill, $18 million would be used to cover the administrative costs for CDFI, $10 million would be set aside for the Native American Initiatives, $22 million would go to the BEA program, and $1 million would be used to fund the financial counseling grants pilot program established by the Housing and Economic Recovery Act of 2008. The bill also provides $80 million for the Capital Magnet Fund, which was authorized by the same act.

Final Action: The conference agreement for H.R. 3288 provided $247 million in funding for CDFI in FY2010. Of that amount, $12 million is designated for technical assistance to native American, Hawaiian, and Alaskan communities. In addition, $80 million is to be transferred to the Capital Magnet Fund to support affordable housing and related community development projects. The transfer represents temporary funding in lieu of contributions from Fannie Mae and Freddie Mac. House and Senate conferees also specified that $4.1 million be used for a pilot grant program intended to offer financial counseling to prospective homebuyers, as authorized by the

[29] Treasury Department, *Budget in Brief 2010*, p. 32.

[30] Senate Appropriations Committee, *Financial Services and General Government Appropriations Bill, 2010*, p. 23.

Housing and Economic Recovery Act of 2008. And they directed Treasury to spend a minimum of $25 million on the Bank Enterprise Award program.

Policy Issues: A report issued by the Government Accountability Office (GAO) in June 2009 on the NMTC program found that a notably small share of NMTC applications for tax credit authority submitted to the CDFI by minority-owned community development entities (CDEs) from 2005 through 2008 gained approval.[31] According to the report, 9% of such applications were successful, and they received $354 million of the $8.7 billion in tax credit authority (or 4%) they sought. By contrast, 27% of applications submitted by other CDEs were approved, and they received $13.2 billion of the $89.7 billion in tax credit authority (or 15%) they requested in the same period.

In considering the FY2011 budget request for Treasury, Congress may wish to investigate whether CDFI is taking any actions to increase the percentage of minority-owned CDEs that participate in the NMTC program, and if so, whether it has adequate funding for that purpose.

Financial Crimes Enforcement Network (FinCEN)

Purpose: FinCEN is a bureau within TFI whose mission is to protect the domestic financial system from crimes such as terrorist financing and money laundering. It does so by administering the Bank Secrecy Act (BSA); supporting investigations by law enforcement, regulatory, and intelligence agencies through providing and analyzing financial intelligence; and working with financial intelligence agencies in other countries to devise effective global strategies for combating terrorist financing and money laundering. As the designated enforcer of the BSA within the federal government, FinCEN develops and implements rules and regulations related to the act, supervises the work of the eight federal agencies responsible for monitoring the compliance of different segments of the financial services industry with the requirements of the BSA, and collects and disseminates the information reported by financial institutions under the BSA.

Administration's Budget Request for FY2010: The Obama Administration requested $103 million in direct appropriations for FinCEN in FY2010, or about $11 million more than the amount enacted for FY2009. Of that increase, $1.3 million would be used to maintain the bureau's current operations, and $10 million would be funneled into an effort to modernize the information system used to collect, report, manage, and analyze BSA data.

Senate Action on the Request: S. 1432, as passed by the Senate Appropriations Committee, would give FinCEN $104 million in direct appropriations in FY2010, or $1.5 million more than the budget request. The bill backs the Administration's request for $10 million to modernize the "technical environment for the implementation of the Bank Secrecy Act."[32] In its report on S. 1432, the Committee noted that the current information system for collecting and analyzing BSA data is outdated and limits the ability of users (e.g., law enforcement agencies) to track and combat criminal activities such as money laundering, tax evasion, and terrorist financing. While the Committee expressed satisfaction with the steps taken by FinCEN so far to improve its oversight of the BSA technology modernization project after a previous failure, it directed the

[31] See U.S. Government Accountability Office, *New Markets Tax Credit: Minority Entities Are Less Successful in Obtaining Awards than Non-Minority Entities*, GAO-09-795T (Washington: June 2009).

[32] Senate Appropriations Committee, *Financial Services and General Government Appropriations Bill, 2010*, p. 18.

bureau to make it a "top priority" to oversee the performance of contractors and involve all interested parties in the development of the new system. The added $1.5 million recommended in S. 1432 would be used to improve FinCEN's collaboration with foreign financial intelligence agencies in to develop and implement more effective approaches to combating money laundering and terrorist financing.

House Action on the Request: As passed by the House, H.R. 3170 would give FinCEN $15 million more in direct appropriations for FY2010 than the budget request. The increase was adopted as an amendment to the bill during the floor debate. H.R. 3170 supports the Administration's request for $10 million to modernize the BSA information system. In its report on the bill, the House Appropriations Committee admonished the bureau to take the necessary steps to avoid the mistakes that doomed a previous attempt to modernize the system. The Committee also acknowledged that the modernization project would be likely to last more than a few years, and that it would support the use of funds from the Treasury Asset Forfeiture Fund to accelerate work on the project, if the needed funds are available.[33]

Final Action: The conference agreement on H.R. 3288 gave FinCEN $111 million in direct appropriations for FY2010. At least $2 million must be used to improve the agency's collaboration with other financial intelligence agencies around the world in tracking and disrupting money laundering and terrorist financing operations and in bolstering their analytical capabilities. Concerned about FinCEN's management of an ongoing information technology modernization project, the conferees also directed the agency to submit semi-annual reports on its status to the Appropriations Committees.

Financial Management Service (FMS)

Purpose: FMS is responsible for the management of federal finances and the collection of federal (and selected non-federal) non-tax debt. In its role as the federal government's primary financial agent, the bureau receives and disburses federal funds, maintains federal financial accounts, and issues reports on the state of the government's finances. In addition, FMS devises and implements payment policies and procedures for federal agencies, promotes the use of electronic payment systems, and collects unpaid debts owed to federal and state government agencies.

Administration's Budget Request for FY2010: The Obama Administration asked for $244 million in direct appropriations for FMS in FY2010, or $4 million more than the amount enacted for FY2009. According to Treasury budget documents, the requested appropriation would represent a little more than half of the operating budget for FMS that year, as it is expected to receive offsetting collections (or reimbursables) of $235 million. All of the additional $4 million in direct appropriations would be used to maintain the current operating level at FMS. An unspecified amount would be used to continue two significant modernization projects: Financial Information Reporting Standardization and the Cash Management Modernization.[34] In addition, the budget request included two legislative proposals intended to remove certain obstacles to the collection of delinquent taxes from federal contractors through the Federal Payment Levy Program.

[33] House Appropriations Committee, *Financial Services and General Government Appropriations Bill, 2010*, p. 16.

[34] Treasury Department, *Budget in Brief 2010*, p. 47.

Senate Action on the Request: S. 1432, as passed by the Senate Appropriations Committee, would match the budget request for FMS. In its report on the bill, the Committee expressed concern about the interchange and other fees paid by federal agencies on transactions involving the use of debit and credit card to pay for goods and services they acquire from other agencies. FMS processes those payments and obtains credit and debit cards for a majority of those agencies. The Committee directed the bureau to report to the Committee within 180 days of the enactment of the bill on the cost savings and other benefits the federal government might realize, if FMS were to negotiate lower rates and fees from credit and debit card networks and fewer restrictions on which card payments the government can accept and how those payments are processed.[35]

House Action on the Request: As passed by the House, H.R. 3170 would provide FMS with the same level of direct appropriations as the budget request. The bill specifies that up to $9 million should be used for "information systems modernization initiatives," and that this money would be available for that purpose through the end of FY2011. In its report on H.R. 3170, the Committee directed FMS to include additional data on foreign buyers of Treasury securities in its Monthly Treasury Statement.[36]

Final Action: Under the conference agreement for H.R. 3288, FMS is receiving $244 million in direct appropriations for FY2010. The conferees directed the agency to include the amount of Treasury securities sold to foreign investors and a breakdown by country of foreign ownership of such securities in its Monthly Treasury Statement. They also specified that FMS issue a report to the Appropriations Committees within 180 days of the enactment of the act on the potential cost savings and other benefits to the federal government of authorizing the agency to negotiate changes in the rates and fees charged by credit and debit card networks and any rules that restrict the government's ability to determine the card payments it accepts and the methods by which those transactions are processed.

Alcohol and Tobacco Tax and Trade Bureau (ATB)

Purpose: The ATB was established by the Homeland Security Act of 2002. Its primary mission is to enforce certain laws and regulations relating to the production and sale of products containing alcohol or tobacco. In managing this responsibility, ATB collects federal excise taxes on alcohol, tobacco, firearms, and ammunition, and it protects the general public from harmful practices by regulating the production, labeling, and marketing of alcohol products.

Administration's Budget Request for FY2010: The Obama Administration requested direct appropriations for ATB in FY2010 of $25 million. This is a net figure because the budget request for the bureau was $105 million, and the Administration expected to raise most of that amount by assessing an annual fee on the companies and other entities ATB regulates, beginning in FY2010. Congress would have to pass legislation authorizing such a fee before the ATB could begin collecting it. The fees would be used to fund ATB operations. According to Treasury budget documents, the proposed fee would generate $80 million in revenue in FY2010, leaving a gap

[35] Senate Appropriations Committee, *Financial Services and General Government Appropriations Bill, 2010*, pp. 19-20.

[36] House Appropriations Committee, *Financial Services and General Government Appropriations Bill, 2010*, p. 17.

between ATB's funding and the requested budget of $25 million, which would be filled by direct appropriations.[37]

The budget request of $105 million was $6 million above the amount enacted for FY2009. About $0.5 million of the proposed increase would be used to maintain current operating levels, and the remaining $5.5 million would cover the cost of establishing and operating a permanent program to assess annual fees on alcohol industry members.

Senate Action on the Request: As approved by the Senate Appropriations Committee, S. 1432 would grant ATB $103 million in direct appropriations in FY2010, or $2 million below the budget request. In its report on the bill, the Committee expressed opposition to the proposed annual fee on producers, distributors, and retailers of alcohol products to fund ATB's operations.[38] The recommended $2 million decrease in budget authority reflects the estimated cost of implementing the proposed fee collections.

House Action on the Request: H.R. 3170, as passed by the House, would provide ATB with $99.5 million in direct appropriations for FY2010, or $5.5 million less than the budget request. The lower amount reflects the bill's opposition to the proposed annual fee. Consequently, H.R. 3170 would allow ATB to maintain its current level of operations but deny the bureau the authority to collect annual fees from alcohol industry members.

Final Action: The conference agreement gave ATB $103 million in direct appropriations for FY2010, $3 million of which will be available through FY2011 for the hiring, training, and equipping of special agents and support personnel.

Policy Issues: In working to protect the public interest, ATB enforces federal regulations related to the production, labeling, advertising, and marketing of products containing alcohol. The bureau does this by conducting investigations, reviewing applications, testing products in laboratories, and offering educational programs for industry members. These efforts are aimed at ensuring that the alcohol products sold domestically are not contaminated, mislabeled, and marketed or distributed illegally. ATB's enforcement activities arguably help establish a level playing field among companies that make, sell, and distribute those products. It can also be argued that these companies derive significant benefits from regulated markets intended to protect consumer welfare. In evaluating the Obama Administration's budget request for FY2011, Congress may want to consider further the rationale for paying for the work done by ATB through direct appropriations rather than user fees paid by the companies that benefit from those activities.

Bureau of Public Debt (BPD)

Purpose: The BPD borrows the funds needed to keep the federal government in operation. It also accounts for the resulting debt and provides reimbursable support services to other federal agencies. In performing these functions, the bureau annually auctions and issues trillions of dollars of Treasury bills, notes, and bonds; regulates the primary and secondary Treasury securities markets; issues and redeems more than 70 million paper savings bonds each year; administers more than $4 trillion in investments for federal trust funds; and prepares regular reports on the status of the public debt.

[37] Treasury Department, *Budget in Brief 2010*, p. 43.

[38] Senate Appropriations Committee, *Financial Services and General Government Appropriations Bill, 2010*, p. 20.

Administration's Budget Request for FY2010: The Obama Administration sought $182 million in direct appropriations for BPD in FY2010, or about $5 million more than the amount enacted for FY2009. This total was a net figure, as the budget request called for $192 million in appropriations, reduced by the collection of $10 million in user fees from account holders in the Legacy Treasury Direct system. The $5 million in added funding would be used to maintain BPD's current operating level. A top priority for FY2010 is ensuring the bureau uses the most efficient information systems to conduct debt operations and deliver services to investors.[39] In FY2008, BPD introduced an improved auction system known as the Treasury Automated Auction Processing System. The bureau has also invested in recent years in upgrading the Treasury Direct system, which allows investors to purchase and manage their holdings of Treasury securities online.

Senate Action on the Request: As approved by the Senate Appropriations Committee, S. 1432 endorses the budget request for BPD in FY2010.

House Action on the Request: As approved by the House, H.R. 3170 also endorses the budget request for BPD in FY2010.

Final Action: Under the conference agreement for H.R. 3288, BPD is receiving $192 million in direct appropriations for FY2010. The conferees directed the agency to collect up to $10 million in user fees so the net cost to the Treasury comes to $182 million. The fees apply to definitive security issues and the maintenance of Treasury Direct Investor Accounts.

Internal Revenue Service

Purpose: To finance its operations and many spending programs, the federal government levies individual and corporate income taxes, social insurance taxes, excise taxes, estate and gift taxes, customs duties, and miscellaneous taxes and fees. The federal agency responsible for administering and collecting these taxes and fees (except for customs duties) is the IRS. In handling this responsibility, the IRS receives and processes tax returns, related documents, and tax payments; disburses refunds; enforces compliance through audits and other procedures; collects delinquent taxes; and provides a host of services to taxpayers with the aim of helping them understand their rights and responsibilities under the federal tax code and resolving problems without litigation.

In FY2008, the IRS collected $2.3 trillion in revenue, net of refunds, and processed 250.4 million tax returns, 101.5 million of which were filed electronically. As part of its effort to ensure that taxpayers file accurate returns and pay the taxes they owe on time, the agency received 1.9 million information returns. It also collected $56.4 billion in enforcement revenue in FY2008. Visits to Taxpayer Assistance Centers that year totaled 6.9 million, and IRS personnel handled 40.4 million live toll-free calls for taxpayer assistance. In addition, the IRS delivered $94.3 billion in economic stimulus payments to 116.2 taxpayers in FY2008.

The IRS receives funding for its operations from three sources: appropriated funds, user fees, and offsetting collections (or reimbursables), which are payments the IRS receives from other federal agencies and state governments for services it provides. In FY2009, appropriated funds accounted

[39] Treasury Department, *Budget in Brief 2010*, p. 51.

for more than 97% of IRS's operating budget of $11.842 billion, user fees for 1.5%, and offsetting collections for 1.2%.

Appropriated funds are distributed among five budgetary categories:

- (1) **taxpayer services**, which provides resources for pre-filing taxpayer assistance, filing and account services, administrative services for IRS employees, and senior IRS management;
- (2) **enforcement**, which covers the cost of compliance services, research and statistical analysis, and administration of the earned income tax credit;
- (3) **operations support**, which addresses the resources needed for planning and the overall direction of the IRS, including shared service support for facilities, rent payments, printing, postage, security, strategic planning, finance, human resources, and improvement and maintenance of the agency's information and management systems;
- (4) **business systems modernization (or BSM)**, which provides funds for developing new information systems for tax administration and acquiring the hardware and software needed to integrate them into IRS's operations; and
- (5) **health insurance tax credit administration**, which covers the cost of administering the refundable tax credit for health insurance established by the Trade Adjustment Assistance Reform Act of 2002.

Administration's Budget Request for FY2010: The Obama Administration asked for $12.126 billion in direct appropriations for the IRS in FY2010, or $603 million more than the amount enacted for FY2009. Of the requested funding, $2.270 billion would be used for taxpayer services (a decline of $23.2 million from FY2009), $5.504 billion for enforcement (an increase of $387 million), $4.083 billion for operations support (an increase of $216 million), $254 million for the BSM (an increase of $24 million), and $15.5 million for the administration of the health insurance tax credit (an increase of $0.1 million).

The $603 million in additional appropriations for FY2010 would result from combining another $256 million to maintain current operating levels and another $463 million to improve enforcement, address critical information security needs, and accelerate the development of a critical taxpayer account database, with a reduction in spending of $116 million from savings from reinvestments and improved efficiency in IRS operations. In justifying the request, the Administration claimed the additional spending would enable the agency to collect $2 billion more in enforcement revenue by FY2012.[40]

Though the Administration sought a decrease in direct appropriations for taxpayer services of 1% compared to FY2009, it maintained the decrease would not represent a reduction in the resources available for that purpose. Savings from non-recurring activities would make this possible. Of the proposed funding for taxpayer services in FY2010, $676 million would be used for pre-filing taxpayer assistance and education, and $1.6 billion for filing and account services.

[40] Ibid., p. 59.

Most of the proposed $387 million increase in appropriations for enforcement would be used to bolster ongoing efforts to lower the tax gap, which basically is the difference between the amount of all taxes owed by taxpayers and the amount of taxes paid voluntarily and on time. In 2001, the most recent year for which an estimate is available, the gross tax gap was $345 billion and the net gap $290 billion.[41] Under the budget request, $128 million would be used to reduce the portion of the tax gap attributable to international activities, $94 million to improve the reporting compliance of small firms and high-income taxpayers, $26 million to expand the document-matching program for business taxpayers, and $84 million to improve the collection coverage for non-filing and underpayment of taxes.

The proposed $23 million in added funding for BSM would allow the IRS to continue a project aimed at modernizing the core taxpayer account database, which is supposed to play a key role in the "next generation of IRS service and enforcement initiatives."

Budget Recommendations of the IRS Oversight Board: Under the IRS Restructuring and Reform Act of 1998, the IRS Oversight Board has the responsibility of overseeing IRS's administration of the federal tax code and ensuring that the IRS's budget and operations allow the agency to perform its main functions. Section 7802 of the Internal Revenue Code (IRC) authorizes the Board to review and approve the IRS's annual budget request, and to ensure that the budget request for the agency submitted to Congress supports the strategic plans of the IRS. The President must submit the Board's budget recommendation, without revision, to Congress, along with the Administration's budget request.

For FY2010, the Board recommended that IRS receive $12.489 in direct appropriations, or $363 million more than the budget request.[42] The recommendation addressed what the Board saw as two major problems with the U.S. system of tax administration: a tax gap of an estimated $290 billion and the antiquated information systems used by the IRS to manage its operations. To address the first problem, the Board called for a budget for enforcement in FY2010 of $5.5 billion, which is the same as the budget request. But in keeping with the Board's stated belief that reducing the tax gap requires a "multi-faceted, multi-year approach," it recommended spending $32 million more than the budget request for taxpayers services, $146 million more for the BSM, $184 million more for operations support. The larger budgets for BSM and operations support would also address the second problem.

Senate Action on the Request: S. 1432, as passed by the Senate Appropriations Committee, recommended that the IRS receive $12.152 billion in direct appropriations in FY2010, or $26 million more than the budget request. In its report on the bill, the Committee urged the IRS to use whatever increase in funding from FY2009 it received to take added steps to lower the tax gap related to international tax evasion, to upgrade its information systems, to streamline its operations, to protect taxpayer information, and to replace an antiquated infrastructure.

S. 1432 would give the IRS $2.276 billion for taxpayer services, or $6 million above the budget request. Of that total, not less than $6.1 million should be used for the Tax Counseling for the

[41] The gross tax gap is the difference between total taxes owed and total taxes paid voluntarily on time in a tax year. The net gap is the amount of the gross gap for that year that remains after accounting for all late payments and all revenue raised through enforcement activities. For more details on the tax gap and legislation to reduce it, see CRS Report R40219, *Tax Gap, Tax Enforcement, and Tax Compliance Proposals in the 111th Congress*, by (name red acted).

[42] IRS Oversight Board, *FY2010 IRS Budget Recommendation: Special Report* (Washington, June 2009), p. 3.

Elderly program, $9.5 million for low-income taxpayer clinic grants, $12 million (to be available through the end of FY2011) in matching grants for the community volunteer income tax assistance program (VITA), and $206 million for the Taxpayer Advocate Service.

The bill would provide $5.504 billion in direct appropriations for enforcement, the same amount as the budget request. In its report, the Committee expressed support for the Administration's stated intention of using the added resources for enforcement to reduce the tax gap resulting from international transactions, in part by hiring another 784 auditors. But it also directed the IRS to provide the Committee with detailed information on the cost of and revenues raised by the "implementation of the new enforcement initiatives."[43]

S. 1432 recommended that the IRS receive $4.083 in direct appropriations for operations support, or the same amount as the budget request. The Committee noted there have been "major problems" with IRS's management of non-BSM information technology projects and directed the agency to make sure they are properly classified, have risk management and contingency plans, and allow the IRS to penalize and gain reimbursement from contractors whose performance fails to meet the terms of contracts.

Under the bill, the BSM would receive $274 million in direct appropriations, or $20 million more than the budget request. The Committee ordered the IRS to expand its efforts to develop a new customer account data engine (CADE), which is intended to serve as the central repository of tax account information for individuals.

House Action on the Request: H.R. 3170, as passed by the House, would give the IRS $12.130 billion in direct appropriations in FY2010, or $4 million more than the budget request. The entire amount of the increase would go to taxpayer services, which would receive $2.274 billion in appropriations. Under the bill, not less than $10 million would be used for low-income taxpayer clinic grants, $5.1 million for the Tax Counseling for the Elderly program, $9 million for VITA matching grants, and $206 million for the Taxpayer Advocate Service. In its report on H.R. 3170, the House Appropriations Committee directed the IRS to continue efforts to improve the service available to taxpayers on "IRS 1-800 help lines."[44] It also urged the agency to explore ways of getting refunds to low-income taxpayers sooner so they are less likely to resort to refund anticipation loans. H.R. 3170 would appropriate the same amount for enforcement, operations support, BSM, and the administration of the health insurance tax credit as the administration requested.

Final Action: The conference agreement for H.R. 3288 provided $12.146 billion in direct appropriations for the IRS in FY2010, or $544 million more than the amount enacted for FY2009. Of the amount appropriated for the current fiscal year, $2.279 billion goes to taxpayer services, $4.904 billion to enforcement activities, $600 million to enhanced enforcement activities, $4.084 billion to operations support, $264 million to the BSM program, and $15.5 million to administering the health insurance tax credit.

The conferees ordered the IRS to spend at least $10 million for low-income taxpayer clinic grants, at least $6.1 million for the Tax Counseling for the Elderly program, and at least $206 million for the operating expenses of the Taxpayer Advocate Service from the funding for

[43] Senate Appropriations Committee, *Financial Services and General Government Appropriations Bill, 2010*, p. 30.

[44] House Appropriations Committee, *Financial Services and General Government Appropriations Bill, 2010*, p. 22.

taxpayer services. The funding also includes $12 million for matching grants under the Community Volunteer Income Tax Assistance program; the funds will be available until the end of FY2011. Reflecting continuing concerns in Congress about the IRS's strategy for providing timely, accurate, and useful assistance to taxpayers, the conferees directed the agency to submit to the Appropriations Committees annual updates to its Taxpayer Assistance Blueprint and to work closely with the IRS Oversight board and the IRS Taxpayer Advocate in crafting the updates.

The overall enforcement budget includes $600 million for expanding IRS's efforts to measure and shrink the tax gap. At the same time, the conference agreement prohibits the IRS from entering into or renewing any contract for private tax debt collection.

Under the conference agreement, the BSM program is receiving $10 million more than the budget request. The conferees directed the IRS to use the added funds to support the further development of CADE. They also backed an option for increasing available funding for the initiative by drawing upon user fees collected by the IRS, provided it "determines that these funds are available and warranted." The agreement also extends a provision from appropriations laws going back to FY1999 requiring the IRS to gain the approval of the Appropriations Committees for any BSM spending plans that satisfy six conditions (including review by the Government Accountability Office) before obligating any funds.

Policy Issues: In reviewing the Obama Administration's budget request for FY2011, Congress may wish to examine the advantages and disadvantages of several proposed options for improving taxpayer compliance and reducing the cost of tax administration. One is to simplify the tax code by requiring the IRS to use plain English in all tax forms and publications. Another option is to allow taxpayers to pay taxes without filing a return. A third option is to pass legislation that puts an end to the consumer fraud that seems inherent in letting anyone prepare a tax return for a fee. Finally, Congress could use the appropriations process to require the IRS to hire thousands of more auditors for the express purpose of examining the tax returns of passthrough entities like partnerships and S corporations.

Executive Office of the President and Funds Appropriated to the President[45]

The Financial Services and General Government (FSGG) appropriations bill provides funding for all but three offices under the Executive Office of the President (EOP)[46] **Table 4** shows appropriations enacted for FY2009, amounts requested by the President for FY2010,

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

[46] Of the three exceptions, the Council on Environmental Quality and the Office of Environmental Quality are funded in the House and Senate Interior, Environment, and Related Agencies Appropriations Act. The Office of Science and Technology Policy and the Office of the United States Trade Representative are funded in the House and Senate Commerce, Justice, Science, and Related Agencies Appropriations Act. During debate on H.R. 3170 on July 16, 2009, the House of Representatives did not agree to an amendment (No. 6) offered by Representative Paul Broun that would have prohibited funds appropriated in the Financial Services and General Government Appropriations Act from being used to pay the salaries of the Assistant to the President on Energy and Climate Change, the Deputy Assistant to the President on Energy and Climate Change, or any position in the Council on Environmental Quality. The vote was 149-282 (Roll No. 558). *Congressional Record*, daily edition, vol. 155, July 16, 2009, pp. H8238-H8239.

appropriations provided by the House in H.R. 3170 for FY2010, amounts recommended by the Senate Committee on Appropriations in S.Rept. 111-43 for FY2010, and appropriations provided by P.L. 111-117 for FY2010.

Table 4. Executive Office of the President and Funds Appropriated to the President, FY2009 to FY2010

(in thousands of dollars)

Office	FY2009 Enacted	FY2010 Request	FY2010 House Passed	FY2010 Senate Committee	FY2010 Enacted
The White House (total)	$187,342	$207,818	$207,818	$207,818	$207,642
Compensation of the President	*450*	*450*	*450*	*450*	*450*
The White House Office (salaries and expenses, including Office of Policy Development for FY2010)	*53,899*	*59,319*	*59,319*	*59,319*	*59,143*
Executive Residence, White House (operating expenses)	*13,363*	*13,838*	*13,838*	*13,838*	*13,838*
White House Repair and Restoration	*1,600*	*2,500*	*2,500*	*2,500*	*2,500*
Council of Economic Advisers	*4,118*	*4,200*	*4,200*	*4,200*	*4,200*
Office of Policy Development	*3,550*	—	—	—	—
National Security Council[a]	*9,029*	*12,231*	*12,231*	*12,231*	*12,231*
Office of Administration	*101,333*	*115,280*	*115,280*	*115,280*	*115,280*
Office of Management and Budget	87,972	92,687	92,687	92,687	92,863
Federal Drug Control Programs (total)	438,900	422,575	407,975	438,325	427,975
Office of National Drug Control Policy	*27,200*	*27,575*	*27,575*	*28,575*	*29,575*
High Intensity Drug Trafficking Areas Program	*234,000*	*220,000*	*248,000*	*234,000*	*239,000*
Other Federal Drug Control Programs	*174,700*	*174,000*	*132,400*	*174,750*	*154,400*
Counterdrug Technology Assessment Center	*3,000*	*1,000*	—	*1,000*	*5,000*
Unanticipated Needs	1,000	1,000	1,000	1,000	1,000
Partnership Fund for Program Integrity Innovation	—	175,000	40,000	40,000	37,500
Presidential transition administrative support	8,000	—	—	—	—
Special Assistance to the President (salaries and expenses)	4,496	4,604	4,604	4,604	4,604
Official Residence of the Vice President (operating expenses)	323	330	330	330	330

Office	FY2009 Enacted	FY2010 Request	FY2010 House Passed	FY2010 Senate Committee	FY2010 Enacted
Total: EOP and Funds Appropriated to the President	**$728,033**[a]	**$904,014**	**$754,414**	**$784,764**	**$771,914**

Sources: Financial Services and General Government Appropriations Act, 2009 (Div. D, P.L. 111-8), *FY2010 Budget, Appendix,* pp. 1103-1114 and 1227-1229, U.S. Executive Office of the President, *Fiscal Year 2010 Congressional Budget Submission* (Washington: February 2009), H.Rept. 111-202, S.Rept. 111-43, and H.Rept. 111-366.

a. Does not include $2,936,000 in emergency appropriations provided to the National Security Council through P.L. 111-32.

President's Budget Request and Key Issues

The Administration's FY2010 budget requested an appropriation of $904 million for the EOP and funds appropriated to the President, an increase of $173 million or almost 24% above the $731 million appropriated for FY2009. The budget also proposed that the accounts covering the White House Office (WHO) and the Office of Policy Development (OPD) be consolidated as "both provide policy advice and assistance to the President" and "share facilities and supporting infrastructures."[47] The budget requested increased appropriations for each of the accounts under the White House, the Office of Management and Budget (OMB), Special Assistance to the President (Vice President), and the Official Residence of the Vice President; the same appropriation ($1 million) for Unanticipated Needs; and reduced appropriations for all but one of the accounts under the federal drug control programs as follows.

- The White House accounts (+$17.5 million or +9.2%), including the WHO (including the OPD) (+$1.9 million or +3.3%), the Executive Residence (+$475,000 or +3.6%), White House Repair and Restoration (+$900,000 or +56.3%), the Council of Economic Advisers (+$82,000 or +2.0%), the National Security Council (NSC, +$266,000 or +2.2%), and the Office of Administration (OA, +$13.9 million or +13.8%).
- OMB (+$4.7 million or +5.4%). The budget also proposed a Partnership Fund for Program Integrity Innovation and requested funding of $175 million to be administered by OMB. According to the EOP's FY2010 budget justification, the purpose of the partnership fund:

  > is to reduce error and improve efficiency and service in Federal assistance programs administered by States. Many State-administered programs operate independently of each other yet serve similar low-income populations. In addition, Federal and State officials responsible for improving program services often work independently of those responsible for program oversight and reducing improper payments. Through modern technology, solutions can be found that simultaneously support multiple objectives of improving program integrity through reduction in error, improving administrative efficiency, and improving service to eligible beneficiaries.[48]

[47] U.S. Executive Office of the President, *Fiscal Year 2010 Congressional Budget Submission* (Washington: February 2009), p. EOP-4.

[48] Ibid., p. OMB-13.

- Special Assistance to the President (+$108,000 or +2.4%) and the Official Residence of the Vice President (+$7,000 or +2.2%).
- The Federal Drug Control Programs (-$16.3 million or -3.7%), including the Office of National Drug Control Policy (ONDCP, +$375,000 or +1.4%), the High Intensity Drug Trafficking Areas Program (HIDTAP, -$14 million or -6.0%), the Other Federal Drug Control Programs (OFDCP, -$700,000 or -0.4%), and the Counterdrug Technology Assessment Center (CTAC, -$2 million or -66.7%).

Committee Recommendations

The House Committee on Appropriations recommended and the House passed an appropriation of $754.4 million for the EOP and funds appropriated to the President, a decrease of $149.6 million or 16.5% from the President's request of $904 million. The Senate Committee on Appropriations recommended an appropriation of $784.8 million, $119.2 million or 13.2% less than the President's request. The House Committee recommended, the House passed, and the Senate Committee recommended the appropriations requested by the President for the accounts covering the White House,[49] OMB (except for that for the Partnership Fund for Program Integrity Innovation), and the Vice President. Both the House and Senate committees recommended that the WHO and OPD accounts be consolidated as the President requested. The WHO appropriation includes $1.4 million for the White House Office of National AIDS policy and funding for the new Intellectual Property Enforcement Coordinator required by Title III of P.L. 110-403, the Prioritizing Resources and Organization for Intellectual Property Act of 2008. Installation of a backup steam generating station is funded in the appropriation for White House Repair and Restoration. The NSC appropriation includes funding for the continued support of additional staff, the transition costs of converting positions currently held by detailees to NSC staff positions, and implementing the recommendations on integrating the Homeland Security Council and the NSC. The $115.3 million appropriation for the Office of Administration (OA) includes $16.8 million for the continued modernization of the infrastructure for information technology within the EOP. OMB's appropriation includes funding to hire new staff. The agency expects to have a full-time equivalent level of 528 by the end of FY2009. The agency's appropriation could not be

- used to review any agricultural marketing orders or any activities or regulations under the Agricultural Marketing Agreement Act of 1937;
- expended to alter the transcript of actual testimony of witnesses, except the testimony of OMB officials before the House and Senate Committees on Appropriations or their subcommittees;
- used, directly or indirectly, by OMB to evaluate or determine if water resource project or study reports submitted by the Chief of Engineers are in compliance with applicable laws, regulations, and requirements relevant to the Civil Works water resource planning process. OMB would not have more than 60 days to perform budgetary policy reviews of water resource matters reported on by the Chief of Engineers and the OMB Director would notify the appropriate House

[49] During debate on H.R. 3170 on July 16, 2009, the House of Representatives did not agree to an amendment (No. 3) offered by Representative Paul Broun that would have struck the funding of $4.2 million for the Council of Economic Advisers. The vote was 146-279 (Roll No. 555). *Congressional Record*, daily edition, vol. 155, July 16, 2009, pp. H 8234-H8235.

> and Senate authorizing and appropriations committees when the review is initiated. If water resource reports have not been transmitted to the appropriate authorizing and appropriations committees within 15 days after the OMB review period ends, Congress would assume that OMB concurs with the report and act accordingly.

With regard to the partnership fund, the House Committee recommended, the House passed, and the Senate Committee recommended an appropriation of $40 million, a reduction of $135 million or more than 77% from the $175 million requested by the President. P.L. 111-117 provides funding of $37.5 million, $137.5 million or 78.6% below the President's request. The funding would remain available until September 30, 2012, and could be used for grants, contracts, cooperative agreements, and administrative costs in carrying out pilot projects under the partnership fund. The House-passed bill provided that the OMB Director would transfer funds to appropriate agencies to carry out pilot projects and conduct or provide for their evaluation. Funds could not be obligated for a pilot project unless the OMB Director determined that the project meets four criteria: (1) addresses programs that have a substantial state role in eligibility determination or administration or where federal-state cooperation could otherwise be beneficial; (2) in aggregate, is expected to save at least as much money as it costs; (3) demonstrates the potential to streamline administration and strengthen program integrity; and (4) does not achieve savings primarily by reducing the participation of eligible beneficiaries. The OMB Director would notify the House and Senate committees of each determination with regard to the four criteria at least 15 days in advance of obligating funds for the pilot project. The notification would state the purposes and objectives of the pilot project and a plan for its evaluation. The OMB Director would report to the House committee on the progress of activities funded under the partnership fund appropriation by September 30, 2010, and annually thereafter for the next four years. The Senate-reported bill and P.L. 111-117 provide that the OMB Director will transfer funds to appropriate agencies to carry out the pilot projects, contingent upon a determination by the Director, in consultation with an interagency council of representatives of appropriate federal agencies, States, and other stakeholders, that the pilot projects address the four criteria stated above. The Conference Report (H.Rept. 111-366) states that

> The conferees expect OMB to play a coordinating role in designing pilots, developing performance measures, and allocating funds, but intend that the interagency council will be the exclusive decision making body and that funds will be transferred to appropriate Federal agencies to manage and evaluate the individual pilot projects. The OMB Director, as chair of the council, should seek consensus and maximum input from council members and participating Federal and State agencies. [50]

The House Committee on Appropriations report and the Senate Committee on Appropriations report included several directives for accounts under the EOP as follows.

- The OA is directed to report annually to the committee, at the same time that the President's budget is submitted to Congress, on progress in modernizing information technology, funding obligated and expended (and for what purposes), specific milestones achieved, and requirements and plans for further investment. (House report)

[50] *Congressional Record*, daily edition, vol. 155, December 8, 2009, p. H14040.

- The Obama Administration is directed to coordinate an effort across the government to develop and implement a national AIDS strategy with targets to improve prevention and the outcome of treatments. (Senate report)
- Officials, whether employed in whole or in part by the EOP, and designated by the President to coordinate policy agendas across the executive branch are expected to fully and regularly inform Congress of their activities. (Senate report)
- The OA is directed to implement comprehensive policies and procedures to preserve all records, including electronic mail, videos, and social networking communication, in accordance with the Presidential Records Act, the Federal Records Act, and other pertinent laws as a top priority. The OA is to work closely with the National Archives and Records Administration (NARA) to ensure that electronic records that will eventually be turned over the NARA are fully maintained and formatted. The committee awaits the report previously requested on this issue and expects the OA to keep it fully informed of the funding needed for record preservation. (Senate report)
- OMB is urged to plan and implement a modernization of the core budgeting system for the federal government that is used by all federal agencies to document and estimate budget activities, ensure data integrity with other financial and accounting systems, and develop the President's budget proposals. OMB is also directed to annually include a justification for each of the government-wide councils, including the President's Management Council, the Chief Financial Officers Council, the Chief Information Officers Council, the Chief Human Capital Officers Council, the Chief Acquisition Officers Council, and the Performance Improvement Council, in the EOP's budget request beginning with FY2011. (Senate report)
- The interagency council for the Partnership Fund for Program Integrity Innovation, in consultation with OMB, is directed to submit a report on the partnership fund to the committee by March 30, 2010, and semiannually thereafter, until the program concludes. The report is to include the goals and objectives, and a performance evaluation, of the partnership fund and each pilot project, and an operating plan with current and future funding allocations for each pilot project. P.L. 111-117 includes this provision, but adds performance measures to the report and changes the date of the report to March 31, 2010.

P.L. 111-117

The law provides appropriations for the EOP and funds appropriated to the President in the same amounts as the President requested except for these accounts (and the Partnership Fund discussed earlier):

- The White House Office, including the Office of Policy Development, appropriation of more than $59.1 million is $176,000 or 0.3% below the President's request. Within the total appropriation is $1.4 million for the Office of National AIDS Policy. The conference report (H.Rept. 111-366) states that the $176,000 is shifted to OMB "to reflect the Administration's decision to locate the new Intellectual Property Enforcement Coordinator at OMB rather than the White House."[51]

- The OMB appropriation of almost $92.9 million is $176,000 or 0.2% more than the President's request. The conference report states that OMB is urged "to focus efforts on planning and implementing a modernization of the Federal Government's core budgeting system using funds provided for fiscal years 2009 and 2010."[52]
- The overall appropriation of more than $207.6 million for the EOP and funds appropriated to the President is $132.1 million or 14.6% below the President's request.

Federal Drug Control Programs

As for the accounts under the Federal Drug Control Programs, the House committee recommended and the House passed an appropriation of $408 million, a reduction of $14.6 million or 3.5% from the $422.6 million requested by the President. The Senate Committee recommended an appropriation of $438.3 million, an increase of $15.7 million or 3.7% above the President's request. P.L. 111-117 provides an appropriation of almost $428 million, $5.4 million or 1.3% above the President's request. Each of the accounts under the Federal Drug Control Programs are funded as follows.

- ONDCP - The House committee recommended and the House passed an appropriation of $27.6 million, the same amount as requested by the President. The Senate committee recommended an appropriation of $28.6 million, $1 million or 3.6% more than the President's request. P.L. 111-117 provides an appropriation of $29.6 million, $2 million or 7.3% above the President's request. The House-passed and the Senate-reported bills and the law allocate $1.3 million of the total appropriation for policy research and evaluation. The conference report (H.Rept. 111-366) states that the funding "is intended to allow for an increase in ONDCP staff to as close to 118 full-time equivalents as possible." The report also directs that the ONDCP congressional budget justification continue as a separate document, but be summarized within the EOP justification, and, for FY2011, include "more detail and context ... so that the Committee can better understand the scope and intended direction of the programs." Quarterly staffing reports that include current staffing levels, vacancies, and new hires (on-board and planned) and office, position title, job classifications, and bonuses, retroactive to FY2009 are requested by the House and Senate Committees on Appropriations.[53]
- HIDTAP - The House committee recommended and the House passed an appropriation of $248 million, $28 million or 12.7% above the President's request of $220 million. The Senate committee recommended an appropriation of $234 million, $14 million or 6.4% more than the President's request. P.L. 111-117 provides an appropriation of $239 million, $19 million or 8.6% above the

[51] Ibid.

[52] Ibid.

[53] Ibid.

President's request. The House-passed and the Senate-reported bills and the law provide that of the total, not less than 51% be transferred to State and local entities for drug control activities and be obligated within 120 days after the act's enactment. Up to 49% of the total could be transferred to federal agencies and departments as determined by the ONDCP Director, including not more than $2.7 million for auditing services and associated activities (including $250,000 (House) and $500,000 (Senate and P.L. 111-117) for the continued operation and maintenance of the Performance Management System. Within 45 days after the act's enactment, the Director must notify the committees of the initial allocation of FY2010 funding among HIDTAs. Not later than 90 days after the act's enactment, the Director must notify the committees of planned uses of discretionary HIDTA funding, as determined in consultation with the HIDTA Directors (House and P.L. 111-117) or according to a framework proposed jointly by the HIDTA Directors and ONDCP (Senate). The House-passed bill and the law provide that each High Intensity Drug Trafficking Area (HIDTA) designated as of September 30, 2009, be funded at not less than the FY2009 base level unless the Director submits to the House and Senate Committees on Appropriations justification for changes to those levels based on clearly articulated priorities and published ONDCP performance measures. The Senate-reported bill would have provided that, notwithstanding the requirements of P.L. 106-58, any unexpended funds obligated prior to FY2008 for programs on the treatment or prevention of drug use as part of the approved strategy for a designated HIDTA could be used for other approved activities of that area.

- CTAC - The House committee recommended and the House passed no appropriation. The Senate committee recommended the same appropriation ($1 million) as the President requested for counternarcotics research and development projects. The funding could be transferred to other federal departments or agencies. Within 90 days after the act's enactment, the ONDCP would submit to the House and Senate Committees on Appropriations a detailed spending plan for the use of the funds. P.L. 111-117 provides an appropriation of $5 million, $4 million or 400% above the President's request. The conference report explains the funding:

  Now that ONDCP has signaled a new direction for the program, more tailored to its original mission, the conference agreement provides $5,000,000 for a newly-invigorated program, contingent upon receipt and approval by the Committees on Appropriations of information including the mission, detailed program description, and spending plan for CTAC. The conferees understand that CTAC's new program will supplement and enhance other government-sponsored research in both drug supply and drug demand reduction, with a focus on development of new scientific technologies, including prevention technology research.[54]

- OFDCP - The House committee recommended and the House passed an appropriation of $132.4 million, $41.6 million or 23.9% less than the President's request of $174 million. A grantee under the Drug-Free Communities Program who is seeking a renewal grant and is not awarded renewal funding would be afforded a fair, timely, and independent appeal of the non-renewal decision prior to the beginning of the funding year. The Senate committee recommended an

[54] Ibid.

appropriation of $174.8 million, $750,000 or 0.4% more than the President's request. P.L. 111-117 provides an appropriation of $154.4 million, $19.6 million or 11.3% below the President's request. **Table 5** shows the allocation of the funding for the OFDCP accounts.

Table 5. Other Federal Drug Control Programs: FY2010 Appropriations for Accounts

Other Federal Drug Control Programs Account	House-Reported and House-Passed	Senate-Reported	FY2010 Enacted
Outreach and media activities related to drug abuse prevention	$20 million[a]	$70 million, including $8 million for messages on methamphetamine prevention. ONDCP would maintain funding for non-advertising services for the media campaign at not less than the FY2003 ratio of service funding to total funds and continue the corporate outreach program. Not more than 10% of the funds appropriated for a national media campaign would be for administration, advertising production, research and testing, labor, and related costs.	$45 million Same provisions as Senate-reported bill.
Drug Free Communities Program	$98 million	$90,750,000	$95 million
National Drug Court Institute	$1 million	$1 million	$1 million
United States Anti-Doping Agency	$10 million	$9.6 million	$10 million
World Anti-Doping Agency dues	$1.9 million	$1.9 million	$1.9 million
National Alliance for Model State Drug Laws	$1,250,000	$1,250,000	$1,250,000
National Drug Control Program performance measures, for evaluations and research, may be transferred to other federal departments and agencies	$250,000	$250,000	$250,000
Total	**$132,400,000**	**$174,750,000**	**$154,400,000**

Source: H.Rept. 111-202, H.R. 3170, S.Rept. 111-43, and H.Rept. 111-366.

a. The Statement of Administration Policy on H.R. 3170 states a concern that the funding requested for the national media campaign is redirected to HIDTAP. (U.S. Executive Office of the President, Office of Management and Budget, *Statement of Administration Policy, H.R. 3170*, July 15, 2009, p. 3.)

The House-passed and Senate-reported bills and P.L. 111-117 include three administrative provisions related to the ONDCP. Section 202 of the House-passed bill provided that the ONDCP Director would submit to the House and Senate Committees on Appropriations within 60 days of the act's enactment, and prior to the obligation of more than 20% of the funds appropriated in any account under the headings "Office of National Drug Control Policy" and "Federal Drug Control Programs," a detailed narrative and financial plan on the proposed uses of all funds under the account by program, project, and activity. The report would be updated and submitted to the committees every six months and would include information on how previous estimates and assumptions changed. Section 202 of the Senate-reported bill and P.L. 111-117 provide that the President will submit to the House and Senate Committees on Appropriations within 60 days of the act's enactment, and prior to the initial obligation of funds appropriated under the heading "Office of National Drug Control Policy," except for the Counterdrug Technology Assessment Center,[55] a detailed narrative and financial plan on the proposed uses of all funds under the heading by program, project, and activity. Up to 20% of the funds appropriated under the heading could be obligated before the report is submitted with the prior approval of the House and Senate committees. The report must be updated and submitted to the committees every six months and include information on how previous estimates and assumptions changed. Any new projects, and changes in the funding of ongoing projects must be approved in advance by the House and Senate committees. Under Section 203, up to two percent of any ONDCP appropriations could be transferred between appropriated programs with the advance approval of the House and Senate committees. A transfer could not increase or decrease an appropriation by more than three percent. Section 204 authorizes the reprogramming of up to $1 million of any ONDCP appropriations within a program, project, or activity with the advance approval of the House and Senate committees.

The reports of the House and Senate Committees on Appropriations included several directives for the accounts under Federal Drug Control Programs as follows.

- ONDCP is directed to work with agencies, including the Departments of Justice, State, Homeland Security, and Health and Human Services, and State and local governments to develop and implement strategies to reduce the demand for and supply of methamphetamine in the United States. (House report) ONDCP is to focus methamphetamine prevention advertising on geographic areas within a State with the highest levels of drug abuse. (Senate report)
- ONDCP is directed to reinstate the organizational structure that was in place prior to the reorganization announced in a December 1, 2006, letter to the committee and must notify the committee, in writing, of actions to implement the directive within 45 days after the act's enactment. (Senate report)
- ONDCP is to keep the committee informed as it implements the recommendations and actions proposed by the National Academy of Public Administration in a November 2008 report. (Senate report) The conference report (H.Rept. 111-366) reiterates this provision.
- ONDCP is directed to consult with the HIDTAs before deciding on programmatic spending allocations for discretionary (supplemental) funding. The committee strongly recommends that the Hawaii HIDTA be considered for an increased allocation. HIDTA funds are to be transferred to the appropriate drug control agencies expeditiously. (Senate report)
- ONDCP is directed to withhold all HIDTA funds from a State until the State or locality has met its financial obligation. (Senate report)

[55] The provision in the Senate-reported bill referred to the heading "Office of National Drug Control Policy."

- ONDCP is to outline and submit to the committee a detailed plan, including funding, for evaluation projects that assess the effectiveness of the National Drug Control strategy and develop and improve data sources, within 120 days after the act's enactment. (Senate report)

Transfer Authority

As recommended by both the House and Senate committees, as passed by the House, and as included in P.L. 111-117, the provision that authorizes the transfer of up to 10% of appropriated funds among the accounts for the White House,[56] and the Special Assistance to the President (Vice President), and the Official Residence of the Vice President (transfers would be subject to the approval of the Vice President) is continued at Section 201. The OMB Director (or such other officer as the President designates in writing) may, 15 days after notifying the House and Senate Committees on Appropriations, transfer up to 10% of any such appropriation to any other such appropriation. The transferred funds may be merged with, and available for, the same time and purposes as the appropriation receiving the funds. Such transfers may not increase an appropriation by more than 50%.[57]

The Judiciary[58]

As a co-equal branch of government, the judiciary presents its budget to the President, who transmits it to Congress unaltered. **Table 6** shows appropriations for the judiciary as enacted for FY2009, as requested for FY2010, as recommended by the House Appropriations Committee and passed by the House for FY2010, as recommended by the Senate Appropriations Committee for FY2010, and as enacted for FY2010.

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

[57] Section 533, Title V, Division H of P.L. 108-447, the Consolidated Appropriations Act for FY2005, authorized transfers of up to 10% of FY2005 appropriated funds among the accounts for the White House Office, Office of Management and Budget, Office of National Drug Control Policy, the Special Assistance to the President (Vice President), and the Official Residence of the Vice President. For FY2006, Section 725 of P.L. 109-115, the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006 authorized transfers of up to 10% among the accounts for the White House, the Special Assistance to the President (Vice President), and the Official Residence of the Vice President. Section 201 of P.L. 110-161, the Consolidated Appropriations Act for FY2008, and Section 201 of P.L. 111-8, the Omnibus Appropriations Act for FY2009, continued this practice.

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

Table 6. The Judiciary Appropriations, FY2009 to FY2010

(in millions of dollars)

Budget Groupings and Accounts	FY2009 Enacted	FY2010 Request	FY2010 House Passed	FY2010 Senate Committee	FY2010 Enacted
Total: Supreme Court	$88.2	$89.3	$88.6[a]	$88.6[b]	88.5[c]
Salaries and Expenses	*69.8*	*74.7*	*74.0*	*74.1*	*74.0*
Building and Grounds	*18.4*	*14.6*	*14.5*	*14.5*	*14.5*
U.S. Court of Appeals for the Federal Circuit	30.4	37.0	33.6	32.3	32.6
U.S. Court of International Trade	19.6	21.5	21.4[d]	21.4[e]	21.4[f]
Courts of Appeals, District Courts, and Other Judicial Services (total)	6,156.1[g]	6,677.4	6,588.5	6,577.4	6,508.7
Salaries and Expenses	*4,811.4*[g]	*5,162.3*	*5,080.7*	*5,076.8*	*5,011.0*
Court Security	*428.9*	*463.6*	*457.4*	*457.4*	*452.6*
Defender Services	*849.4*	*982.6*	*982.7*	*975.5*	*977.7*
Fees of Jurors and Commissioners	*62.2*	*63.4*	*62.3*	*62.3*	*61.9*
Vaccine Injury Compensation Trust Fund	*4.3*	*5.4*	*5.4*	*5.4*	*5.4*
Administrative Office of the U.S. Courts	79.0	84.0	83.1	83.1	83.1
Federal Judicial Center	25.7	27.5	27.3	27.3	27.3
United States Sentencing Commission	16.2	17.1	16.8	16.8	16.8
Judicial Retirement Funds	76.1	82.4	82.4	82.4	82.4
Total: The Judiciary	**$6,491.4**[g]	**$7,036.1**	**$6,941.6**	**$6,929.3**	**$6,860.7**

Sources: Budget authority figures, other than FY2010 Senate Committee data, are taken from H.Rept. 111-202 and H.R. 3170 as enacted. The Senate data are from S.Rept. 111-43. FY2010 enacted data are from H.Rept. 111-366.

Notes: All figures are rounded, and columns also may not equal the total due to rounding.

a. House passed a total of $88.559 million, which is $749,000 less than the FY2010 request.

b. The Senate committee recommended a total of $88.606 million, which is $702,000 less than the FY2010 request.

c. The FY2010 enacted amount is the same as House-passed amount ($88.559 million).

d. House passed $21.350 million, which is $167,000 less than the FY2010 request.

e. The Senate recommendation of $21.374 million, which is $143,000 less than the FY2010 request.

f. The FY2010 enacted amount is the same as the House-passed amount ($21.350).

g. $10 million provided in Supplemental Appropriations Act, 2009 (P.L. 111-32) is included in this amount.

The Judiciary Budget and Key Issues

Appropriations for the judiciary—about two-tenths of 1% (0.2%) of the entire federal budget—are divided into budget groups and accounts. Two accounts that fund the Supreme Court (salaries and expenses of the Court and expenditures for the care of its building and grounds) together total about 1% of the total judiciary budget. The structural and mechanical care of the Supreme Court building, and care of its grounds, are the responsibility of the Architect of the Capitol. The rest of the judiciary's budget provides funding for the "lower" federal courts and related judicial services. The largest account, about 73% of the total budget—the Salaries and Expenses account for the U.S. Courts of Appeals, District Courts, and Other Judicial Services—covers the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the U.S. Court of Federal Claims, bankruptcy judges, magistrate judges, and other officers and employees of the federal judiciary not specifically provided for by other accounts. It also covers the necessary expenses of the courts. The remaining 26% of the judiciary budget is disbursed among these accounts: U.S. Court of Appeals for the Federal Circuit, U.S. Court of International Trade, Administrative Office of the U.S. Courts, Federal Judicial Center, U.S. Sentencing Commission, and Judicial Retirement Funds.

The judiciary budget does not fund three "special courts" in the U.S. court system: the U.S. Court of Appeals for the Armed Forces (funded in the Department of Defense appropriations bill), the U.S. Court of Appeals for Veterans Claims (funded in the Military Construction, Veterans Affairs, and Related Agencies appropriations bill), the U.S. Tax Court (funded under Independent Agencies, Title V, of the FSGG bill). Federal courthouse construction is funded within the General Services account under Independent Agencies, Title V, of the FSGG bill.

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

The judiciary also has "encumbered" funds—no-year authority funds for specific purposes, which are used when planned expenses are delayed, from one year to the next (e.g., costs associated with space delivery, and certain technology needs and projects).[59]

Judge Julia S. Gibbons, chair of the Budget Committee of the Judicial Conference of the United States,[60] expressed the judiciary's recognition that the country had been experiencing very serious financial difficulties. In her March 19, 2009 written testimony submitted to the House

[59] Administrative Office of the U.S. Courts, *The Judiciary Fiscal Year 2010 Congressional Budget Summary* (Washington: February 2008), pp. 40-41. Hereafter cited as *Judiciary FY2010 Congressional Budget Summary*.

[60] The Judicial Conference of the United States is the principal policymaking body for the federal courts system. The Chief Justice is the presiding officer of the conference, which comprises the chief judges of the 13 courts of appeals, a district judge from each of the 12 geographic circuits, and the chief judge of the Court of International Trade.

Subcommittee on the judiciary's FY2010 budget request, Judge Gibbons cited the statement of Chief Justice John G. Roberts' *2008 Year-End Report on the Federal Judiciary:*

> During these times, when the Nation faces pressing economic problems, resulting in business failures, home foreclosures, and bankruptcy, and when Congress is called upon to enact novel legislation to address those challenges, the courts are a source of strength. They guarantee that those who seek justice have access to a fair forum where all enter as equals and disputes are resolved impartially under the rule of law.[61]

Judge Gibbons further stated that the courts were already feeling the impact of the deteriorating economy. For example, a significant rise in bankruptcy filings has increased the workload of the bankruptcy courts.[62]

Cost Containment Initiatives

According to Judge Gibbons, the judiciary has adopted a comprehensive strategy since 2004 that included sweeping cost-containment measures to control costs and allow for more modest budget requests. Among the steps already taken "have reduced future costs for rent, information technology, compensation, magistrate judges, law enforcement activities, law books, probation and pretrial services supervision work, and other areas." Judge Gibbons identified several areas for future initiatives to further contain costs.

To control court space costs, the Judicial Conference at its September 2008 biannual meeting adopted a revised policy under which two senior district judges would share one courtroom in new courthouses. The judiciary is also pursuing the development of a courtroom-sharing policy for magistrate judges, and studying the feasibility of courtroom-sharing for district judges in large courthouses as well as in bankruptcy courts. The judiciary has worked with the General Services Administration (GSA) to limit rent costs through a memorandum of agreement on rent calculation. Currently, the rent cap is established at 4.9% in annual rate of growth. According to Judge Gibbons, the projected FY2010 rent will be $200 million less (17%) than the amount paid in FY2005. The Judicial Conference also has adopted policies to reduce personnel costs, including the cost of judges' chamber staff by limiting judges to one career law clerk and setting more restrictive salary policies for new law clerks.[63]

Other initiatives include using information technology to consolidate computer servers around the country to increase efficiency and cost-effectiveness; improve courthouse operations, and enhance public security and access to the courts. Among these initiatives is an *eJuror* pilot program to facilitate citizens' access to their jury service information, including the ability to submit their jury questionnaire electronically.

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[61] Statement of Honorable Julia S. Gibbons, Chair, Committee on the Budget of the Judicial Conference of the United States, U.S. House, Committee on Appropriations Subcommittee on Financial Services and General Government, March 19, 2009, p. 2. Hereafter cited as *Judge Gibbons' March 19, 2009, Statement*. The Chief justice's report is available at http://www.supremecourtus.gov/publicinfo/year-end/2008year-endreport.pdf.

[62] *Judge Gibbons' March 19, 2009, Statement*, p. 2.

[63] Ibid., pp. 4-5.

Judicial Security

The safe conduct of court proceedings and security of judges in courtrooms and off-site continue to be a concern. The 2005 Chicago murders of family members of a federal judge; the Atlanta killings of a state judge, a court reporter, and a sheriff's deputy at a courthouse; and the 2006 sniper shooting of a state judge in his Reno office spurred efforts to improve judicial security. In the 110th Congress (2007-2008), the President signed into law, the Court Security Improvement Act of 2007 (P.L. 110-177), which was designed to enhance security for judges and court personnel as well as courtroom safety for the public. Legislation enacted in the 109th Congress (P.L. 109-13) included a provision that provided intrusion detection systems for judges in their homes. Threats against judges, however, have not abated. On January 4, 2010, a gunman wounded a deputy U.S. marshal and killed a court security officer at the Lloyd George U.S. Courthouse and Federal Building in Las Vegas. Threats in the first week of 2010 included suspicious substances in letters sent to courthouses in Alabama. These recent incidents will likely result in review and increased oversight of judicial security at court facilities to ensure that adequate protective policies, procedures, and practices are in place. Additionally, increased security enhancements may be necessary for federal courthouses for possible trials of suspects charged with acts of terrorism.

The U.S. Marshals Service (USMS) has primary responsibility for the protection and security of more than 2,000 sitting judges, as well as approximately 5,250 other court officials at over 400 court facilities in the United States and its territories. In FY2003, threats and inappropriate communications against USMS protectees[64] numbered 592. That figure more than doubled in FY2008, which it reached 1,278. For the current fiscal year, threats and inappropriate communications have reached 1,141 as of July 28, 2009.[65]

The FY2010 bill included authority to continue a pilot program for the USMS to assume responsibility for perimeter security at selected courthouses that were previously the responsibility of the Federal Protective Service (FPS). This pilot was undertaken in FY2009 enacted legislation as a result of the judiciary's concerns that FPS was providing adequate perimeter security. After the initial planning phase, USMS implemented the pilot program on January 5, 2009, and assumed primary responsibility for security functions at seven courthouses located in Chicago, Detroit, Phoenix, New York, Tucson, and two in Baton Rouge. The judiciary and USMS plan to evaluate the program throughout the program and identify areas for improvement. A general provision in the House bill directs the judiciary to reimburse USMS for these services.

Workload

Judge Gibbons, in her March 19, 2009, written testimony submitted to the House Appropriations Subcommittee on Financial Services and General Government stated that the FY2010 judiciary request included $30 million for 754 additional court support staff positions primarily as a result

[64] In addition to U.S. Supreme Court Justices and other federal judges, USMS may also protect Tax Court judges, U.S. deputy attorney general, director of the U.S. Office of National Drug Control Policy, U.S. Attorneys and Assistant U.S. Attorneys, federal public defenders, clerk of courts, probation officers, pre-trial services officers, U.S. trustees, jurors, witnesses, and USMS employees. For more details about the U.S. Marshals Service's judicial security responsibilities, see http://www.usmarshals.gov/judicial/index.html.

[65] USMS provided the data to the author on July 28, 2009.

of increased requirements for probation and pretrial services offices, and bankruptcy and district clerks' offices. Judge Gibbons stated, "Our projections indicate that caseload will increase slightly in probation (+3%) and pretrial services (+3%) and increase substantially for bankruptcy filings (+27%)." Caseload projections in 2009, compared to the previous year, are estimated to decline in civil (-3%) criminal (-4%) and appellate (-5%) filings."[66]

Judgeships

Since the enactment of an omnibus judgeship bill in 1990 (P.L. 101-650), according to the Judicial Conference, the number of appellate judgeships has remained at 179 while appellate court case filings have increased by 42% over the last 19 years. During this same time period, Congress enacted legislation that increased the number of district judgeships by 4% (from 645 to 674) while district court case filings increased by 34%.

At its biannual meeting on March 17, 2009, the Judicial Conference of the United States voted to ask Congress to create 63 new federal judgeships: 12 in the courts of appeals (nine permanent and three temporary), and 51 in the district courts (38 permanent and 13 temporary).[67] The Conference made a similar request in the 110th Congress. Subsequent legislation was introduced in both the House and Senate to address this request, but no final action was taken before the 110th Congress adjourned.

On September 8, 2009, Senator Patrick J. Leahy introduced (for himself and Senators Dianne Feinstein, Charles E. Schumer, Sheldon Whitehouse, Amy Klobuchar, Edward E. Kaufman, Al Franken, Tom Harkin, Jeff Bingaman, Patty Murray, Sherrod Brown, Evan Bayh, Michael Bennet, Barbara Boxer, Jeanne Shaheen, Daniel K. Inouye, John F. Kerry, and Daniel K. Akaka) S. 1653, the Federal Judgeship Act of 2009, to authorize the establishment of additional federal circuit and district judges to help reduce backlogs in the nation's caseload. The bill would authorize the appointment of 63 permanent and temporary judgeships across the country, including 12 circuit judgeships. S. 1653 was referred to the Senate Judiciary Committee where it is pending. Representative Hank Johnson introduced (for himself and Representatives John Conyers, Silvestre Reyes, Sheila Jackson-Lee, and Robert Wexler), a companion bill, H.R. 3662, Federal Judgeship Act of 2009, on September 29, 2009. The bill was referred to the House Judiciary Committee where it is pending.

Several other bills (with more limited scope) have been introduced to create or extend temporary judgeships. Among them were S. 193, H.R. 91, H.R. 314, H.R. 349, H.R. 1272, H.R. 2961, and H.R. 3161.

Judicial Pay

Another issue of continuing interest is the judiciary's advocacy for raising judicial pay.[68] Chief Justice John G. Roberts, Jr. reaffirmed his support for significant increases in judicial salaries in

[66] *Judge Gibbons' March 19, 2009 Statement*, pp. 9-10.

[67] See http://www.uscourts.gov/Press_Releases/2009/recommendations.pdf for a list of the Conference's judgeship recommendations.

[68] For further information about judicial pay issues, see CRS Report RL34281, *Judicial Salary: Current Issues and Options for Congress*, by (name redacted); CRS Report RS20388, *Salary Linkage: Members of Congress and Certain Federal Executive and Judicial Officials*, by (name redacted); and CRS Report RL33245, *Legislative, Executive, and Judicial Officials: Process for Adjusting Pay and Current Salaries*, by (name redacted).

his *2008 Year-End Report on the Federal Judiciary*. Chief Justice Roberts maintained that the salary of judges had not kept pace with inflation over the years and led judges to leave the bench in increasing numbers.

During the 110th Congress, legislation was introduced in both the House and Senate to substantially increase judicial salaries, but no final action was taken on the bills before Congress adjourned.[69] Federal judges received a salary adjustment for 2009.

Near the end of the first session of the 111th Congress on November 3, 2009, Senator Dianne Feinstein introduced (for herself and Senators Orrin Hatch, Patrick Leahy, and Lindsey Graham) S. 2725, the Federal Judicial Fairness Act of 2009. The bill would repeal existing law requiring that salary increases for federal judges or Supreme Court Justices be specifically authorized by acts Congress, and would apply the same automatic annual cost-of-living adjustment to judicial salaries as takes effect under the General Schedule for civilian federal employees.

Although the Senate Appropriations Committee recommended a 2010 salary adjustment for Justices and judges under Section 307 (S.Rept. 111-43),[70] the enacted legislation did not provide for the salary adjustment.

House Budget Hearings

On March 19, 2009, the House Appropriations Subcommittee on Financial Services and General Government held a hearing on the FY2010 federal judiciary budget request. The subcommittee heard testimony from Judge Julia S. Gibbons, and James C. Duff, director of the Administrative Office of the U.S. Courts (AOUSC). Among issues raised at the hearing were the dramatic increase in bankruptcy filing, educational assistance the judiciary has been providing citizens considering bankruptcy, compensation for public defenders, security and crime along the U.S. border, judicial security, rent paid to GSA, judicial workload, and initiatives taken to contain judicial spending.

In prepared testimony on the FY2010 judicial budget request, Judge Gibbons stated

> This fiscal year 2010 request includes modest staffing increases in the courts in order to address increased workload requirements, as well as obtain funding for several much needed program enhancements. We believe the requested funding level represents the minimum

[69] On June 15, 2007, Senator Patrick Leahy introduced S. 1638, the "Federal Judicial Salary Restoration Act of 2008," that, before markup, would have provided a 50% pay adjustment for justices and judges. Representative John Conyers Jr., chairman of the House Judiciary Committee, introduced a companion bill, H.R. 3753, "Federal Judicial Salary Restoration Act of 2007," on October 4, 2007. The House bill, before markup, would have provided for a 41.3% pay adjustment. As amended in markup, and ordered to be reported by the respective committees, S. 1638 and H.R. 3753, would authorized pay increases of 28.7% to 28.8% respectively. On November 14, 2007, Senator Richard J. Durbin introduced S. 2353, the Fair Judicial Compensation Act of 2007, to authorize a 16.5% increase in the annual salaries of the Chief Justice of the United States, Associate Justices of the Supreme Court, courts of appeals judges, district court judges, and judges of the United States Court of International Trade, and to increase fees for bankruptcy trustees. S. 2353 was referred to the Senate Judiciary Committee. No further action was taken on any of these bills.

[70] For further details about these bills and judicial pay issues, see CRS Report RL34281, *Judicial Salary: Current Issues and Options for Congress*, by (name redacted); CRS Report RS20388, *Salary Linkage: Members of Congress and Certain Federal Executive and Judicial Officials*, by (name redacted); and CRS Report RL33245, *Legislative, Executive, and Judicial Officials: Process for Adjusting Pay and Current Salaries*, by (name redac ted).

> amount required to meet our constitutional and statutory responsibilities. while this may appear high in light of the fiscal constraints under which you re operating. I would note that the Judiciary does not have the flexibility to eliminate or cut programs to achieve budget savings as the Executive Branch does. The Judiciary's funding requirements essentially reflect basic operating costs, of which more than 80 percent are for personnel and space requirements.[71]

On April 23, 2009, Supreme Court Justices Clarence Thomas and Stephen G. Breyer appeared before the Subcommittee to give testimony on the FY2010 Supreme Court budget request. Issues raised at the hearing included funding to provide staff and resources for an enhanced Supreme Court's public website, caseload trends over the years, minority clerk hiring efforts, and possible television coverage of Supreme Court proceedings.

FY2010 Request and Congressional Action[72]

For FY2010, the judiciary requested $7.036.1 billion in total appropriations, an increase of $544.7 million (about 7.7%) above the $6.491.4 billion enacted for FY2009. Approximately 86% of the increase was requested to cover pay adjustments, inflation, and current services. The FY2010 request included funding for an additional 697 full-time-equivalent (FTE) positions to meet increased workload requirements. The increase is approximately 2% over the 33,842 FTEs the judiciary anticipated to be funded in 2009.[73]

For FY2010, the House Appropriations Committee recommended and the House passed a judiciary appropriation totaling $6.941 billion. The Senate Appropriations Committee recommended $6.929 billion. The FY2010 enacted amount was $6.861 billion.

The following highlights the FY2009 enacted amount, FY2010 judiciary budget request, House Appropriations Committee recommendation and House passed amount for FY2010, the Senate Appropriations Committee recommendation for FY2010, and the FY2010 enacted amount.[74]

Supreme Court

For FY2010, the total request for the Supreme Court (salaries and expenses plus buildings and grounds) was $89.308 million, a $1.1 million (1.2 %) increase over the FY2009 appropriation of $88.2 million. The FY2010 request contained two accounts: (1) Salaries and Expenses: $74.740 million was requested, an increase of $4.964 million (7.1%) over the $69.777 million enacted for FY2009; and (2) Care of the Building and Grounds: $14.568 million for a *decrease* of about $3.879 million (-21.0%) over the $18.447 million enacted for FY2009. The request included pay and benefits increases to maintain FY2009 services. The Court requested seven new positions (or four FTEs) and hardware needed to support and enhance the Court's public website. The House Appropriations Committee recommended and the House passed a total of $88.559 million for the Supreme Court, which is $749,000 less than the request. The Senate Appropriations Committee

[71] *Judge Gibbons' March 19, 2009, Statement*, p.13.

[72] U.S. Administrative Office of the U.S. Courts, *The Judiciary Fiscal Year 2010 Congressional Budget Summary* (Washington: February 2009). Hereafter cited as *Judiciary FY2010 Congressional Budget Summary*.

[73] *Judiciary FY2010 Congressional Budget Summary*, p.5.

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

recommended a total of $88.606 million, which is $702,000 less than the total request for the Court. The total FY2010 enacted amount was $88.6 million (the total for $74.0 million as proposed by the House for Salaries and Expenses, and $14.5 million as proposed by both chambers for buildings and grounds).

U.S. Court of Appeals for the Federal Circuit

This court, consisting of 12 judges, has jurisdiction and reviews, among other things, certain lower court rulings on patents and trademarks, international trade, and federal claims cases. The FY2010 request for this account was $37.0 million, a $6.6 million (21.7%) increase over the $30.4 million appropriated for FY2009. The request would provide for standard pay and other inflationary adjustments, rental space costs for senior judges, and annualization of pay for anticipated new law clerks and other staff hired in 2009. Other costs include pay for four FTEs positions (support staff), technology improvements for the courtrooms, and the upgrade of existing library space. The House Appropriations Committee recommended and the House passed $33.6 million for FY2010. The Senate Appropriations Committee recommended $32.3 million in funding. The FY2010 enacted amount was $32.6 million.

U.S. Court of International Trade

This court has exclusive jurisdiction nationwide over the civil actions against the United States, its agencies and officers, and certain civil actions brought by the United States arising out of import transactions and the administration as well as enforcement of federal customs and international trade laws. The FY2010 request was $21.517 million, a $1.9 million (9.8%) increase over the FY2009 appropriation of $19.605 million. The budget request would pay for standard pay and other inflationary adjustments, a substantial increase in GSA rent charges, and to maintain current services. The House Appropriations Committee recommended and the House passed $21.350 million, which is $167,000 less than the FY2010 request. The Senate Appropriations Committee recommended $21.374 million, which is $143,000 less than the request. The FY2010 enacted amount was $21.350 million.

Courts of Appeals, District Courts, and Other Judicial Services

The FY2010 funding request for this budget group covers 12 of the 13 courts of appeals and 94 district judicial courts located in the 50 states, District of Columbia, Commonwealth of Puerto Rico, territories of Guam and the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands. The appropriations requested for this budget group comprises about 90% of the judiciary budget for salaries and expenses, court security, defender services, and fees of jurors and commissioners which funds most of the day-to-day activities and operations of the circuit and district courts. The FY2010 request was $6.677 billion, a 521.3 million (8.5%) increase over the FY2009 enacted amount of $6.156 billion. For FY2010, the House Appropriations Committee recommended and the House passed $6.589 billion for this budget group. The Senate Appropriations Committee recommended $6.577 billion. The FY2010 enacted amount was $6.509 billion.

The total of this budget group comprised the following accounts:

Salaries and Expenses

The FY2010 request for this account was $5.162 billion, a $350.9 million (7.3%) increase over the FY2009 level of $4.811 billion. According to the budget request, this increase was needed primarily for inflationary and other adjustments to maintain the courts' current services. Of this total, 32% was for court support personnel salaries, 21% for judges and chambers staff salaries and benefits, 18% for rent, 10% for court support personnel benefits, 10% for operations and maintenance, and 8% for information technology. The House Appropriations Committee recommended and the House passed $5.081 billion for FY2010. The Senate Appropriations Committee recommended $5.077 billion. The FY2010 enacted amount was $5.011 billion.

Vaccine Injury Compensation Trust Fund

Established to address a perceived crisis in vaccine tort liability claims, the Vaccine Injury Compensation Program funds a federal no-fault program that protects the availability of vaccines in the nation by diverting substantial number of claims from the tort arena. The FY2010 request for the Trust Fund account was $5.4 million, an increase of $1.2 million (27.6%) above the FY2009 enacted amount of $4.3 million. The House Appropriations Committee recommended and the House passed the full amount requested for FY2010. The Senate Appropriations Committee also recommended the full amount. The FY2010 enacted amount was $5.4 million, as requested.

Defender Services

This account funds the operations of the federal public defender and community defender organizations, and compensation, reimbursements, and expenses of private practice panel attorneys appointed by federal courts to serve as defense counsel to indigent individuals. The FY2010 request for these services was $982.6 million, a $133.2 million (15.7 %) increase over the FY2009 appropriation of $849.4. The request includes additional FTE positions to handle increased caseload of drug, fraud, and other criminal cases. The request also raises non-capital panel attorneys' hourly rates from $110 to $142 per hour. The House Appropriations Committee recommended and the House passed $982.7 million for FY2010. The Senate Appropriations Committee recommended $975.5 million. The FY2010 enacted amount was $977.7 million.

Fees of Jurors and Commissioners

This account funds the fees and allowances provided to grand and petit jurors, and compensation for jury and land commissioners. The FY2010 request was $63.4 million, a $1.2 million (1.9%) increase over the FY2009 appropriation of $62.2 million. The requested increase is primarily for base adjustments to allow payment for statutory fees and expenses. The House Appropriations Committee recommended and the House passed $62.3 million for FY2010. The Senate Appropriations Committee recommended the same amount. The FY2010 enacted amount was $61.9 million.

Court Security

This account provides for protective guard services, security systems, and equipment needs in courthouses and other federal facilities to ensure the safety of judicial officers, employees, and visitors. Under this account, the majority of funding for court security is transferred to the U.S. Marshals Service to pay for court security officers under the Judicial Facility Security Program. The request would fund salary adjustments and inflationary increases to maintain current services. The request includes 20 additional court security officers associated with new and existing space, increases for the Federal Protective Service that covers both basic security and building-specific operating expenses, information technology improvements, and enhancements to security systems and equipment. The FY2010 request was $463.6 million, a $34.8 million (8.1%) increase over the FY2009 appropriation of $428.9 million. The House Appropriations Committee recommended and the House passed $457.4 million for FY2010. The Senate Appropriations Committee recommended an identical amount. The FY2010 enacted amount was $452.6 million (this amount reflected updated estimates for reimbursing the Federal Protective Services).

Administrative Office of the U.S. Courts (AOUSC)

As the central support entity for the judiciary, the AOUSC provides a wide range of administrative, management, program, and information technology services to the U.S. courts. AOUSC also provides support to the Judicial Conference of the United States, and implements conference policies and applicable federal statutes and regulations. The FY2010 request for AOUSC was $84.0 million, a $5.0 million (6.2%) increase over the FY2009 level of $79.0 million. The request would fund adjustments to its base, and maintain current services, including recurring costs such as travel, communications, service agreements, and supplies. No program increases have been requested. AOUSC also receives non-appropriated funds from fee collections and carry-over balances to supplement its appropriations requirements. The House Appropriations Committee recommended and the House passed $83.1 million for FY2010. The Senate Appropriations Committee recommended the same amount. The FY2010 enacted amount was $83.1 million, as proposed by both chambers.

Federal Judicial Center

As the judiciary's research and education entity, the Federal Judicial Center undertakes research and evaluation of judicial operations for the Judicial Conference committees and the courts. In addition, the center provides judges, court staff, and others with orientation and continuing education and training. The center's FY2010 request was $27.5 million, a $1.8 million (6.8%) increase over the FY2009 appropriation of $25.7 million. The request would cover standard pay and other inflationary adjustments, two additional FTE positions, annualization of three new staff members hired in FY2009, and enhancement of existing education and training program for judges on case management, as well as legal and leadership training for court staff. The House Appropriations Committee recommended and the House passed $27.3 million for FY2010. The Senate Appropriations Committee recommended the same amount. The FY2010 enacted amount was $27.3 million, as proposed by both chambers.

Judiciary Retirement Funds

This mandatory account provides for three trust funds that finance payments to retired bankruptcy and magistrate judges, retired Court of Federal Claims judges, and the spouses and dependent children of deceased judicial officers. The FY2010 request was $82.4 million, about a $6.3 million (8.2%) increase over the FY2009 appropriation of $76.1 million. The House Appropriations Committee recommended and the House passed the full amount requested for

FY2010. The Senate Appropriations Committee recommended the same amount. The FY2010 enacted amount was $82.4 million, as proposed by both chambers.

United States Sentencing Commission

The commission promulgates sentencing policies, practices, and guidelines for the federal criminal justice system. The FY2010 request was $17.1 million, about a $0.9 million (5.1%) increase over the FY2009 appropriation of $16.2 million. The request is for pay and other inflationary adjustments. The House Appropriations Committee recommended and the House passed $16.8 million for FY2010. The Senate Appropriations Committee recommended the same amount. The FY2010 enacted amount was $16.8 million, as proposed by both chambers.

General Provision Changes

According to the FY2010 budget request submission, the judiciary proposed the following new language under general provisions:

- Sec. 302, which would allow the judiciary to deposit unobligated balances of prior appropriations into the Special Fund in the Treasury each fiscal year to be used to reimburse general expenses authorized for the accounts under the Court of Appeals, District Courts, and other Judicial Services.
- Sec. 305, which would grant the judiciary the same tenant alteration authorities as the executive branch to contract directly for space alteration projects no exceeding $100,000 without having to go through GSA.
- Sec. 310, which could allow federal judges to receive the same automatic annual cost of living adjustments that Members of Congress are authorized.

The following requested provisions are proposed reauthorizations and extensions:

- Sec. 306, which would reauthorize the pilot program for the USMS to provide perimeter security at selected courthouses for FY2010.
- Sec. 308, which would extend the temporary district judgeships in Kansas and the Northern District of Ohio to 2012.

The budget submission also proposed technical deletion of provisions regarding bankruptcy and territorial judges with insurance benefits and certain procurement authorities that were provided for in legislation already enacted.

As passed, the House bill included the following provisions which the House Appropriations Committee had also recommended:

- Sec. 301, which would continue language to permit funding in the bill for salaries and expenses to employ experts and consultant services as authorized by 5 U.S.C. 3109.
- Sec. 302, which would permit the transfer not to exceed 5% of FY2010 appropriations between judiciary appropriations accounts, provided that no appropriation except "Courts of Appeals, District Courts, and Other Judicial Services—Defender Services and Courts of Appeals, District Courts, and Other Judicial Services—Fees of Jurors and Commissioners" shall be increased by

more than 10% by any such transfer, provided that any transfer pursuant to this section shall be treated as a reprogramming of funds under sections 604 and 608 of this act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in section 608.

- Sec. 303, which would authorize official reception and representation expenses, not to exceed $11,000, incurred by the Judicial Conference of the United States.
- Sec. 304, which would require a financial plan for the judiciary within 90 days of enactment of this act to be submitted to the Committees on Appropriations a comprehensive financial plan for the judiciary allocating all sources of available funds including appropriations, fee collections, and carryover balances, to include a separate and detailed plan for the Judiciary Information Technology Fund (which would establish the baseline referred to in the second provision of section 608).
- Sec. 305, which would apply Section 3314(a) of title 40, United States Code to the judiciary and grant it the same tenant alteration authorities as the executive branch to contract directly for space alteration projects not exceeding $100,000 without having to go through GSA.
- Sec. 306, which would authorize the U.S. Marshals Service (USMS) to provide for certain security functions at courthouses for a pilot program as the Director of USMS may designate in consultation with the Director of the Administrative Office of the U.S. Courts (AOUSC), provided that AOUSC shall reimburse the USMS for the services rather than the Department of Homeland Security. Sec. 307, which would amend Section 203(c) of the Judicial Improvements Act of 1990 (P.L. 101-650; 28 U.S.C. 133 note) to extend by one year each the judgeships for the District of Kansas and the Northern District of Ohio.

The Senate Appropriations Committee recommended the same provisions as the House for Sections 301 through 306, but added the following provision:

- Sec. 307, which would allow for a salary adjustment for Justices and judges.

The provisions as enacted for FY2010 are as follows:

- Section 301 makes funds appropriated for salaries and expenses available for services authorized by 5 U.S.C. 3109.
- Section 302 provides transfer authority among judiciary appropriations.
- Section 303 permits not more than $11,000 for official reception and representation expenses of the Judicial Conference.
- Section 304 requires a comprehensive financial plan from the judiciary (which would establish a baseline for reprogrammings and transfers).
- Section 305 extends through FY2010 the delegation of authority to the Judiciary for contracts for repairs of less than $100,000, as proposed by the House. The Senate proposed language amending 40 U.S.C. 3314(a) to make this delegation permanent.
- Section 306 continues a pilot program under which the United States Marshals Service provides perimeter security services at selected courthouses.

- Section 307 extends for one year the authorization of temporary district judgeships in Kansas, Ohio, and Hawaii. (The House bill had proposed language extending the judgeships in Kansas and Ohio. The Senate bill contained no similar provisions.)

District of Columbia[75]

The authority for congressional review and approval of the District of Columbia's budget is derived from the Constitution and the District of Columbia Self-Government and Government Reorganization Act of 1973 (Home Rule Act).[76] The Constitution gives Congress the power to "exercise exclusive Legislation in all Cases whatsoever" pertaining to the District of Columbia. In 1973, Congress granted the city limited home rule authority and empowered citizens of the District to elect a mayor and city council. However, Congress retained the authority to review and approve all District laws, including the District's annual budget. As required by the Home Rule Act, the city council must approve a budget within 56 days after receiving a budget proposal from the mayor.[77] The approved budget must then be transmitted to the President, who forwards it to Congress for its review, modification, and approval.[78]

On March 20, 2009, the Mayor of the District of Columbia submitted a proposed $8.9 billion general operating fund budget to the District of Columbia Council. On July 16, 2009, the mayor forwarded a revised budget to the council for its approval. District officials efforts to address a widening budget gap caused by revenue shortfalls resulting from the current economic recession delayed submission of the District's budget for congressional review. Because of efforts to close a combined $603 million budget gap for FY2009 ($453 million) and FY2010 ($150 million), District officials did not complete legislation action on its general fund operating budget until August 26, 2009. However, both the House and the Senate took up consideration of other components of the District of Columbia appropriations act; namely, special federal payments and general provisions before the mayor signed the District of Columbia Budget Request Act. on August 26, 2009.

Both the President and Congress may propose financial assistance to the District in the form of special federal payments in support of specific activities or priorities. **Table 7** shows details of the District's special federal payments, including the FY2009 enacted amounts, the amounts included in the President's FY2010 budget request, and the amounts passed by the House, recommended by the Senate Appropriations Committee, and enacted as a part of P.L. 111-117, the Consolidated Appropriations Act of FY2010.

[75] This section was written by (name redacted), Analyst in American National Government, Government and Finance Division, and Erin Caffrey, Analyst in Education Policy, Domestic Social Policy Division.

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

[77] 120 Stat. 2028.

[78] 87 Stat. 801.

Table 7. District of Columbia Appropriations, FY2009-FY2010: Special Federal Payment

(in millions of dollars)

	FY2009 Enacted	FY2010 Request	FY2010 House Passage	FY2010 Senate Committee	FY2010 Enacted
Resident Tuition Support	$35.1	35.1	35.1	35.1	35.1
Emergency Planning and Security	39.2	15.0	15.0	15.4	15.0
District of Columbia Courts	248.4	249.0	268.9	258.5	261.2
Defender Services	52.5	52.5	55.0	55.0	55.0
Court Services and Offender Supervision Agency	203.5	212.4	212.4	212.4	212.4
Public Defender Service	35.7	37.3	37.3	37.3	37.3
Criminal Justice Coordinating Council	1.8	1.8	2.0	1.8	2.0
Judicial Commissions	—	0.5	0.5	0.5	0.5
Water and Sewer Authority	16.0	20.0	20.4	20.0	20.0
Office of the Chief Financial Officer	4.9	0.0	1.7	1.0	1.9
Living Classrooms	*0.0*	*0.0*	*0.1*	*0.0*	*0.1*
Nat. Building Museum	*0.0*	*0.0*	*0.15*	*0.0*	*0.15*
Samaritan Ministry	*0.0*	*0.0*	*0.1*	*0.0*	*0.1*
Washington Center	*0.0*	*0.0*	*0.12*	*0.0*	*0.13*
Wash. Hosp. Center	*0.0*	*0.0*	*0.05*	*0.0*	*0.05*
Whitman-Walker Clinic	*0.0*	*0.0*	*0.1*	*0.0*	*0.1*
Youth Power Center	*0.0*	*0.0*	*0.1*	*0.0*	*0.0*
I Have a Dream Foundation	*0.8*	*0.0*	*0.0*	*0.0*	*0.0*
Boys and Girls Club Project Learn	*0.1*	*0.0*	*0.0*	*0.0*	*0.0*
Capital Area Food Bank	*2.0*	*0.0*	*0.0*	*0.0*	*0.0*
Children's National Medical Center	*2.9*	*0.0*	*0.0*	*1.0*	*1.0*
Literacy Education	*0.8*	*0.0*	*0.0*	*0.0*	*0.0*
Education Advancement Alliance	*0.2*	*0.0*	*0.0*	*0.0*	*0.0*
Everybody Wins	*0.2*	*0.0*	*0.0*	*0.0*	*0.0*

	FY2009 Enacted	FY2010 Request	FY2010 House Passage	FY2010 Senate Committee	FY2010 Enacted
Excel-Automotive Workforce Dev.	*0.3*	*0.0*	*0.0*	*0.0*	*0.0*
National Children's Alliance	*0.2*	*0.0*	*0.0*	*0.0*	*0.0*
Safe Kids	*0.4*	*0.0*	*0.0*	*0.0*	*0.12*
Georgetown Metro Connection	*0.1*	*0.0*	*0.12*	*0.0*	*0.0*
The Perry School for Econ. Empowerment	*0.1*	*0.0*	*0.0*	*0.0*	*0.0*
Executive Office of the Mayor	3.4	0.0	0.0	0.0	0.0
Marriage Initiative Matching Funds	*1.3*	*0.0*	*0.0*	*0.0*	*0.0*
Marriage Development Accounts	*2.1*	*0.0*	*0.0*	*0.0*	*0.0*
School Improvement	54.0	74.4	74.4	75.4	75.4
Public Schools	*20.0*	*42.2*	*42.2*	*42.2*	*42.2*
Public Charter Schools	*20.0*	*20.0*	*20.0*	*20.0*	*20.0*
Education Vouchers	*14.0*	*12.2*	*12.2*	*13.2*	*13.2*
Jump Start Public School Reform	20.0	*0.0*	*0.0*	*0.0*	0.0
Consolidated Laboratory Facility	21.0	15.0	15.0	15.0	15.0
Central Library and Branches	7.0	0.0	0.0	0.0	0.0
D.C. National Guard	0.0	2.0	2.4	0.0	0.38
Perm. Supportive Housing	0.0	19.2	19.2	0.0	17.0
Disconnected Youth	0.0	5.0	5.0	0.0	4.0
Public Health Services	0.0	0.0	4.0	0.0	0.0
Total: Special Federal Payments	**$742.4**	**$739.1**	**$768.3**	**$727.4**	**752.2**

Sources: FY2009 Enacted, FY2010 Request, and FY2010 figures are taken from the H.Rept. 111-202 accompanying H.R. 3170, the Financial Services and General Government Appropriations Act, FY2010 and S.Rept. 111-43, accompanying S. 1432, the Financial Services and General Government Appropriations Act,FY2010, and H.Rept. 111-366 accompanying H.R. 3170, the Financial Services and General Government Appropriations Act, FY2010. Columns may not equal the total due to rounding.

The District of Columbia Budget and General Provisions

The President's Budget Request

On May 7, 2009, the Obama Administration released its detailed budget requests for FY2010. The Administration's proposed budget requested $738.8 million in special federal payments to the District of Columbia. Approximately three-quarters ($544 million) of this budget request would be targeted to the courts and criminal justice system. The President's budget also requested $109.5 million in support of education including $74.4 million to support elementary and secondary education, and $35.1 million for college tuition assistance. This comprises 17% of the Administration's budget request. The President's total budget request of $739.1 million represents a slight decrease in the FY2009 appropriations of $742.4 million.

District's Budget

On March 20, 2009, the Mayor of the District of Columbia submitted a proposed budget to the District of Columbia Council. The mayor proposed a general fund operating budget of $8.9 billion, and an additional $1.4 billion in proposed enterprise fund spending. However, on July 16, 2009 the mayor submitted a revised budget for the council's review. The city faced the task of closing what was projected in June as a $340 million budget gap—including a $190 million shortfall in its current FY2009 budget, and a $150 million projected shortfall for FY2010. Much of the funding gap was caused by the decline in revenue projections related to the current economic recession according to June 2009 Revenue Estimates issued by the District's Office of the Chief Financial Officer.[79] By July 16, 2009, the projected budget shortfall had grown to $603 million, including $453 million in FY2009, and a projected $150 million for FY2010. In a press release dated July 16, 2009, the mayor noted that the budget shortfalls for FY2009 and FY2010 were to be addressed by the reallocation or conversion of previous years' unspent dedicated tax revenues and special funds into local funds, agency spending reductions and savings, federal stimulus funding from the American Recovery and Reinvestment Act, the sale of District assets, and the use of the city's contingency reserve fund, which must be replenished within two years.[80] City officials completed action on the revised budget in August with the mayor signing the budget on August 26, 2009.

Congressional Action

Because of efforts to close a significant budget gap, as noted earlier, District officials did not submitted a general fund operating budget for congressional consideration until late in the fiscal year. However, both the House and the Senate took up consideration of other components of the District of Columbia appropriations act; namely, special federal payments and general provisions. On October 1, 2009, President Obama signed, P.L. 111-68, Continuing Appropriations Resolution for FY2010. The act included a provision (Division B, Sec. 126) allowing the District of

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[79] Government of the District of Columbia, Office of the Chief Financial Officer, *June 2009 Revenue Estimates*, Washington, , D.C., June 22, 2009, http://newsroom.dc.gov/show.aspx/agency/cfo/section/2/release/17431.

[80] Executive Office of the Mayor of the District of Columbia, "Fenty Outlines Proposal to Close District's Budget Gap," press release, July 16, 2009, http://dc.gov/mayor/news/release.asp?id=1640&mon=200907.

Columbia government to spend locally generated funds at a rate set forth in the budget approved by the District of Columbia on August 26, 2009.

House Bill

On June 25, 2009, a House subcommittee conducted a markup of the Financial Services and General Government Appropriations Act of 2010, H.R. 3170, and forwarded the bill to the Appropriations Committee for its consideration. On July 10, 2009, the committee reported the bill (H.Rept. 111-202), which included $768.3 million in special federal payments to the District. This is $29.5 million more than requested by the Administration and $25.8 million more than appropriated for FY2009. The bill included a substantial increase ($20 million) above the amount requested by the Administration for court operations. The bill also directed $20 million in additional funding to support the District of Columbia Public Schools while reducing funding for school vouchers by almost $2 million.

General Provisions

The House bill included several general provisions relating to statehood or congressional representation for the District, including provisions that would have continued prohibiting the use of federal funds to:

- support or defeat any legislation being considered by Congress or a state legislature;
- cover salaries expenses and other cost associated with the office of Statehood Representative and Statehood Senator for the District of Columbia; and
- support efforts by the District of Columbia Attorney General or any other officer of the District government to provide assistance for any petition drive or civil action seeking voting representation in Congress for citizens of the District.[81]

The bill included significant changes in a number of controversial provisions (often called social riders) that city officials had sought to eliminate or modify, including those related to medical marijuana, needle exchange, and abortion services. Despite objections raised by Republican Members of the House, the bill was brought to the floor under a restrictive rule (H.Res. 644) that did not allow Members to offer amendments on several controversial provisions related to medical marijuana, needle exchange, and abortion services. As passed by the House, H.R. 3170 would have:

- lift the prohibition on the use of District funds to provide abortion services;
- allow the use of District funds to regulate and decriminalize the medical use of marijuana; and

[81] For a detailed discussion of voting representation issues see CRS Report RL33830, *District of Columbia Voting Representation in Congress: An Analysis of Legislative Proposals*, by (name redacted), and CRS Report RL33824, *The Constitutionality of Awarding the Delegate for the District of Columbia a Vote in the House of Representatives or the Committee of the Whole*, by (name redacted).

- eliminate the prohibition on the use of both federal and District funds to support a needle exchange program so long as the distribution of sterile syringes was not conducted within 1,000 feet of certain public facilities or youth-oriented activity centers including schools, colleges and universities, parks, playgrounds, and youth centers.

The House passed provisions represented a lifting of restrictions and prohibitions put in place when Republicans controlled the House. Removal of these so called social riders had been long sought by District officials who viewed them as antithetical to the concept of home rule. For a discussion of the history of these provisions see the Key Issues section of the CRS Report R40743, *FY2010 Appropriations: District of Columbia*, by (name redacted).

Senate Bill

On July 8, 2009, the Senate Appropriations Committee reported, S. 1432, its version of the Financial Services and General Government Appropriations Act for FY2010, with an accompanying report (S.Rept. 111-43). As reported, the bill recommended $727.4 million in special federal payments to the District. This is approximately $40 million less than recommended by the House, and $11.4 million less than requested by the Administration. The bill included approximately $10 million less in funding for court operations than recommended by the Administration. It would have appropriated an additional $21 million in funding to support the District of Columbia Public Schools while reducing funding for school vouchers by almost $1 million.

General Provision

The Senate bill's general provisions mirrored some of the language included in the House bill. Like the House bill, S. 1432 included provisions restricting the use of federal funds to support District statehood or congressional voting representation, including provisions that would have continued prohibiting the use of federal funds to:

- support or defeat any legislation being considered by Congress or a state legislature;
- cover salaries expenses and other cost associated with the office of Statehood Representative and Statehood Senator for the District of Columbia; or
- support efforts by the District of Columbia Attorney General or any other officer of the District government to provide assistance for any petition drive or civil action seeking voting representation in Congress for citizens of the District.[82]

The bill also included significant changes in a number of provisions that city official had sought to eliminate or modify. The bill would have:

- lifted the prohibition on the use of District funds to provide abortion services;

[82] See footnote 81.

- maintained the prohibition of the use of federal and District funds to regulate and decriminalize the medical use of marijuana—unlike the House bill, which would allow the use of District funds to regulate the medical use of marijuana; and
- maintained the prohibition on the use of federal funds to support a needle exchange program—unlike the House bill, which would have lifted the restriction on both federal and District for such a program.

For a discussion of the history of these provisions see the Key Issues section of the CRS Report R40743, *FY2010 Appropriations: District of Columbia*, by (name r edacted).

Enacted Provisions

On December 8, 2009, a conference committee reported H.R. 3170, which included FY2010 appropriations for the District of Columbia. The conference report, H.Rept. 111-366, was approved by the House on December 10, 2009, the Senate on December 13, 2009, and was signed into law as P.L. 111-117, the Consolidated Appropriations Act of FY2010, by the President on December 16, 2009. The act included $752.2 million in special federal payments to the District of Columbia. This is $13.1 million more than requested by the President, $24.8 million more than recommended by the Senate Appropriations Committee, but $16.1 million less than recommended by the House. The act included a substantial increase ($12 million) above the amount appropriated in FY2009 for court operations. The act also directed $20 million in additional funding to support the District of Columbia Public Schools while reducing funding for school vouchers by almost $1 million.

General Provisions

Consistent with the House bill, P.L. 111-117 included several general provisions relating to statehood or congressional representation for the District, including provisions that continued the practice of prohibiting the use of federal funds to:

- support or defeat any legislation being considered by Congress or a state legislature;
- cover salaries expenses and other costs associated with the office of Statehood Representative and Statehood Senator for the District of Columbia; and
- support efforts by the District of Columbia Attorney General or any other officer of the District government to provide assistance for any petition drive or civil action seeking voting representation in Congress for citizens of the District.[83]

The act included significant changes in a number of controversial provisions related to medical marijuana, needle exchange, and abortion services. P.L. 111-117:

[83] For a detailed discussion of voting representation issues see CRS Report RL33830, *District of Columbia Voting Representation in Congress: An Analysis of Legislative Proposals*, by (name redacted), and CRS Report RL33824, *The Constitutionality of Awarding the Delegate for the District of Columbia a Vote in the House of Representatives or the Committee of the Whole*, by (name redacted).

- lifts the prohibition on the use of District funds to provide abortion services, but continues restricting the use of federal funds for such purposes, except in cases of rape, incest, or threat to the mother's life;
- allows the use of District, but not federal, funds to regulate and decriminalize the medical use of marijuana; and
- eliminates the prohibition on the use of both federal and District funds to support a needle exchange program.

Removal of these so called social riders had been long sought by District officials who viewed them as antithetical to the concept of home rule. For a discussion of the history of these provisions see the Key Issues section of the CRS Report R40743, *FY2010 Appropriations: District of Columbia*, by (name redacted).

Independent Agencies

In FY2010, a collection of 26 independent entities are slated to receive funding through the FSGG appropriations bill. **Table 8** lists appropriations as enacted for FY2009, as requested by the President for FY2010, as passed by the House and recommended by the Senate Committees on Appropriations, and as enacted.

Table 8. Independent Agencies Appropriations, FY2009 to FY2010
(in millions of dollars)

Agency	FY2009 Enacted	FY2010 Request	FY2010 House Passed	FY2010 Senate Committee	FY2010 Enacted
Administrative Conference of the United States	$1.5	$2.6	$1.5	$1.5	$1.5
Christopher Columbus Fellowship Foundation	1.0	—	—	1.0	0.8
Commodity Futures Trading Commission[a]	146	161	161[b]	177	169
Consumer Product Safety Commission	105	107	113	115	118
Election Assistance Commission	124	69	124	69	93
Federal Communications Commission[c]	—	1	1	—	—
Federal Deposit Insurance Corporation: Office of Inspector General (by transfer)[d]	(27)	(38)	(38)	(38)	(38)
Federal Election Commission	64	64	65	67	67
Federal Labor Relations Authority	23	25	25	25	25
Federal Trade Commission[e]	70	166	171	166	169
General Services Administration	577[f]	644	578	598	653
Merit Systems Protection Board	41	43	43	43	43
Morris K. Udall Foundation	6	6	6	7	6
National Archives and Records Administration	447	454	457	456	457
National Credit Union Administration	1	1	1	1	1
Office of Government Ethics	13	14	14	14	14
Office of Personnel Management (total)	20,360	20,369	20,373	20,368	20,378
Salaries and Expenses	*93*	*95*	*98*	*95*	103
Government Payments for Annuitants, Employee Health Benefits	*9,533*	*9,814*	*9,814*	*9,814*	9,814
Government Payments for Annuitants, Employee Life Insurance	*46*	*48*	*48*	*48*	48
Payment to Civil Service Retirement and Disability Fund	*10,550*	*10,276*	*10,276*	*10,276*	10,276
Office of Special Counsel	17	18	18	18	18
Postal Regulatory Commission[g]	14	14	14	14	14

Agency	FY2009 Enacted	FY2010 Request	FY2010 House Passed	FY2010 Senate Committee	FY2010 Enacted
Privacy and Civil Liberties Oversight Board[h]	1.5	2.0	2.0	1.5	1.5
Securities and Exchange Commission[i]	894	1,016	1,026	1,116	1,095
Selective Service System	22	24	24	24	24
Small Business Administration	613[j]	779	848	861	824
United States Postal Service	351	363	363	363	363
United States Tax Court	48	49	49	49	49
Total: Independent Agencies	**$23,942**[k]	**$24,392**	**$24,479**	**$24,556**	**$24,585**

Sources: FY2009 Enacted, FY2010 Request, and FY2010 Senate Committee amounts are taken from S.Rept. 111-43, FY2010 House passed amounts are taken from H.Rept. 111-202 and H.Rept. 111-181.

Note: Columns may not equal the total due to rounding.

a. The CFTC is funded in the House through the Agriculture appropriations bill and in the Senate through the Financial Services and General Government bill.

b. Amount is taken from H.R. 2997, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010.

c. Amount represents only direct appropriations and does not include fees collected that are also used to fund agency activities.

d. Budget authority transferred to FDIC is not included in total appropriations; it is counted as part of the budget authority in the appropriation account from which it came.

e. Amount represents only direct appropriations and does not include fees collected that are also used to fund agency activities.

f. Amount does not include $5.857 billion in emergency appropriations provided through P.L. 111-5.

g. FY2009 was the first year the PRC was funded through the FSGG appropriations bill. Funding for the PRC is discussed in the United States Postal Service section.

h. FY2008, the PCLOB was considered a component of the Executive Office of the President and was funded through EOP appropriations. The PCLOB has since been established as an independent agency, and the President requested a separate appropriation for the agency for the first time in FY2009.

i. Amounts listed in **Table 8** for the SEC include fees collected by the agency. This is not consistent with the treatment of fees for the FCC and the FTC, but it follows the source documents for amounts listed in **Table 8**. Amount for FY2009 Enacted does not include emergency appropriations provided through P.L. 111-32.

j. Amount does not include $730 million in emergency appropriations provided through P.L. 111-5.

k. Total does not include $6.689 billion in emergency appropriations provided through P.L. 111-5 and P.L. 111-32.

Commodities Futures Trading Commission (CFTC)[84]

The CFTC is the independent regulatory agency charged with oversight of derivatives markets. The CFTC's functions include oversight of trading on the futures exchanges, registration and

[84] This section was written by (name redacted), Specialist in Financial Economics, Government and Finance Division.

supervision of futures industry personnel, prevention of fraud and price manipulation, and investor protection. Although most futures trading is now related to financial variables (interest rates, currency prices, and stock indexes), congressional oversight remains vested in the agriculture committees because of the market's historical origins as an adjunct to agricultural trade. Appropriations for the CFTC are under the jurisdiction of the Agriculture Subcommittee in the House, and the Financial Services and General Government (FSGG) Subcommittee in the Senate. In the Consolidated Appropriations Act, 2008, the CFTC was funded in Division A, Agriculture and Related Agencies. In the Omnibus Appropriations Act, 2009, the CFTC was funded in Division A, Financial Services and General Government.

For FY2010, the Administration requested $160.6 million, 10% more than the FY2009 enacted amount of $146.0 million. The Senate Appropriations Committee recommended $177.0 million, an increase of 10.2% over the Administration's request, and 21.2% over FY2009 enacted appropriations. The House approved $161.0 million for the CFTC for FY2010, Administration's request and 9.3% more than FY2009 enacted appropriations. CFTC was ultimately provided $168.8 million through the Agriculture appropriations division of P.L. 111-80.

Consumer Product Safety Commission (CPSC)[85]

The CPSC is an independent federal regulatory agency whose primary responsibilities include protecting the public against unreasonable risks of injury associated with consumer products; developing uniform safety standards for consumer products and minimizing conflicting state and local regulations; and promoting research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries.

For FY2010, the Administration requested $107 million in funding for the CPSC, $1.6 million more than FY2009 enacted appropriations. The House Committee on Appropriations recommended $113.3 million, an increase of $7.9 million above the amount appropriated in FY2009 and $6.3 above the amount requested by the Administration. The Senate Committee on Appropriations recommended $115 million for the CPSC, which would have been $9.6 million more than the FY2009 funding level and $8 million more than requested by the Administration. P.L. 111-117 provides the agency with $118.2 million, $3.2 million more than recommended by the Senate and $4.9 million more than recommended by the House.

Election Assistance Commission (EAC)[86]

The EAC was established under the Help America Vote Act of 2002 (HAVA, P.L. 107-252). The commission provides grant funding to the states to meet the requirements of the act and election reform programs, provides for testing and certification of voting machines, studies election issues, and promulgates voluntary guidelines for voting systems standards and issues voluntary guidance with respect to the act's requirements. The commission was not given express rule-making authority under HAVA, although the law transferred responsibilities for the National Voter Registration Act (NVRA, P.L. 103-31) from the Federal Election Commission to the EAC;

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

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

these responsibilities include NVRA rule-making authority. The Department of Justice is charged with enforcement responsibility.

For FY2010, the President's budget request included $16.5 million for the EAC and $106 million for requirements payments to the states and other election reform programs. The proposed Financial Services and General Appropriations Act, 2010 (H.R. 3170), which passed the House on July 20, 2009, called for $17.9 million for the EAC, of which $3.5 million would have been transferred to the National Institute of Standards and Technology (NIST) for election reform activities, $750,000 would have been for the Help America Vote College Program, and $300,000 would have been for a competitive grant program to support student and parent mock elections. That amount was $1.4 million more than the budget request. The bill also provided $100 million for requirements payments to the states, $4 million for research grants to support voting technology improvements, and $2 million to continue a pilot program to provide grants to states and localities for pre-election logic and accuracy testing and post-election voting systems verification. The Senate companion bill (S. 1432) called for $16.5 million for the EAC, of which $3.3 would have been transferred to NIST, and $52 million would have been for requirements payments to the states. Those amounts were the same as the budget request for both EAC salaries and expenses and election reform programs.

The conference report to H.R. 3288 (Rept. 111-366) includes $17.9 million for the EAC, of which $3.5 million is to be transferred to NIST, $750,000 is for the Help America Vote College Program, and $300,000 is for a competitive grant program to support student and parent mock elections. It also includes $75 million for election reform programs, with $70 million of that amount for requirements payments, $3 million for research grants to improve voting technology with respect to disability access, and $2 million for grants to states and localities for voting system logic and accuracy testing.

The President's budget request for FY2009 included $16.7 million for EAC salaries and expenses. The Omnibus Appropriations Act, 2009 provided $18 million for the EAC, with $4 million of that to be transferred to NIST, $750,000 for the College Program, and $300,000 for the high school mock election program. It also provided funding for requirements payments to the states in the amount of $100 million, with an additional $5 million for grants for research on voting technology improvements and $1 million for a pilot program for grants to states and localities to test voting systems before and after elections.

Federal Communications Commission (FCC)[87]

The Federal Communications Commission, created in 1934, is an independent agency charged with regulating interstate and international communications by radio, television, wire, satellite, and cable. The FCC is also charged with promoting the safety of life and property through wire and radio communications. The mandate of the FCC under the Communications Act is to make available to all people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communications service. The FCC performs five major functions to fulfill this charge: spectrum allocation, creating rules to promote fair competition and protect consumers where required by market conditions, authorization of service, enhancement of public safety and homeland security, and enforcement. The FCC obtains the majority—and sometimes all—of its

[87] This section was written by (name redacted), Specialist in Internet and Telecommunications Policy, Resources, Science, and Industry Division.

funding through the collection of regulatory fees pursuant to Title I, Section 9, of the Communications Act of 1934; therefore, its direct appropriation is considerably less than its overall budget; sometimes, as is the case for FY2009, there is no direct appropriation.

For FY2010, P.L. 111-117 includes $335,794,000 for agency salaries and expenses with no direct appropriation (all funding will be obtained through the collection of regulatory fees). The conference report (H.Rept. 111-366) also

- Directs the FCC to work expeditiously to conduct a successful auction of the D Block spectrum so that first responders have an interoperable communications network.
- Urges the FCC to ensure that public, educational, and governmental (PEG) channels remain on the basic service tier of programming and to prevent cable service providers from impeding the public's access to PEG programming.
- Directs the FCC to work with the Universal Service Administrative Company and the FCC Inspector General to re-evaluate auditing processes to ensure that audits are more uniform and not unduly onerous, that all auditors are familiar with the telecommunications industry, and that lessons learned from audits are translated into better performance in the future; a report on Universal Service Fund audit activity is due to Congress within 60 days of enactment of this bill.
- Extends the FCC's exemption from the Anti-deficiency Act (ADA) until December 31, 2010. The ADA contains accounting rules which could complicate the operation of the FCC's universal service electronic rate program.
- Prohibits the FCC from limiting universal support to one line.
- Directs the Government Accountability Office (GAO) to update its 2005 report on improving controls over wireless networks (GAO–05–383); GAO shall report its findings to the House and Senate Committees on Appropriations within 120 days of enactment of this bill.

Federal Deposit Insurance Corporation (FDIC): OIG[88]

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

The Omnibus Appropriations Act of 2009 (P.L. 111-8) provided for a FY2009 budget of $27.5 million for the OIG. The President requested $37.9 million for FY2010, an increase of 38% from the FY2009 appropriation. The Consolidated Appropriations Act for FY2010 (P.L. 111-117) provided for a FY2010 budget of $37.9 million.

[88] This section was written by (name redacted), Economic Analyst, Government and Finance Division.

Federal Election Commission (FEC) [89]

The FEC administers, and enforces civil compliance with, the Federal Election Campaign Act (FECA) and campaign finance regulations.[90] The FEC also administers the presidential public financing system.[91] In recent years, FEC appropriations have generally been noncontroversial and subject to limited debate in committee or on the floor.[92]

For FY2010, the President requested $64.0 million for the FEC. The House Appropriations Committee recommended $65.1 million.[93] The committee noted that the increased funding was intended to cover salaries, rent, and information technology costs required to maintain current services.[94] The House approved $65.1 million (of which no more than $5,000 is to be for "reception and representation," language that has long been included in FEC appropriations provisions). The Senate Appropriations Committee recommended $67.0 million. Report language accompanying the Senate bill (S. 1432) noted that the additional amounts are to be used for costs related to information technology, enhanced public access to electronic records, and salaries.[95] Unlike in previous years, neither chamber proposed Government Accountability Office (GAO) or other research regarding campaign finance issues.

P.L. 111-117 provides $66.5 million for the agency for FY2010. The law itself contains no explicit FEC provisions beyond the appropriation and the condition that representation and reception expenses not exceed $5,000. The conference report, however, noted that of the additional $2.5 million appropriated above the President's $64.0 million request, $1.5 million was to be used for maintaining staffing and services, and $1 million was to be used for information technology, public access to electronic records, and "increased workload demands."[96] At least some of the additional $1 million appears to be relevant for the Commission's ongoing Website Improvement Initiative.[97]

[89] This section was written by (name redacted), Analyst in American National Government, Government and Finance Division.

[90] 2 U.S.C. §431 et seq.

[91] The Treasury Department and IRS also have administrative responsibilities for presidential public financing. However, Congress does not appropriate funds for the program. For additional discussion, see CRS Report RL34534, *Public Financing of Presidential Campaigns: Overview and Analysis*, by (name redacted).

[92] For additional discussion of current campaign finance issues, see CRS Report R40091, *Campaign Finance: Potential Legislative and Policy Issues for the 111th Congress*, by (name redacted).

[93] U.S. Congress, House Committee on Appropriations, *Financial Services and General Government Appropriations Bill, 2010*, report to accompany H.R. 3170, 111th Cong., 1st sess., July 10, 2009, H.Rept. 111-202 (Washington: GPO, 2009), p. 63.

[94] Ibid.

[95] U.S. Congress, Senate Committee on Appropriations, *Financial Services and General Government Appropriations Bill, 2010*, report to accompany S. 1432, 111th Cong., 1st sess., July 9, 2009, 111-43 (Washington: GPO, 2009), p. 83.

[96] U.S. Congress, Conference Report to Accompany H.R. 3288, *Departments of Transportation and Housing and Urban Development, and Related Agencies Appropriations Act, 2010*, committee print, 111th Cong., 1st sess., December 8, 2009, Rpt. 111-366 (Washington: GPO, 2009), pp. 914-915.

[97] Among other points, the Website Improvement Initiative has resulted in posting historical enforcement data and advisory opinions to the FEC website. Previously, historical data was generally unavailable electronically.

Federal Trade Commission (FTC)[98]

The Federal Trade Commission is an independent agency. It seeks to protect consumers and enhance competition by eliminating unfair or deceptive acts or practices in the marketing of goods and services and by ensuring that consumer markets function competitively. For FY2010, the Administration requested $287.2 million, and increase of $28 million over FY2009 enacted appropriations. Of the amount provided, $110 million would be derived from pre-merger filing fees, $19 million from Do-Not-Call fees, and the remaining amount—$158 million—would be provided by a direct appropriation.

The House Committee on Appropriations recommended a FY2010 total budget authority of $291.7 million for the FTC, which is $32.5 million above the FY2009 level and $4.5 million above the Administration's request. The Committee assumed $110 million in collections from Hart-Scott-Rodino pre-merger filing fees, $19 million from Do-Not-Call fees, and a direct appropriation of $162.7 million. The Senate Committee on Appropriations recommended $289.3 million, $2.4 less than its House counterpart. More specifically, the Senate committee recommended $102 million from pre-merger filing fees, $21 million from Do-Not-Call fees, and a direct appropriation of $166.3 million. P.L. 111-117 mirrors the House recommendations providing a FY2010 total budget authority of $291.7 million for the FTC, as well as the same fees and direct appropriation.

General Services Administration (GSA)[99]

The General Services Administration administers federal civilian procurement policies pertaining to the construction and management of federal buildings, disposal of real and personal property, and management of federal property and records. It is also responsible for managing the funding and facilities for former Presidents and presidential transitions. Typically, only about 1% of GSA's total budget is funded by direct appropriations.

For FY2010, the President requested $65.2 million for government-wide policy and $71.8 million for operating expenses, $60.1 million for the Office of Inspector General (OIG), $3.8 million for allowances and office staff for former presidents, and $36.5 million to be deposited into the Federal Citizen Information Center Fund (FCICF). The House approved $63.2 million for government-wide policy, $72.9 million for operating expenses, $60.1 million for the OIG, $3.8 million for allowances and office staff for former presidents, and $36.5 million to be deposited into the FCICF. The Senate Appropriations Committee recommended $61.2 million for government-wide policy, $71.9 million for operating expenses, $58.0 million for the OIG, $3.8 million for allowances and office staff for former presidents, and $36.5 million for the FCICF. P.L. 111-117 provides $59.7 million for government-wide policy, $72.9 million for operating expenses, $59 million for the OIG, $3.8 million for former presidents, and $36.5 million for the FCICF.

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

[99] This section was written by (name redacted), Analyst in American National Government, Government and Finance Division.

Federal Buildings Fund (FBF)

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

For FY2010, the President has requested that an additional amount of $525 million be deposited in the FBF, and that $658 million of FBF revenues remain available until expended for construction and acquisition of facilities. The House-passed bill would have provided an additional amount of $460 million be deposited in the FBF, and made $723 million available for construction and acquisition of facilities. The Senate Appropriations Committee recommended that an additional amount of $483 million be deposited in the FBF, and that $734 million be made available for construction and acquisition of facilities, both more than the President's request. P.L. 111-117 provides an additional $538 million for the FBF and makes $894 million available for construction and acquisition of facilities.

Enacted appropriations for FY2009 included $651 million for deposit in the FBF, and $746 million for construction and acquisition of facilities.

Electronic Government Fund (E-Gov Fund)[100]

Originally unveiled in advance of the President's proposed budget for FY2002, the E-Gov Fund and its appropriation have been a somewhat contentious matter between the President and Congress. The President's initial $20 million request was cut to $5 million, which was the amount provided for FY2003, as well. Funding thereafter was held at $3 million for FY2004, FY2005, FY2006, FY2007, and FY2008. Created to support interagency e-gov initiatives approved by the Director of OMB, the fund and the projects it sustains have been subject to close scrutiny by, and accountability to, congressional appropriators. President Obama requested $33 million for "necessary expenses in support of interagency projects that enable the Federal Government to expand its ability to conduct activities electronically, through the development and implementation of innovative uses of the Internet and other electronic methods."[101] This request was $28 million more than former President Bush's FY2009 request, and $33 million more than the Omnibus Appropriations Act, 2009, which did not appropriate any funding to the E-Gov Fund.[102]

House appropriators recommended the same funding level as requested by President Obama for FY2010. In accompanying report language, House appropriators recommended that GSA "submit a detailed expenditure plan prior to obligation of funds under [the E-Gov Fund] account. The plan

[100] This section was written by (name redacted), Analyst in American National Government, Government and Finance Division.

[101] Office of Management and Budget, *FY2010 Budget of the U.S. Government, Appendix,* Executive Office of the President, Washington, DC, February 26, 2009, p. 1127, http://www.whitehouse.gov/omb/budget/fy2010/assets/appendix.pdf.

[102] The E-Gov Fund, in previous years, was not spending its full appropriation. For FY2009, therefore, House appropriators recommended no additional funding for the account, and Senate appropriators recommended $1 million for the fund. The consolidated continuing appropriations act temporarily returned the E-Gov Fund to a $3 million appropriation for FY2009. The omnibus budget, however, eliminated all FY2009 E-Gov Fund appropriations. The E-Gov Fund received no FY2009 appropriations.

should describe projects selected, and the budget, timeline, objectives and expected benefits for each project."[103]

Senate appropriators recommended $35 million for the E-Gov Fund, $2 million more than both the President and House appropriators. In detailed report language, the Senate appropriators included the following:

> The Committee strongly supports the activities of the Federal [Chief Information Officer] Council related to 'cloud computing' and encourage the council to continue to assess and address the escalating costs, inefficiencies, and stove-piping related to the management of Federal data.[104]

The Senate's report said that $15 million was to be used "for improving innovation, efficiency and effectiveness in Federal IT, including an initiative on optimizing common services and solutions/cloud-computing."[105] Within the $15 million, $7.5 million was recommended for the Government Services Administration's (GSA's) proposed Center for IT Excellence. $6 million was recommended for USASpending.gov, a website that details where the government spends its money and whether those expenditures yielded measurable results. In addition, $7 million was recommended for an Efficient Federal Workforce initiative, which aims to share technologies across federal agencies. $4 million was recommended for the "development and deployment of Web 2.0 technologies" to "encourage citizen participation and collaboration." $3 million was recommended for Data.gov, an online, publicly accessible repository for federal data.[106]

P.L. 111-117 provides $34 million for the Electronic Government Fund, splitting the difference between the House and Senate recommendations.[107] The appropriation is $1 million more than was requested by President Obama and recommended by the House. The conference report did not include Senate language recommending funds be directed toward particular projects. It did, however, include language similar to the House recommendation that allows funds to "be transferred to other Federal agencies … but only after a spending plan and explanation for each project has been submitted to the Committees on Appropriations."[108] Neither the conference report nor the bill mentioned the Office of Government Information services.

Independent Agencies Related to Personnel Management

The FSGG appropriations bill includes funding for four agencies with personnel management functions: the Federal Labor Relations Authority (FLRA), the Merit Systems Protection Board (MSPB), the Office of Personnel Management (OPM), and the Office of Special Counsel (OSC). **Table 9** shows appropriations as enacted for FY2009, as requested for FY2010, as recommended by the House Committee on Appropriations and passed by the House for FY2010, as recommended by the Senate Committee on Appropriations in S.Rept. 111-43 for FY2010, and as provided by P.L. 111-117 for FY2010, for each of these agencies.

[103] H.Rept. 111-202, p. 72.
[104] S.Rept. 111-43, p. 95.
[105] Ibid., p. 95-96.
[106] Ibid., p. 96.
[107] Ibid. p. 919.
[108] Ibid.

Table 9. Independent Agencies Related to Personnel Management Appropriations, FY2009 to FY2010

(in millions of dollars)

Agency	FY2009 Enacted	FY2010 Request	FY2010 House Passed	FY2010 Senate Committee	FY2010 Enacted
Federal Labor Relations Authority	$22.7	$24.8	$24.8	$24.8	$24.8
Merit Systems Protection Board (total)	41.4	42.9	42.9	42.9	42.9
Salaries and Expenses	*38.8*	*40.3*	*40.3*	*40.3*	*40.3*
Limitation on Administrative Expenses	*2.6*	*2.6*	*2.6*	*2.6*	*2.6*
Office of Personnel Management (total)	20,360.5	20,368.8	20,372.8	20,368.3	20,378.1
Salaries and Expenses	*92.8*	*95.0*	*98.0*	*95.0*	*103.0*
Limitation on Administrative Expenses	*118.1*	*113.2*	*113.2*	*112.7*	*112.7*
Office of Inspector General (salaries and expenses)	*1.8*	*2.1*	*3.1*	*2.1*	*3.1*
Office of Inspector General (limitation on administrative expenses)	*18.8*	*20.4*	*20.4*	*20.4*	*21.2*
Government Payments for Annuitants, Employee Health Benefits[a]	*9,533.0*	*9,814.0*	*9,814.0*	*9,814.0*	*9,814.0*
Government Payments for Annuitants, Employee Life Insurance[a]	*46.0*	*48.0*	*48.0*	*48.0*	*48.0*
Payment to Civil Service Retirement and Disability Fund[a]	*10,550.0*	*10,276.0*	*10,276.0*	*10,276.0*	*10,276.0*
Office of Special Counsel	$17.5	$18.5	$18.5	$18.5	$18.5

Sources: Financial Services and General Government Appropriations Act, FY2009 (Div. D, P.L. 111-8), *FY2010 Budget, Appendix*, pp. 1233, 1244-1245, 1147-1156, and 1272; H.Rept. 111-202, S.Rept. 111-43, and H.Rept. 111-366.

a. The annual appropriations act provides "such sums as may be necessary" for the health benefits, life insurance, and retirement accounts. The Office of Personnel Management's *Congressional Budget Justification* for FY2010 states the FY2010 amounts for these accounts as $10,084.0 million (health benefits), $48 million (life insurance), and $10,272.0 million (retirement) at pp. 117-119. The *FY2010 Budget Appendix*, at p. 1150, states the same amounts as the budget justification, except for $11,052.0 million (retirement).

Federal Labor Relations Authority (FLRA) [109]

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

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

The President's FY2010 budget proposed an appropriation of $24.8 million for the FLRA, $2.1 million (9.3%) above the agency's FY2009 appropriation of $22.7 million. The agency's full-time equivalent (FTE) employment level is estimated to be 142 for FY2010, 18 more than the FTE level of 124 for FY2009. The House passed, the Senate Committee on Appropriations recommended, and P.L. 111-117 provides $24.8 million for FY2010, the same as the President requested. According to the House committee report, "the increased staffing and funding resources provided will be used to clear case backlogs and implement management initiatives to reduce attrition and improve employee morale."[110] The Senate committee, in its report, expresses support for FLRA's efforts to reduce the case backlog and move to the filing of public records electronically.

Merit Systems Protection Board (MSPB) [111]

The President's budget requested an FY2010 appropriation of $42,918,000 for the MSPB, an amount that is $1.5 million or 3.7% above the FY2009 funding of $41,390,000. The agency's FTE employment level is estimated to be 208 for FY2010, the same as that for FY2009. The House Committee on Appropriations recommended, the House passed, the Senate Committee on Appropriations recommended, and P.L. 111-117 provides the same appropriation as the President requested. The House committee report stated that the increased funding is for "mandatory pay raises, increased rent payments, and other non-personnel cost increases."[112]

Unlike previous submissions in the Budget Appendix document, MSPB's request for FY2010 did not include data on the actual number of decisions made and the projected number of decisions anticipated to be made by the agency. MSPB's authorization expired on September 30, 2007. The

[109] This section was written by (name redacted), Analyst in Public Finance, Domestic Social Policy Division and (name re dacted), Analyst in American National Government, Government and Finance Division.

[110] H.Rept. 111-202, p. 64.

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

[112] H.Rept. 111-202, p. 75.

110th Congress considered, but did not act upon, legislation (S. 2057, H.R. 3551) that would have reauthorized the MSPB for three years and enhanced the agency's reporting requirements.

Office of Personnel Management (OPM)[113]

The President's budget requested an FY2010 appropriation of $94,970,000 for salaries and expenses (S&E) for OPM, an amount that is $2.1 million or 2.3% above the FY2009 funding of $92,829,000. This amount includes funding of $5.9 million for the Enterprise Human Resources Integration (HRI) project and $1.4 million for the Human Resources Line of Business (HRLOB) project. The agency's FTE employment level is estimated to be 5,020 for FY2010, 66 more than the FTE level of 4,954 for FY2009.

OPM's budget submission states that "New human resources management strategies will streamline the Federal hiring process, decrease time to hire, and change how Federal employees' job performance is evaluated," but does not provide any details on these strategies. The agency states that its budget request "includes funding to maintain timely processing of retirement claims, provide services to Federal annuitants, and continue the conversion of hard-copy retirement records to electronic format while OPM reviews the long-term strategic objectives and requirements for retirement system modernization." According to OPM, it "will work aggressively with health insurance plans to hold down premium costs while at the same time negotiating expanded coverage." The agency's Office of Inspector General (OIG) expects to continue audits of pharmacy benefit managers "to recover inappropriate charges, negotiate more favorable contracts, control future cost growth, and improve benefits provided to program enrollees." The OIG's Federal Employees Health Benefits Program (FEHBP) data warehouse initiative that "streamlines and enhances the various administrative and analytical procedures involved in the oversight of FEHBP" will continue.[114]

The House Committee on Appropriations recommended and the House passed a total appropriation of $20,372,784,000 for OPM, an increase of more than $4 million above the President's request of $20,368,772,000 while the Senate Committee on Appropriations recommended a total of $20,368,272,000 a decrease of $500,000 from the President's request. For the S&E account, the House Committee on Appropriations recommended and the House passed funding of $97,970,000, an amount that is $3 million more than the President's request. The House committee report stated that the increased funding is to support the new initiatives to expand the government-wide recruitment and hiring of veterans and to "create a central 'registry' of qualified applicants for the most recruited positions in the Federal government in order to streamline Federal hiring practices."[115] The Senate Committee on Appropriations recommended the same appropriation for the S&E account as the President requested. Both the House-passed and Senate-reported bills allocated the funding for the HRI and HRLOB projects as the President requested. With regard to the account for the S&E "limitation on transfers from the trust funds," the House committee recommended and the House passed the same funding as the President requested ($113,238,000), while the Senate committee recommended $112,738,000, a reduction of $500,000 in the amount provided. The House-passed bill's allocation of the total included $9.4 million for the cost of implementing the new integrated financial system and $4.2 million for the

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

[114] *FY2010 Budget, Appendix,* pp. 1147-1149.

[115] H.Rept. 111-202, p. 82.

cost of automating the systems for retirement recordkeeping. The Senate-reported bill's allocation of the total included $9.3 million and $4 million, respectively, for these systems. In its report, the Senate committee states that "Getting [retirement systems modernization] back on track with appropriate management leadership, controls, oversight, and with the goal of ensuring accurate and timely computation of annual annuities for all Federal retirees, is a high priority."[116] As for the OIG S&E account, the House committee recommended and the House passed an appropriation of $3,148,000, an amount that is a little more than $1 million above the President's request of $2,136,000. According to the House committee report, the increased funding will "enable the OIG to hire additional staff in order to improve its statutory oversight over OPM's revolving fund programs."[117] The Senate committee recommended the same amount as the President requested for this account. The House committee recommended, the House passed, and the Senate committee recommended the same appropriations as the President requested for the other accounts under the appropriation for OPM.

Both the House and Senate committees included directives for OPM in their respective reports as follows:

- OPM is to submit a report, concurrent with its FY2012 budget submission in February 2011, that would state for each agency the number of veterans hired in the Executive Branch during fiscal years 2008 through 2010. (House report)
- OPM is to continue to submit quarterly reports on the retirement modernization program, include GAO in the distribution of the report, and carry out future work on the retirement modernization program within the framework of the six recommendations made by GAO in its April 2009 report. (House report) (P.L. 111-117 reiterates this provision.)
- OPM is to report "on the number of fraud cases involving fabricated background investigations, the number of cases prosecuted in Federal court (including case disposition), and what, if any, quality control measures OPM has implemented to prevent further fraud in this program as well as to ensure early detection of fabricated reports within 60 days of the act's enactment." (House report)
- OPM is to continue to make publicly available the data from the Human Capital Survey in a consistent, consolidated, and timely manner. (House report)
- OPM is urged to continue looking for "ways to diversify the Federal workforce" and "encourage individual human resource offices to take advantage of the talent pool that exists in the U.S. territories." (House report)
- OPM is "to consider alternatives to paying healthcare deductibles out-of-pocket at the time of service, and the feasibility and the cost of implementing any such alternatives," including "allowing Federal employees to voluntarily enroll in a payroll deduction credit program that would allow them to repay healthcare expenses over time through pre-tax payroll deductions at low, affordable rates," and report on its consideration of alternatives within 120 days after the act's enactment.[118] (House report)

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[116] S.Rept. 111-43, p. 109.

[117] H.Rept. 111-202, p. 85

[118] H.Rept. 111-202, pp. 83-84.

- OPM is "to work expeditiously to improve the USAJOBS site to make information about Schedule A authority more readily accessible"[119] and report specific actions taken within 120 days after the act's enactment. (Senate report)
- With regard to a previously requested report from OPM on employment for the blind, to include the views of federal labor organizations, the committee report states that the Members look forward to receiving and considering the OPM study. (Senate report)
- OPM is "to carry out the Intergovernmental Personnel Act [IPA] Mobility Program with special attention provided to Federal agencies employing more than 2,000 nurses" and "should work with the Committee to determine the best approach to assigning Government-employed nurses to public and private universities and ways to encourage accredited schools of nursing to promote nursing careers in Federal agencies." The Senate committee report states that:

  > OPM may develop guidelines that provide Federal agencies direction or guidance in using their authority under the [IPA] Mobility Program to provide financial assistance to Federal employees holding a degree in nursing to accept an assignment to teach in an accredited school of nursing in exchange for a commitment from the individual to serve for an additional term in Federal service or a commitment from the school of nursing to take additional steps to increase its number of nursing students that will commit to Federal service upon graduation; and to provide financial or other assistance to Federal employees who have served as a nurse in the Federal Government, are eligible for retirement, and are qualified to teach to expedite the transition of such individuals into nurse faculty positions.[120] (P.L. 111-117 reiterates this provision.)

P.L. 111-117 provides an overall appropriation of $20,378 million for OPM for FY2010, $9.3 million or 0.05% above the President's request. Accounts within the appropriation are funded as follows:

- Salaries and expenses (S&E) - $103 million, $8 million or 8.4% above the President's request. The law allocates the funding for the HRI and HRLOB projects as the President requested. The conference report (H.Rept. 111-366) states that the OPM appropriation includes "funding for new initiatives to expand the recruitment and hiring of veterans government-wide, and to streamline the Federal hiring process" and "funding to pilot several wellness initiatives for Federal employees in areas such as smoking cessation, disease management and prevention, and risk assessment, as well as funding to conduct an Employee Viewpoint Survey (formerly known as the Human Capital Survey) annually instead of every other year as is the current practice, and with more comprehensive data analysis."[121]
- Limitation on trust fund transfers (S&E) - $112.7 million, $500,000 or 0.4% below the President's request. The allocation of the appropriation includes up to $9.3 million for the cost of implementing the new integrated financial system and up to $4 million for the cost of automating the systems for retirement recordkeeping.

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[119] S.Rept. 111-43, p. 109.

[120] S.Rept. 111-43, p. 110.

[121] *Congressional Record*, daily edition, vol. 155, December 8, 2009, p. H14046.

- Office of Inspector General (OIG) salaries and expenses - $3.1 million, $1 million or 47.6% above the President's request.
- Limitation on trust fund transfers (OIG) - $21.2 million, $800,000 or 3.9% above the President's request.
- The health benefits, life insurance, and retirement and disability fund accounts are funded at the levels requested by the President.

Office of Special Counsel (OSC)[122]

The President's budget requested an FY2010 appropriation of $18,495,000 for the OSC, an amount that is more than $1 million or 5.9% above the FY2009 funding of $17,468,000. The agency's FTE employment level is estimated to be 111 for FY2010, 5 more than the FTE level of 106 for FY2009. The agency's budget submission projected a continued increase in the number of Hatch Act, prohibited personnel practices, and disclosure cases received. According to OSC, it will continue to focus on improved performance in the timely handling of cases, the quality of agency products and decisions, and fulfilling responsibilities for education and outreach. The House committee recommended, the House passed, the Senate committee recommended, and P.L. 111-117 provides the same appropriation as the President requested. The House committee report states that the funding will support "standard pay and non-pay adjustments as well as higher projected rent costs associated with starting a new 10-year space lease with the General Services Administration in October 2009."[123] The Senate committee, in its report, "strongly urges the OSC to work with whistleblower advocacy organizations to promote the highest level of confidence in the Whistleblower Protection Act " and the agency and encourages OSC to continue "case processing efficiencies."[124]

OSC's authorization expired on September 30, 2007. The 110th Congress considered, but did not act upon legislation (S. 2057, H.R. 3551) that would have reauthorized the agency for three years and included provisions to enhance OSC's reporting requirements.[125]

National Archives and Records Administration (NARA)[126]

The President's FY2010 request for NARA was $466.9 million, which would have provided about $7.6 million more than the $459.3 million appropriated for FY2009. President Obama's request was $62 million more than the FY2009 budget request submitted by then-President George W. Bush. Of this requested amount, almost $339.8 million was sought for operating expenses, an increase of $12.5 million over the FY2009 appropriation for this account.

Within NARA's operating expenses, the President's budget request included funding for two specific offices. The President requested $1.9 million for the creation of the Controlled

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

[123] H.Rept. 111-202, p. 87.

[124] S.Rept. 111-43, p. 114.

[125] 5 U.S.C. 5509.

[126] This section was written by (name redacted), Analyst in American National Government, Government and Finance Division.

Unclassified Information Office (CUIO), which was established at the direction of former President George W. Bush to offer agencies guidance on how to preserve certain records. President Obama also requested $1.4 million to establish the Office of Government Information Services (OGIS). The OGIS was established to (1) review agency compliance with FOIA policies, (2) recommend policy changes to Congress and the President, and (3) offer mediation services between FOIA requesters and agencies as a non-exclusive alternative to litigation. The George W. Bush Administration had requested no funding for OGIS, and requested that Department of Justice carry out the responsibilities of the office using funds from its general administration account.[127] In FY2009, OGIS was appropriated $1 million.

Unlike previous years in which funds for the NARA Office of Inspector General (OIG) were included within the operating expenses appropriation, the President's FY2010 budget requested a separate $4.1 million for the OIG.[128] For the electronic records archive, the President sought $85.5 million, an $18.5 million increase over the previous fiscal year allocation; for repairs and restoration, a little more than $27.5 million was sought, a much lower amount than the FY2009 appropriation of more than $50 million; and for the National Historical Publications and Records Commission, a $10 million appropriation was requested. Former President George W. Bush had requested no funding for the NHPRC for the previous three fiscal years, although Congress appropriated $7 million for FY2007, more than $9 million for FY2008, and more than $11 million in FY2009.

The House approved, and the Senate Appropriations Committee recommended, the amounts requested by the President, with the exception of funding for the NHPRC. The House-passed bill included $13 million for the NHPRC, $3 million more than the President's request. According to House report language, NHRPC funding included $4.5 million for "the initiative to provide online access to the papers of the Founding Fathers."[129] Senate appropriators recommended $12 million for the NHPRC, $2 million more than the President requested. In report language, Senate appropriators directed that three NHPRC initiatives each receive $3 million: (1) accelerating "the Founding Fathers Online project," (2) publishing "historical papers of key figures and movements in our Nation's history," and (3) advancing "archives preservation, access, and digitization projects within the interlocking repositories of historic records and hidden collections."[130]

House appropriators also stated in report language that they were "greatly disturbed by the news of the loss of a computer hard drive from the NARA facility in College Park, Maryland." According to the report, the hard drive included information from the White House and the Secret Service, including information that could identify particular individuals. The appropriators pointed to the "extreme sensitivity" of the information and called on NARA to "adhere to proper information security procedures." The report recommended that NARA issue a report to Congress 30 days after enactment of the appropriations bill detailing "improvements made or planned to NARA's information security posture, to ensure the security of sensitive information."[131] House appropriators also commended NARA "for its special exhibits and public programs."[132]

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

[128] The separate line item for OIG is required by the Inspector General Reform Act of 2008 (P.L. 110-409).

[129] H.Rept. 111-202, p. 79.

[130] S.Rept. 111-43, p. 106.

[131] H.Rept. 111-202, pp. 76-77.

[132] Ibid., p. 77.

In conference, the House and Senate agreed to appropriate $339.8 million for NARA operating expenses, the amount requested by the President and approved by both chambers.[133] The conference report adopts House language that requires NARA to report—within 30 days after enactment of the appropriations bill—to the House Oversight and Government Reform Committee and the Senate Homeland Security and Governmental Affairs Committee on "information security improvements made or planned by NARA."[134] These security improvements are required to prevent "theft of electronic materials which may contain personally indentifying information."[135]

The conference report also includes $4.1 million for the OIG and $27.5 million for repairs and restorations at NARA facilities.[136] Both appropriations are equal to President Obama's request and in line with the recommendations of both chambers. Within the appropriation for repairs and restorations, $17.5 million is set aside for "necessary expenses related to the repair and renovation of the Franklin D. Roosevelt Presidential Library in Hyde Park."[137] The conference agreement provides $85.5 million for ERA, which is equal to the President's request and the House and Senate recommendations. Nearly $61.8 million of the ERA funding is required to be made available until September 30, 2012. The report also requires GAO to review any spending plans for ERA prior to NARA obligating any funding.[138]

The conference agreement adopted the House's recommendation of $13 million for NHPRC. Of that appropriation, the agreement requires $4.5 million for "the initiative to provide online access to the papers of the Founding Fathers."[139]

National Credit Union Administration (NCUA)[140]

The NCUA is an independent federal agency funded entirely by the credit unions that the agency charters, insures, and regulates. Two entities managed by the NCUA are addressed by the Financial Services and General Government bill. One of these, the Community Development Revolving Loan Fund (CDRLF), makes low-interest loans and technical assistance grants to low-income credit unions. Earnings generated from the CDRLF are available to fund technical assistance grants in addition to funds provided for specifically in appropriations. The Omnibus Appropriations Act of 2009 (P.L. 111-8) appropriated $1 million, for technical assistance grants, for FY2009. The President requested $1 million for FY2010. The Consolidated Appropriations Act for FY2010 (P.L. 111-117) provides $1.25 million for FY2010.

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[133] U.S. Congress, Conference Committee, *Departments of Transportation and Housing and Urban Development, and Related Agencies Appropriations Act, 2010*, report to accompany H.R. 3288, 111th Cong., 1st sess., December 8, 2008, H.Rept. 11-366 (Washington: GPO, 2009), p. 920.

[134] This provision may be a response to NARA's loss of a Clinton Administration computer hard drive that contained Executive Office of the President data, among other data-protection concerns. For more information about the Clinton Administration data, see U.S. National Archives, "Mission Clinton Administration Hard Drive," press release, May 28, 2009, http://www.archives.gov/news/clinton-hard-drive-faq-2009-5-20.pdf.

[135] Ibid.

[136] Ibid., p. 921.

[137] Ibid.

[138] Ibid.

[139] Ibid.

[140] This section was written by (name redacted), Economic Analyst, Government and Finance Division.

The other entity managed by the NCUA, the Central Liquidity Facility (CLF), provides a source of seasonal and emergency liquidity for credit unions. Provisions in the appropriations bill set a borrowing limit for the CLF each fiscal year. To provide the NCUA with increased flexibility to assist with credit unions' financial liquidity during the recent economic downturn, the limit for FY2009, was set by P.L. 111-8, at the maximum level authorized by the Federal Credit Union Act (12 U.S.C. 1795f(a)(4)(A)). The limit is 12 times the subscribed capital stock and surplus of the CLF. This increase is equivalent to a cap of about $41 billion. P.L. 111-117 continues to provide the CLF with the ability to lend up to the maximum level provided for by the Federal Credit Union Act for FY2010. The administrative expenses of the CLF were limited to $1.25 million in FY2009 and this limit was also imposed on FY2010 expenses.

Privacy and Civil Liberties Oversight Board (PCLOB)[141]

Originally established in 2004 by the Intelligence Reform and Terrorism Prevention Act as an agency within the Executive Office of the President (EOP),[142] the PCLOB was reconstituted as an independent agency within the executive branch by the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53).[143] The board assumed its new status on January 30, 2008; its FY2009 appropriation was its first funding as an independent agency.[144] Among its responsibilities, the five-member board is to (1) ensure that concerns with respect to privacy and civil liberties are appropriately considered in the implementation of laws, regulations, and executive branch policies related to efforts to protect the nation against terrorism; (2) review the implementation of laws, regulations, and executive branch policies related to efforts to protect the nation from terrorism, including the implementation of information sharing guidelines; and (3) analyze and review actions the executive branch takes to protect the nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties. The board advises the President and the heads of executive branch departments and agencies on issues concerning, and findings pertaining to, privacy and civil liberties. The board provides annual reports to Congress detailing its activities during the year, and board members appear and testify before congressional committees upon request.

The President's FY2010 request for the PCLOB is $2.0 million, which is $500,000 above FY2009 enacted appropriations of $1.5 million. The House approved $2.0 million for the PCLOB for FY2010, the same amount as requested. Senate appropriators recommended $1.5 million for the PCLOB, $500,000 less than the President's request. In their report, Senate appropriators wrote that they were "concerned'" that the board had not yet been "reconstituted and staffed as required by P.L. 110-53." Senate appropriators further "urge(s) the Administration" to nominate members to the PCLOB "as expeditiously as possible" and then "promptly provide a detailed budget justification to the Committee." P.L. 111-117 provides $1.5 million for the PCLOB.

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[141] This section was written by (name redacted), Analyst in American National Government, Government and Finance Division.

[142] 118 Stat. 3638 at 3684.

[143] 121 Stat. 266 at 352.

[144] See CRS Report RL34385, *Privacy and Civil Liberties Oversight Board: New Independent Agency Status*, by (name redacted).

Securities and Exchange Commission (SEC)[145]

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

The SEC's FY2009 appropriation was $960 million.[146] For FY2010, the Administration requested $1,026 million, an increase of 6.9%. The House Committee recommended $1,036 million, an increase of $76 million, or 7.9%, over the FY2009 appropriation. The House bill adopted the Committee's figure. Of the $1,036 million, $10 million would have come from prior-year unobligated balances. Fees collected during the fiscal year would have accounted for the rest: the total amount appropriated was to be reduced as such offsetting fees are received so as to result in a final total FY2010 appropriation from the general fund estimated at not more than $0. The Senate proposed $1,126 million, with $10 million coming from prior-year unobligated balances and $1,116 million from offsetting fees. P.L. 111-117 provided $1,111 million for the SEC, $16 million will come from prior-year unobligated balances and the remaining $1,095 million coming from offsetting collections, so that there will be no appropriation from the general fund for FY2010.

Selective Service System (SSS)[147]

The SSS is an independent federal agency operating with permanent authorization under the Military Selective Service Act.[148] It is not part of the Department of Defense, but its mission is to serve the emergency manpower needs of the military by conscripting personnel when directed by Congress and the President.[149] All males ages 18 through 25 and living in the United States are required to register with the SSS. The induction of men into the military via Selective Service (i.e., the draft) terminated in 1972. In January 1980, President Carter asked Congress to authorize standby draft registration of both men and women. Congress approved funds for male-only registration in June 1980.

Since 1972, Congress has not renewed any President's authority to begin inducting (i.e., drafting) anyone into the armed services. In 2004, an effort to provide the President with induction authority was rejected.[150]

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145 This section was written by (name redacted), Specialist in Public Finance, Government and Finance Division.

146 The SEC received an additional $10 million in supplemental appropriations through P.L. 111-32.

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

148 50 U.S.C. App. §451 et seq.

149 See http://www.sss.gov/.

150 See H.R. 163, October 5, 2004, failed by Yeas and Nays (Roll no. 494).

Funding of the Selective Service has remained relatively stable over the last decade. For FY2010, the President requested and the Senate Appropriations Committee recommended $24.4 million. The House-passed bill would provide $24.15 million for FY2010. P.L. 111-117 provides $24.275 million, an increase of $2.275 million over FY2009 enacted appropriations.

Small Business Administration (SBA)[151]

The SBA administers a number of programs intended to assist small firms. Arguably, the SBA's four most important functions are to guarantee—principally through the agency's Section 7(a) general business loan program—business loans made by banks and other financial institutions; to make long-term, low-interest loans to small businesses, nonprofit organizations, and households that are victims of hurricanes, earthquakes, floods, other physical disasters, and acts of terrorism; to finance training and technical assistance programs for small business owners, and to serve as an advocate for small business within the federal government.

For FY2010, President Obama requested $779.3 million for the SBA, an increase of 27.3% over the FY2009 enacted amount of $612.3 million (P.L. 111-8).[152] The Administration requested $422.0 million for salaries and expenses. Included in that amount was $137.9 million for non-credit programs, such as Historically Underutilized Business Zones (HUBZones), Microloan Technical Assistance, the National Women's Business Council, Native American Outreach, the Service Corps of Retired Executives (SCORE), Small Business Development Centers, Veteran's Business Development, and Women's Business Centers. The Administration also requested $16.3 million for the SBA's Office of Inspector General, $1 million for the SBA's surety bond guarantees revolving loan fund, $236 million for the SBA's business loan programs, and $104 million for the SBA's disaster loan program. Finally, the Administration's budget request for the SBA is expected to support up to $28 billion in loan guarantees, including guarantees up to $17.5 billion of 7(a) loans, up to $7.5 billion for the 504/CDC (certified development company) loans, up to $3.0 billion for Small Business Investment Company debentures, as well as up to $12.0 billion for the secondary market guarantee program. These are the same levels as in FY2009.

The House passed Appropriations bill (H.R. 3170) authorized an appropriation of $847.9 million for the SBA, 8.8% above the FY2010 Administration's request. It included $428.4 million for salaries and expenses. Included in that amount was $157.3 million for non-credit programs. The bill also authorized the appropriation of $16.3 million for the SBA's Office of Inspector General, $1 million for the SBA's surety bond guarantees revolving loan fund, $236 million for the SBA's business loan programs, and $104 million for the SBA's disaster loan program. It also would authorize the appropriation of $62.3 million for small business development and entrepreneurship initiatives, including programmatic and construction activities. It would have supported up to $28 billion in loan guarantees and up to $12 billion for the secondary market guarantee program, the same amounts provided in the Administration's request.

[151] This section was written by Oscar Gonzalez, Analyst in Economics, Government and Finance Division, and Robert Dilger, Senior Specialist in American National Government, Government and Finance Division.

[152] In addition to FY2009 regular appropriations, SBA received $730 million in supplemental appropriations under the American Recovery and Reinvestment Act of 2009 (P.L. 111-5). For additional information, see CRS Report R40241, *Small Business Provisions in the American Recovery and Reinvestment Act of 2009*, by (name redacted) and (name red acted).

The Senate passed Appropriations bill (H.R. 3288) authorized the appropriation of $860.9 million for the SBA , 9.5% over the Administration's FY2010 request. The Senate bill included $444.0 million for salaries and expenses. Included in that amount was $157.3 million for non-credit programs. It also authorized the appropriation of $16.3 million for the SBA's Office of Inspector General, $1 million for the SBA's surety bond guarantees revolving loan fund, $236 million for the SBA's business loan programs, and $104 million for the SBA's disaster loan program. It also would authorize the appropriation of $59.6 million for small business development and entrepreneurship initiatives, including programmatic and construction activities. It would have supported up to $28 billion in loan guarantees and up to $12 billion for the secondary market guarantee program, the same amounts provided in the Administration's request and House passed Appropriations bill.

P.L. 111-117, the Consolidated Appropriations Act, 2010, appropriates $824 million for the SBA, an increase of 5.7% over the Administration's proposal of $779.3 million and an increase of 34.6% over the FY2009 enacted amount of $612.3 million. It includes $433.4 million for salaries and expenses. Included in that amount is $185.4 million for the following non-credit programs: Veteran's Programs, 7(j) Technical Assistance Programs, Small Business Development Centers, the Service Corps of Retired Executives (SCORE), Women's Business Centers, National Women's Business Council, Native American Outreach, Microloan Technical Assistance, PRIME, Historically Underutilized Business Zones (HUBZones), and the Entrepreneurial Development Initiative. It also appropriates $16.3 million for the SBA Office of Inspector General, $1 million for the SBA's surety bond guarantee revolving fund, $236 million for the SBA's business loan programs, and $78.3 million for the SBA's disaster loan program. It also appropriates $59 million for small business development and entrepreneurship initiatives, including programmatic and construction activities. The act also supports up to $28 billion in loan guarantees and up to $12 billion for the secondary market guarantee program.

In addition, P.L. 111-118, the Department of Defense Appropriations Act, 2010, provides the SBA an additional $125 million to extend the American Recovery and Reinvestment Act of 2009's (P.L. 111-5) fee reductions and eliminations for the SBA's 7(a) and 504/CDC programs and 90% loan guarantee limit for the SBA's 7(a) program through February 28, 2010.

United States Postal Service (USPS)[153]

The U.S. Postal Service generates nearly all of its funding—about $75 billion annually—by charging users of the mail for the costs of the services it provides.[154] However, Congress does provide an annual appropriation to compensate the USPS for revenue it forgoes in providing free mailing privileges to the blind[155] and overseas voters.[156] Congress authorized appropriations for

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

[154] U.S. Postal Service, *United States Postal Service Annual Report 2008* (Washington: USPS, 2008), p. 3.

[155] 84 Stat. 757; 39 U.S.C. 3403. See also USPS, *Mailing Free Matter for Blind and Visually Handicapped Persons: Questions and Answers*, Publication 347 (Washington: USPS, May 2005), available at http://www.usps.com/cpim/ftp/pubs/pub347.pdf.

[156] Members of the Armed Forces and U.S. citizens who live abroad are eligible to register and vote absentee in federal elections under the provisions of the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (42 U.S.C. 1973ff-ff-6). See

CRS Report RS20764, *The Uniformed and Overseas Citizens Absentee Voting Act: Overview and Issues*, by Kevin J. (continued...)

these purposes in the Revenue Forgone Reform Act of 1993 (RFRA).[157] This act also permitted Congress to provide the USPS with a $29 million annual reimbursement until 2035 to pay for the costs of postal services provided at below-cost rates to not-for-profit organizations in the early 1990s.[158] Funds appropriated to the USPS are deposited in the Postal Service Fund, a revolving fund at the U.S. Department of the Treasury.

The Postal Accountability and Enhancement Act (PAEA), which was enacted on December 20, 2006, first affected the postal appropriations process in FY2009.[159] While the PAEA did not authorize any additional appropriations to the Postal Service Fund, it did alter the budget submission process for the USPS's Office of Inspector General (USPSOIG) and the Postal Rate Commission (PRC). In the past, the USPSOIG and the PRC submitted their budget requests to the USPS's Board of Governors. Accordingly, past presidential budgets did not include the USPOIG's or PRC's funding requests or appropriations therefore. Under the PAEA, both the USPSOIG and the PRC—which the PAEA renamed the Postal Regulatory Commission—must submit their budget requests to Congress and to the Office of Management and Budget (120 Stat. 3240-3241), and they are to be paid from the Postal Service Fund. The law further requires USPSOIG's budget submission to be treated as part of USPS's total budget, while the PRC's budget, like the budgets of other independent regulators, is treated separately.

For FY2010, the USPS requested a $161.8 million appropriation to the Postal Service Fund.[160] Of this amount, $132.8 million would be for revenue forgone, and $29 million would be for the annual RFRA reimbursement. The USPS's FY2009 request was $117.7 million. The FY2010 request is larger because of a large increase in reimbursement for free mail for the blind and overseas voting mail—from $69.8 million in FY2009 to $91.9 million in FY2010.

The USPSOIG requested a $244.4 million appropriation,[161] and the PRC requested a $14.3 million appropriation.[162] These requests are slightly above last year's requests of $241.3 million and $14 million, respectively.[163]

The President's FY2010 budget proposed a $362.3 million total postal appropriation.[164] It included $118.3 million for the USPS, with $89.3 million appropriated for revenue forgone and $29 million for the annual RFRA reimbursement.[165] The President's budget also would have

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Coleman.

157 P.L. 103-123, Title VII; 107 Stat. 1267, 39 U.S.C. 2401(c)-(d).

158 See CRS Report RS21025, *The Postal Revenue Forgone Appropriation: Overview and Current Issues*, by (name red acted).

159 P.L. 109-435; 120 Stat. 3198. On PAEA's major provisions, see CRS Report R40983, *The Postal Accountability and Enhancement Act: Overview and Issues for Congress*, by (name redacted).

160 Office of Management and Budget, *Appendix: Budget of the U.S. Government Fiscal Year 2010* (Washington: OMB, 2009), p. 1274, at http://www.whitehouse.gov/omb/budget/fy2010/assets/oia.pdf.

161 U.S. Postal Service Office of Inspector General, *FY 2010 Budget* (Washington: 2009), p. OIG-2, at http://www.uspsoig.gov/OIG_Budget_FY2010.pdf.

162 Postal Regulatory Commission, *Performance Budget Plan Fiscal Year 2010* (Washington: PRC, 2008), p.1.

163 U.S. Postal Service Office of Inspector General, *FY 2009 Budget* (Washington: 2008), p. 1; and Postal Regulatory Commission, *Performance Budget Plan Fiscal Year 2009* (Washington: PRC, 2008), p. 3.

164 Office of Management and Budget, *Appendix: Budget of the U.S. Government Fiscal Year 2010*, pp. 1274 and 1276.

165 The Administration of George W. Bush did not propose funds for the annual RFRA reimbursement in its FY2005 through FY2009 budgets. Congress, however, has provided $29 million for the annual RFRA reimbursement each (continued...)

provided a $244.4 million transfer of funds from the Postal Service Fund to the USPSOIG.[166] Separately, the President's budget proposed a $14.3 million "transfer of funds" from the USPS's Postal Fund to the PRC.[167]

The House Committee on Appropriations agreed with the President's proposed postal appropriation (H.R. 3170; H.Rept. 111-202). On July 10, 2009, it recommended a $362.3 million total postal appropriation, which includes $118.3 million for USPS—$89.3 million for revenue forgone, $29 million for the RFRA reimbursement—and $244.4 million for the USPSOIG. Separately, the committee recommended a $14.3 million transfer of funds from the Postal Service Fund to the PRC.

The committee also included its annual requirement that "6-day delivery and rural delivery of mail shall continue at not less than the 1983 level."[168] It recommended that the USPS:

> explore potential revenues and savings that may be derived from vehicle-to-grid partnerships with entities engaged in energy production and storage as well as with electric vehicle manufacturers. Further, the Committee recommends the Postal Service investigate the capacity of USPS vehicle maintenance centers to generate and use revenue derived from the service of electric vehicles.

And the committee expressed its concern

> about the condition of postal facilities in a number of municipalities including Hemet and Indio, California. The Committee recommends that the Postal Service, working with local officials and community leaders, evaluate the needs of these communities and report back to the Committee on Appropriations regarding its findings.

The House affirmed the committee's recommended appropriation in a July 16 vote.

On July 9, 2009, the Senate Committee on Appropriations reported S. 1432 (S.Rept. 111-43), which recommended postal appropriations identical to those proposed by the President and approved by the House.

The committee also provided that "6-day delivery and rural delivery of mail shall continue at not less than the 1983 level," and in its report stated "[t]he Committee believes that 6-day mail delivery is one of the most important services provided by the Federal Government to its citizens. Especially in rural and small town America, this critical postal service is the linchpin that serves to bind the Nation together."

(...continued)

fiscal year since FY1994.

[166] Office of Management and Budget, *Appendix: Budget of the U.S. Government Fiscal Year 2010*, p. 1276.

[167] The USPS's budget request did not include this transfer of funds because the PRC is a regulatory agency that is independent of USPS. Office of Management and Budget, *Appendix: Budget of the U.S. Government Fiscal Year 2010*, p. 1277

[168] On this provision, see CRS Report R40626, *The U.S. Postal Service and Six-Day Delivery: Issues for Congress*, by Wendy R. Ginsberg.

Additionally, the committee directed the USPS to "continue rural airmail delivery service in Idaho." To reduce costs, the USPS had proposed ending this service.[169] It also responded to a USPS mail processing plant consolidation study announcement:

> The Committee is aware that the Quincy, Illinois AMP is among the facilities for which a possible realignment feasibility study has been announced. The Committee is concerned about the impact on the community and postal customers of eliminating jobs or transferring functions. The Committee directs the Postal Service to provide the Committee with a detailed explanation of the criteria used to select the Quincy AMP for a study no later than 30 days after enactment. The Committee further directs the Postal Service to not proceed with the Quincy AMP study or any other related actions to implement that study during fiscal year 2010.[170]

Finally, the Senate Appropriations Committee said that it remained "concerned about the fiscal health of the Postal Service." It recognized the USPS's efforts to cut costs, and expressed its willingness to consider altering the USPS's future retiree health benefits fund payment schedule to provide the USPS with financial relief.[171] To this end, the committee directed the USPS

> in coordination with OPM and OMB, to develop a fiscally responsible legislative proposal to grant a limited measure of relief from the PAEA requirements to pre-fund retiree health benefits. These proposals should consider: (1) whether the PAEA-mandated stream of future payments overfunds through fiscal year 2016 the anticipated liability of the Postal Service for future retiree health benefits, (2) whether modifications to the mandated payments could meet the unliquidated liability goals contained in the PAEA, and (3) whether a decrease in mandated payments will reduce the incentive of the Postal Service to continue to cut additional costs, including the labor costs that account for the most significant portion of annual total costs. Additionally, these proposals should take into account the result of the PRC's study of the PAEA payments.[172]

Ultimately, Congress appropriated funds to the USPS in the same amounts as those proposed by the President and approved by the House—a $362.3 million total postal appropriation, with $118.3 million for the USPS, and $244.4 million for the USPSOIG. Congress also provided a $14.3 million transfer of funds from the Postal Service Fund to the PRC.

H.Rept. 111-366 also included language on the subject of the proposed closure of postal facilities.

> The conferees are aware of considerable public concerns about plans by the Postal Service to close or consolidate retail post offices and other mail facilities, and believe that the Postal Regulatory Commission has an important role to play in evaluating those concerns and fostering well-informed decision making. The conferees commend the Commission for undertaking its current investigation of the national service implications of the Postal Service ''Station and Branch Optimization and Consolidation Initiative'' and urge the Commission to initiate such other proceedings as appropriate to fully evaluate the effects of proposed closings and consolidations on service levels, costs, postal employees, and the affected

[169] Jessie L. Bonner, Associated Press, "Air delivery keeps remote Idaho supplied," Washington Times, June 30, 2009, at http://www.washingtontimes.com/news/2009/jun/30/mailman-in-the-wilderness-remote-idaho-needs-air-d/print/.

[170] S.Rept. 111-43, p. 131.

[171] The Postal Accountability and Enhancement Act of 2006 (PAEA; P.L. 109-435; 120 Stat. 3221) requires the USPS to prefund future retiree health benefits, at a cost of about $5.6 billion per year. U.S. Postal Service, *Annual Report 2008* (Washington: USPS, 2008), p. 20.

[172] S.Rept. 111-43, p. 131.

> communities. Among other issues, the Commission should examine whether Postal Service actions, including notification and appeal procedures, are in accord with applicable law [....]
>
> In addition, the conferees direct the Government Accountability Office to update its previous studies regarding Postal Service initiatives to realign its mail processing network, including proposed closures or consolidations of area mail processing facilities, and to report to the Committees on Appropriations and other appropriate congressional committees not later than 6 months after enactment of this Act. GAO's study should address the criteria used in selecting facilities for closure or consolidation, whether those criteria are being applied reasonably and consistently in particular cases, the adequacy of efforts to communicate and consult with affected communities and stakeholders, and the quality of efforts to evaluate the results of closures and consolidations.[173]

Finally, the conferees reiterated the Senate Appropriations Committee's concern with the financial health of the Postal Service, and directed the USPS to

> coordinate with OPM and OMB to develop a fiscally responsible legislative proposal, for consideration by the appropriate congressional committees, that would grant a limited measure of relief from the PAEA requirements to pre-fund retiree health benefits. These proposals should consider: (1) whether the PAEA-mandated stream of future payments overfunds through fiscal year 2016 the anticipated liability of the Postal Service for future retiree health benefits, (2) whether modifications to the mandated payments could meet the unliquidated liability goals contained in the PAEA, and (3) whether a decrease in mandated payments will reduce the incentive of the Postal Service to continue to cut additional costs.[174]

United States Tax Courts (USTC) [175]

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

The President requested, the House approved, and Senate appropriators recommended, $49.2 million for USTC for FY2010, an increase of $778,000 over the agency's FY2009 enacted appropriation of $48.5 million. P.L. 111-117 provides $49.2 million for USTC for FY2010.

General Provisions Government-Wide[176]

The Financial Services and General Government appropriations language includes general provisions which apply either government-wide or to specific agencies or programs. An Administration's proposed government-wide general provisions for a fiscal year are generally

[173] H.Rept. 111-366, pp. 923-924 and 936.

[174] Ibid., pp. 936-937.

[175] This section was written by (name redacted), Analyst in American National Government, Government and Finance Division.

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

included in the Budget Appendix.[177] Most of the provisions continue language that has appeared under the General Provisions title for several years as Congress has decided to reiterate the language rather than making the provisions permanent. The FY2010 budget proposed that some of the government-wide general provisions that were included in P.L. 111-8, the Omnibus Appropriations Act for FY2009, be discontinued and these provisions (the section numbers refer to the provisions as they were included in P.L. 111-8) are listed below. Whether the House-passed and Senate-reported bills, and P.L. 111-117 continue a provision is noted.[178]

- **Communication with Congress**. Section 714, which prohibits the payment of any employee who prohibits, threatens, prevents, or prevents another employee from communicating with Congress. The House-passed and Senate-reported bills, and the law continue the provision at Section 714.[179]
- **Employee Training**. Section 715, which prohibits federal training not directly related to the performance of official duties. The House-passed and Senate-reported bills, and the law continue the provision at Section 715.
- **Non-disclosure Agreements**. Section 716, which prohibits the expenditure of funds for implementation of agreements in non-disclosure policies unless certain provisions are included. The House-passed and Senate-reported bills, and the law continue the provision at Section 716.
- **Publicity or Propaganda**. Section 717, which prohibits other than for normal and recognized executive-legislative relationships, propaganda, publicity and lobbying by executive agency personnel in support or defeat of legislative initiatives. The House-passed and Senate-reported bills, and the law continue the provision at Section 717. Section 720, which prohibits the use of funds for propaganda and publicity purposes not authorized by Congress. The House-passed and Senate-reported bills, and the law continue the provision at Section 720.
- **Release of Non-public information**. Section 719, which prohibits funds to be used to provide non-public information such as mailing or telephone lists to any person or organization outside the government without the approval of the House and Senate Committees on Appropriations. The House-passed and Senate-reported bills, and the law continue the provision at Section 719.
- **E-Government**. Section 733, which concerns transfers or reimbursements for E-Government initiatives. The House-passed bill and the law continue the provision at Section 733. The Senate-reported bill does not include the provision.
- **Midway Atoll Airfield**. Section 734, which provides funds for the Midway Atoll Airfield. The House-passed bill does not include the provision. The Senate-

[177] For FY2010, the provisions are listed in the *Budget, Appendix* at pp. 9-16.

[178] General provisions related to contracting are discussed in the section of this report on competitive sourcing.

[179] The Statement of Administration Policy on H.R. 3170 states a constitutional concern about Section 714 that the provision "is phrased in a manner that could be construed to require the Executive Branch to disclose, without discretion, certain classified and other privileged information, in which case it would intrude on the President's discharge of his constitutional duties." (U.S. Executive Office of the President, Office of Management and Budget, *Statement of Administration Policy, H.R. 3170*, July 15, 2009, p. 3.)

reported bill would continue the provision at Section 733. The law continues the provision at Section 734.

- **Privacy Act**. Section 740, which prohibits use of funds in contravention of the Privacy Act and implementing regulations. The House-passed and the Senate-reported bills would continue the provision at Section 736 and Section 738, respectively. The law continues the provision at Section 737.
- **Great Lakes Restoration**. Section 742, which requires OMB to submit a report on budget information relating to Great Lakes restoration activities. The House-passed bill would continue the provision at Section 738. The Senate-reported bill does not include the provision. The law continues the provision at Section 739.
- **Regulatory Policy**. Section 746, which prohibits funds from being used to implement the provisions on Regulatory Policy Officers in Executive Order 13422.[180] On January 30, 2009, President Barack Obama issued Executive Order 13497 to revoke Executive Order 13422.[181]
- **Energy and Water Efficiency**. Section 748, which provides that the federal government is expected to conduct its business in an environmentally, economically, fiscally sound and scientifically defensible manner in carrying out Executive Order 13423 related to energy and water efficiency and use of renewable fuels in the federal government. The House-passed bill would continue the provision at Section 741. Section 744 of the Senate-reported bill would repeal Section 748 of P.L. 111-8 that made Executive Order 13423 permanent, as the FY2010 budget proposed.[182] The law, at Section 742, repeals Section 748 of P.L. 111-8.
- **Executive Branch Workforce**. Section 752, which requires the OMB Director to submit a report by department and agency on the number of civilian, military and contract workers. The House-passed and the Senate-reported bills would continue the provision at Section 742 and Section 745, respectively. The law does not include this provision.

New general provisions that were proposed in the FY2010 budget included these:

- **Response to Catastrophic Event**. Section 734 would provide that the head of a federal department or agency could, subject to prior written approval from the OMB Director, transfer any unobligated funds between appropriations within the department or agency in order to expedite a more rapid and effective response to a catastrophic event as provided in the National Response Plan under P.L. 107-296. The amounts transferred would be available for the purposes and subject to the limitations of the account to which the funds are being transferred. The department or agency head would notify the House and Senate Committees on Appropriations of such a transfer within 15 days of its occurrence.

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[180] For an analysis of the Executive Order, see CRS Report RL33862, *Changes to the OMB Regulatory Review Process by Executive Order 13422*, by (name redacted). See also, CRS Report RL34354, *Congressional Influence on Rulemaking and Regulation Through Appropriations Restrictions*, by (name redacted).

[181] U.S. President (Obama), "Revocation of Certain Executive Orders Concerning Regulatory Planning and Review," Executive Order 13497, *Federal Register*, vol. 74, February 4, 2009, p. 6113.

[182] *FY2010 Budget, Appendix,* Sec. 733, p. 14.

- **Federal Real Property Management**. Section 735 would permit agencies to retain the proceeds from the transfer or sale of real property, and use those proceeds for real property activities. The section would also establish a pilot program to expedite real property disposal, and require GSA to allow the public to have access to a "single, comprehensive, and descriptive database of all Federal real property assets under the custody and control of all executive agencies" other than properties excluded for national security reasons.
- **Student Loan Repayment**. Section 736 would provide that notwithstanding any other provision of law, a public or private institution of higher education could offer to provide to an officer or employee of the federal government or the District of Columbia (DC) government who is a current or former student of the institution, financial assistance to repay a student loan or forbear repayment of the student loan. An officer or employee of the federal or DC governments could seek or receive such assistance or forbearance.

The House Committee on Appropriations recommended the following new general provisions that were included in the House-passed bill:

- **Foreign Terrorism Suspects**. Section 744 would have directed the Attorney General to transmit to Congress records regarding notification of rights under Miranda v. Arizona given to captured foreign terrorism suspects within 14 days of the act's enactment. The law does not include this provision. The conference report (H.Rept. 111-366) states that the conferees understand that this issue has been addressed in P.L. 111-84.
- **Auto Dealers.** Section 745 would require automobile companies that receive federal funds and are partially owned by the federal government to reinstate agreements with franchise dealerships to the extent that a valid dealer agreement existed prior to a Chapter 11 proceeding.[183] The law includes this provision at Section 747.

The Senate Committee on Appropriations recommended the following general provision on the pay adjustment for federal civilian employees.

- **Federal Civilian Pay**. Section 736 would have provided a 2.9% pay adjustment. The House committee and the House-passed bill were silent on the pay adjustment, endorsing the 2.0% increase proposed in the FY2010 budget. The law provides a 2.0% pay adjustment, allocated as 1.5% base and 0.5% locality, at Section 744(a).

[183] CRS Report R40712, *U.S. Motor Vehicle Industry Restructuring and Dealership Terminations*, by (name redacted) and (name redacted).

Competitive Sourcing[184]

Selective Moratorium on Competitive Sourcing

Section 735 of P.L. 111-117 would prohibit the use of any funds appropriated by this act, or any other appropriations act for the same fiscal year (FY2010), to begin or announce a public-private competition.[185] The prohibition would apply to a "public-private competition regarding the conversion to contractor performance of any function performed by Federal employees pursuant to Office of Management and Budget Circular A-76 or any other administrative regulation, directive, or policy."[186] That is, this section apparently would apply only to competitions that involve work being performed by federal employees, but it would not apply to public-private competitions involving work being performed by contractor employees. Conversion to contractor performance is only one of the possible outcomes of a public-private competition, however, which might lead some observers to conclude that the provision is somewhat ambiguous.

Inventory of Services Contracts

Another provision that involves competitive sourcing, as well as other aspects of government procurement, is Section 743. Each agency that is subject to the Federal Activities Inventory Reform (FAIR) Act of 1998 (P.L. 105-270), excluding the Department of Defense (DOD), is required to compile and submit to OMB "an annual inventory of service contracts awarded or extended through the exercise of an option on or after April 1, 2010, for or on behalf of such agency."[187] The initial inventory is due by December 31, 2010.[188] Beginning in FY2011, if an agency fails to submit an inventory to OMB for the previous fiscal year, it "may not begin, plan for, or announce a study or public-private competition regarding the conversion to contractor performance of any function performed by Federal employees…."[189] In addition to the

[184] This section was written by (name redacted), Analyst in American National Government, Government and Finance Division.

[185] Section 735 states: "[n]one of the funds appropriated or otherwise made available by this act *or any other Act* may be used.... " (Italics added for emphasis.) The words in this phrase—"or any other act"—are "not words of futurity. They merely refer to any other appropriation act of the same fiscal year." (U.S. Government Accountability Office, *Principles of Federal Appropriations Law, Third Edition, Volume I*, GAO-04-261SP, January 2005, p. 2-36, at http://www.gao.gov/special.pubs/d04261sp.pdf.)

[186] Sec. 735, Division C, of P.L. 111-117.

[187] Sec. 743(a)(3), Division C, of P.L. 111-117. The requirement for certain federal agencies to compile, and submit to OMB, inventories of their services contracts complements requirements for submitting inventories of commercial activities and inherently governmental activities. The FAIR Act requires certain federal agencies to compile, and submit to OMB, inventories of agency functions that have been designated as "commercial activities." Beginning in 2001, OMB requires agencies to compile, and submit to OMB, inventories of their inherently governmental activities. (Sean O'Keefe, Deputy Director, U.S. Office of Management and Budget, "Year 2001 Inventory of Commercial Activities," memorandum M-01-16, April 3, 2001, at http://www.whitehouse.gov/omb/memoranda/m01-16.pdf.) A commercial activity or function is a "recurring service that could be performed by the private sector. This recurring service is an agency requirement that is funded and controlled through a contract, fee-for-service agreement, or performance by government personnel. Commercial activities may be found within, or throughout, organizations that perform inherently governmental activities or classified work." (Office of Management and Budget, Circular No. A-76 (Revised), May 29, 2003, at http://www.whitehouse.gov/omb/assets/omb/circulars/a076/a76_incl_tech_correction.pdf, p. D-2.) An inherently governmental function is an "activity that is so intimately related to the public interest as to mandate performance by government personnel as provided by Attachment A [of Circular A-76]." (Ibid., p. D-6.)

[188] Sec. 743(a)(3), Division C, of P.L. 111-117.

[189] Sec. 743(g), Division C, of P.L. 111-117.

requirement that each agency make its inventory available to the public, OMB shall provide a report to Congress that indicates whether agencies subject to the inventory requirement have complied and includes a summary of each agency's inventory. OMB shall make this report available to the public on its website.[190] Section 743(a)(3) lists the information to be provided for each entry in an agency inventory.

Within 180 days of the deadline for submitting the inventory to OMB, an agency head, or his or her designee, in addition to reviewing the inventory, shall ensure the following:

> that (A) each contract in the inventory that is a personal services contract has been entered into, and is being performed, in accordance with applicable laws and regulations; (B) the agency is giving special management attention to functions that are closely associated with *inherently governmental functions*; (C) the agency is not using contractor employees to perform *inherently governmental functions*; (D) the agency has specific safeguards and monitoring systems in place to ensure that work being performed by contractors has not changed or expanded during performance to become an *inherently governmental function*; (E) the agency is not using contractor employees to perform critical functions in such a way that could affect the ability of the agency to maintain control of its mission and operations; and (F) there are sufficient internal agency resources to manage and oversee contracts effectively; (3) identify contracts that have been poorly performed, as determined by a contracting officer, because of excessive costs or inferior quality; and (4) identify contracts that should *be considered for conversion to—(A) performance by Federal employees* of the executive agency in accordance with agency insourcing guidelines required under section 736 of the Financial Services and General Government Appropriations Act, 2009 (P.L. 111-111–8, division D); or (B) an alternative acquisition approach that would better enable the agency to efficiently utilize its assets and achieve its public mission.[191]

Each agency is required to submit a report to OMB that summarizes the actions taken pursuant to Section 743(e) (see the excerpt above). The report is to be submitted with the next annual inventory of services contracts and made available to the public.[192]

Apparently, this particular provision was fashioned to ensure, among other things, that inherently governmental functions are performed by federal government employees. It is the policy of the federal government that "[c]ontracts shall not be used for the performance of inherently governmental functions."[193] Under Office of Management and Budget (OMB) Circular A-76, only agency functions designated as commercial functions may be subjected to private-public competition. Some observers have suggested, however, that despite FAR Subpart 7.5 and Circular A-76, some contractor employees perform inherently governmental functions.

The above excerpt from the statute also includes a requirement that agency heads identify contracts that should be considered for conversion to performance by federal government employees. Since the inception of Circular A-76, which was issued initially in 1966, most public-private competitions have involved functions where federal government employees are the incumbent workforce. In July 2009, OMB issued insourcing guidance, which was developed to

[190] Sec. 743(c) and (d), Division C, of P.L. 111-117.

[191] Sec. 743(e), Division C, of H.R. 3170. (Italics added to aid in identifying relevant text.)

[192] Sec. 743(f), Division C, of P.L. 111-117.

[193] FAR 7.503(a). (The *Federal Acquisition Regulation* (FAR) "is the primary regulation for use by all Federal Executive agencies in their acquisition of supplies and services with appropriated funds.") (FAR, "Foreword.")

facilitate the application of insourcing requirements found in Section 736, Division D, of P.L. 111-8, FY2009 Omnibus Appropriations Act.[194]

Section 743(f) requires the Comptroller General to issue several reports regarding OMB's actions and agencies' inventories of services contracts.

Cuba Sanctions[195]

Background

Since the early 1960s, U.S. policy toward communist Cuba has consisted largely of efforts to isolate the island nation through comprehensive economic sanctions, including prohibitions on U.S. financial transactions—the Cuban Assets Control Regulations (CACR)—that are administered by the Treasury Department's Office of Foreign Assets Control (OFAC).

Under U.S. sanctions, some U.S. commercial agricultural exports to Cuba have been allowed since 2001 pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000, or TSRA (Title IX of P.L. 106-387). However, there are numerous restrictions and licensing requirements for these exports. For instance, exporters are denied access to U.S. private commercial financing or credit, and all transactions must be paid for in cash in advance or with financing from third countries. The Bush Administration tightened sanctions on Cuba in February 2005 by further restricting how U.S. agricultural exporters may be paid for their product. OFAC amended the CACR to clarify that the term "payment of cash in advance" for U.S. agricultural sales to Cuba means that the payment is to be received prior to the shipment of the goods. This differs from the practice of being paid before the actual delivery of the goods, a practice that had been utilized by many U.S. agricultural exporters to Cuba since such sales were legalized in late 2001. U.S. agricultural exporters and some Members of Congress strongly objected to this "clarification" on the grounds that the action constituted a new sanction that violated the intent of TSRA, and could jeopardize millions of dollars in U.S. agricultural sales to Cuba. Then OFAC Director Robert Werner maintained that the clarification "conforms to the common understanding of the term in international trade."[196]

Since 2002, the United States has been Cuba's largest supplier of food and agricultural products, and Cuba has purchased almost $2.7 billion in agricultural products from the United States.[197] Overall U.S exports to Cuba rose from about $7 million in 2001 to $404 million in 2004. U.S. exports to Cuba declined in 2005 and 2006 to $369 million and $340 million, respectively, but increased to $447 million in 2007. In 2008, U.S. exports to Cuba rose to $712 million, far higher than in previous years, in part because of the rise in food prices and because of Cuba's increased food needs in the aftermath of several hurricanes and tropical storms that severely damaged

[194] OMB's insourcing guidance may be found at http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m-09-26.pdf.

[195] This section was written by Mark Sullivan, Specialist in Latin American Affairs, Foreign Affairs, Defense, and Trade Division. For additional information, see CRS Report R40193, *Cuba: Issues for the 111th Congress*, by (name re dacted), and CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Remittances*, by (name redacted).

[196] U.S. Department of the Treasury, Testimony of Robert Werner, Director, OFAC, before the House Committee on Agriculture, March 16, 2005.

[197] U.S. Department of Agriculture, Foreign Agricultural Service, Office of Global Analysis, "Cuba's Food & Agriculture Situation Report," March 2008.

Cuba's agricultural sector. In the first 10 months of 2009, U.S. exports to Cuba were valued at $449 million, 25% lower than the same time period in 2008.[198]

Legislative Action

From 2000-2007, either one or both houses of Congress included provisions in the annual Treasury Department appropriations bill that would have eased U.S. economic sanctions on Cuba (especially on travel and on U.S. agricultural exports), but none of these provisions were enacted. The Bush Administration regularly threatened to veto legislation if it included any provision weakening sanctions on Cuba. In 2008, both House and Senate Appropriations Committee versions of the Financial Services and General Government Appropriations bill for FY2009, H.R. 7323 and S. 3260, contained various provisions easing restrictions on travel and on payment terms related to the payment of cash in advance for U.S. agricultural exports to Cuba.

Final action on the FY2009 appropriations measure was delayed until the 111th Congress when it was included in the Omnibus Appropriations Act, 2009 (H.R. 1105/P.L. 111-8) signed into law in March 2009. Unlike the Bush Administration, the Obama Administration did not threaten to veto the measure if it included provisions easing Cuba sanctions. The omnibus appropriations measure ultimately included three Cuba provisions that eased restrictions on family travel and travel for the marketing and sale of U.S. agricultural and medical exports to Cuba, and were intended to ease payment provisions for U.S. agricultural exports to Cuba. The Treasury Department's interpretation of the latter provision, however, mitigated its practical effect.

As set forth in the omnibus measure, section 622 of Division D prohibits funds in the act from being used to administer, implement, or enforce an amendment to the Cuban embargo regulations issued on February 25, 2005, requiring that U.S. agricultural exporters using the "cash in advance" payment mechanism for selling their goods to Cuba must be paid in cash for their goods before the goods leave U.S. ports. As noted above, TSRA requires either the "payment of cash in advance" for such exports (or financing by third country financial institutions), but does not provide a definition of cash in advance. Prior to the February 2005 amendment to the Cuban embargo regulations, U.S. exporters could be paid for the goods before they were unloaded in Cuba. OFAC guidance on the implementation of this provision states that TSRA's statutory provisions remain in place that agricultural exports to Cuba be either paid for by "cash in advance" or financed using a third-country bank.[199] During Senate consideration of the omnibus measure, Secretary of the Treasury Timothy Geithner provided additional guidance on the implementation of this provision in a letter published in the *Congressional Record* that states that "exporters will still be required to receive payment in advance of shipment."[200] This appeared to continue the Bush Administration policy imposed in February 2005. Given the Secretary's interpretation, the omnibus provision had little, if any, practical effect. While the Secretary's response ameliorated the concerns that several Senators had regarding the provision, it also triggered concerns by other Senators who maintained that the Secretary's action ignored the legislative intent of the Cuba provision to ease restrictions on agricultural sales to Cuba.[201]

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[198] World Trade Atlas, which uses Department of Commerce Statistics.

[199] U.S. Department of the Treasury, Office of Foreign Assets Control, "Guidance on Implementation of Cuba Travel and Trade-Related Provisions of the Omnibus Appropriations Act, 2009," March 11, 2009.

[200] *Congressional Record*, March 10, 2009, p. S2933.

[201] Caitlin Webber, "Obama Accused of Ignoring Legislators' Bid to Ease Cuba Trade Restrictions," *CQ Today*, March (continued...)

As a result of the Treasury Department's action, both the House-passed and Senate Appropriations Committee-reported versions of the FY2010 Financial Services and General Government Appropriations Act, H.R. 3170 and S. 1432, had an identical provision (section 618 in the House bill and section 617 in the Senate bill) stating that during FY2010, the term "payment of cash in advance" as used in TSRA "shall be interpreted as payment before the transfer of title to, and control of, the exported items to the Cuban purchaser." In its report to the bill (S.Rept. 111-43), the Senate Appropriations Committee maintained that it was aware that the Treasury Department was continuing to require the sellers of agricultural goods to Cuba to receive cash payments in advance of shipping rather than in advance of delivering the goods, and asserted that the policy impedes U.S. sales since it increases the cost of doing business. In the report, the committee urged the Treasury Department to use its rulemaking authority to permanently amend the Cuban Assets Control Regulations and remove impediments to U.S. agricultural sales to Cuba.

The provision defining the term "payment of cash in advance" for FY2010 was ultimately included as Section 619 in the enacted version of the FY2010 Financial Services and General Government Appropriations Act, which Congress incorporated as Division C of the Consolidated Appropriations Act, 2010 (H.R. 3288/ P.L. 111-117). Supporters of the provision maintain that it restores congressional intent on the matter, and will make it easier for U.S. agricultural producers to export to Cuba, while opponents maintain the provision constitutes a foreign policy change included in a must-pass spending bill without appropriate congressional consideration.[202]

(...continued)

18, 2009; and Jerry Hagstrom, "Bipartisan Senate Group Pushes Geithner on Cuba Trade," *Congress Daily PM, National Journal*, March 17, 2009.

[202] "New Law Lets Cuba Pay U.S. Suppliers Directly," *CubaNews*, December 2009; Rosella Brevetti, "Agriculture: Senate OKs Provision Facilitating U.S. Agricultural Exports to Cuba," *International Trade Reporter*, December 17, 2009.

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