

CRS Report for Congress

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

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name redacted and name redacted
Coordinators
Resources, Science, and Industry Division

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

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

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

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

Summary

For FY2004 Congress began providing, in a single bill, appropriations for the Departments of Transportation and the Treasury, the United States Postal Service, the Executive Office of the President, and Related Agencies, as well as General Government provisions.

On January 23, 2004, President Bush signed the Consolidated Appropriations Act, 2004 (H.R. 2673; P.L. 108-199), which included the conference version of the FY2004 Transportation, Treasury and Independent Agencies Appropriations bill. On September 9, 2003, the House passed H.R. 2989, the FY2004 Transportation, Treasury and Independent Agencies Appropriations bill, which provided \$85.8 billion. The major financial change from the Administration's request was to recommend an additional \$4.4 billion in highway spending (another major change, the deletion of the \$3.4 billion for grants-in-aid to airports, was a procedural change; funding may be restored in conference). On October 23, the Senate passed its version of the bill, which provided \$91.0 billion, adding \$4.5 billion in highway funding to the Administration's request. Conferees agreed on \$89.8 billion on November 25th. The conference version of the bill was added to the Consolidated Appropriations bill, which the House passed on December 8, 2003. The Senate adjourned for the year without voting on the bill; they approved the bill on January 22, 2004. The Consolidated Appropriations Act contains a 0.59% across-the-board rescission; the figures in this report do not reflect the impact of that rescission. They also do not reflect the \$55 million in transportation projects and \$1 billion for election reform grants projects located in the "Miscellaneous Appropriations" Division at the end of the Act.

Prior to passage of P.L. 108-199, FY2004 funding for agencies and programs in the Transportation, Treasury, and Independent Agencies appropriations bill was provided, at FY2003 levels, through January 31, 2004 by a series of continuing resolutions.

Key issues in the FY2004 appropriations bill included: pay for federal civilian employees (the White House proposed a 2% raise; the bill provides a 4.1% raise for federal civilian employees, in line with the military pay raise); outsourcing of federal work (the bill restricts the Administration's plan to increase outsourcing, but the broader restrictions contained in both House and Senate bills were dropped due to veto threats); "cash balance" pension plans (the bill prohibits the Treasury Department from finalizing rules affecting conversion of traditional pension plans to cash balance basis); and Cuba (the conference bill omitted provisions contained in both House and Senate bills that constrained enforcement of travel restrictions to Cuba). This report will not be updated.

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DSP = Domestic Social Policy

G&F= Government & Finance

RSI = Resources, Science, and Industry Division.

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

Most Recent Developments

On January 23, 2004, President Bush signed the Consolidated Appropriations Act, 2004 (H.R. 2673; P.L. 108-199), which included the conference version of the Transportation, Treasury and Independent Agencies Appropriations bill (Division F); the House had passed the bill on December 8, 2003, the Senate on January 22, 2004. Transportation-Treasury conferees agreed on a total of \$89.8 billion; the Act includes an across-the-board rescission of 0.59% (the figures in this report do not reflect the impact of that rescission). The Act also includes an additional \$1.1 billion in funding for transportation and election reform projects, located in Division H ("Miscellaneous Appropriations and Offsets").

On November 21, 2003, Congress passed the fourth continuing resolution for FY2004 funding, extending funding for those programs whose FY2004 appropriations bills had not already been passed by Congress to January 31, 2004.

On October 23, the Senate passed its version of the FY2004 Transportation, Treasury and Independent Agencies Appropriation bill. The Committee recommended \$91.0 billion, \$5.1 billion more than the Administration requested. The major financial change from the Administration request was an additional \$4.5 billion in highway funding.

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

Overview

Legislative Status

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

Subcommittee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
7/11/03	8/3/03	7/30/03 H.Rept. 108-243	9/9/03 381-39	9/8/03 S.Rept. 108-146	10/23/03 91-3	H.R. 2673 H.Rept. 108-401	12/8/03 242-176	1/22/04 65-28	108-199

Data note. Prior to FY2004, appropriations for the Department of Transportation and the Department of the Treasury were in separate bills. Beginning with the FY2004 budget, Congress is considering appropriations for the Department of Transportation (DOT) and its related agencies, and the Department of the Treasury, the Postal Service, the Executive Office of the President, and General Government provisions, in a single appropriations bill. This change is a result of the creation of a new federal department, the Department of Homeland Security, and the reorganization of the subcommittee structure of the House and Senate Committees on Appropriations, creating new subcommittees for Homeland Security and combining the former Transportation and Treasury subcommittees into one committee.

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

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

FY2003 Appropriations

The FY2003 Consolidated Appropriations Resolution (P.L. 108-7) included a 0.65% across-the-board rescission which applied to most accounts in the Department of Transportation and Department of the Treasury and General Government

appropriations. The FY2003 figures in this report reflect the rescission, and so differ slightly from the figures in P.L. 108-7.

FY2004 Budget Request

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

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

Title	Final FY2003 Enacted	FY2004 Request	FY2004 House Passed	FY2004 Senate Passed	**FY2004 Conference	**FY2004 Enacted
Title I: Department of Transportation	55,674	54,266	*54,940	58,947	58,794	58,794
Title II: Department of the Treasury	10,849	11,343	11,273	11,196	11,166	11,166
Title III: Postal Service	107	97	97	97	97	97
Title IV: Executive Office of the President	777	791	777	735	787	787
Title V: Related Agencies	19,151	19,555	19,021	20,180	19,259	19,259
Title VI: General Provisions	279	—	15	—	—	—
Total, Transportation/Treasury Appropriations	86,588	85,863	85,819	91,028	89,845	89,845

Source: FY2004 Transportation-Treasury Appropriations bill Conference Report Budget Authority table provided by the House Committee on Appropriations and House Report 108-243, Table: *Comparative Statement of Budget Authority*, except "Senate Reported" from Senate Committee on Appropriations, S.Rept. 108-146, Table: *Comparative Statement of Budget Authority*. "Total" is from "Net grand total budgetary resources" line in table and reflects scorekeeping adjustments.

Note: The Senate divides the budget differently from the House, putting the Postal Service into the "Related Agencies" ("Independent Agencies" in the Senate report) Title. The conference report table followed the Senate convention; therefore, in this table the Postal Service appropriation has been subtracted from the Senate and Conference totals for Title V.

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

**The Consolidated Appropriations Act, 2004 contains an across-the-board rescission of 0.59%; that rescission is not reflected in these figures.

Major Funding Trends

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

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

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

- a. Figures for Department of Transportation appropriations for FY1999-FY2003 have been adjusted for comparison with FY2004 figures by subtracting the United States Coast Guard, the Transportation Security Administration, the National Transportation Safety Board, and the Architectural and Transportation Barriers Compliance Board, and by adding the Maritime Administration.
- b. Figures for Department of the Treasury appropriations for FY1999-FY2003 have been adjusted for comparison with FY2004 figures by subtracting the Bureau of Alcohol, Tobacco, and Firearms, the Customs Service, the United States Secret Service, and the Law Enforcement Training Center.
- c. Figures for Related Agencies appropriations for FY1999-FY2003 have been adjusted by adding the National Transportation Safety Board and the Architectural and Transportation Barriers Compliance Board.
- d. FY2001 figures include 0.22% across-the-board rescission.
- e. FY2003 figures include 0.65% across-the-board rescission.
- f. The Consolidated Appropriations Act, 2004 contains an across-the-board rescission of 0.59%; that rescission is not reflected in these figures.

Title I: Transportation Appropriations

Overview

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

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

Administration's reauthorization proposal; see the sections on the Federal Highway Administration and Federal Transit Administration for details.

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

Department or Agency (Selected Accounts)	Final FY2003 Enacted ^a	FY2004 Request	FY2004 House Passed	FY2004 Senate Passed	FY2004 Conference	FY2004 Enacted ^b
Office of the Secretary of Transportation	173	177	159	172	166	166
Essential Air Service ^c	52	50	63	52	52	52
Federal Aviation Administration	13,490	14,007	10,540	13,971	13,930	13,930
Operations (trust fund & general fund)	7,023	7,591	7,532	7,536	7,531	7,531
Facilities & Equipment (F&E) (trust fund)	2,942	2,916	2,900	2,916	2,880	2,880
Grant-in-aid Airports (AIP) (trust fund) (limit. on oblig.)	3,378	3,400	—	3,400	3,400	3,400
Research, Engineering & Development (trust fund)	147	100	108	119	119	119
Federal Highway Administration	32,409	30,225	34,873	34,768	34,692	34,692
(Limitation on Obligations)	31,593	29,294	33,385	33,843	33,843	33,843
(Exempt Obligations)	884	931	931	931	931	931
Additional funds (trust fund)	—	—	400	—	—	—
Additional funds ^d (general fund)	187	—	157	150	125	125
Federal Motor Carrier Safety Administration ^e	305	447	427	483	366	366
National Highway Traffic Safety Administration ^f	434	665	435	449	451	451
Federal Railroad Administration	1,261	1,089	1,087	1,568	1,455	1,455
Amtrak ^g	1,043	900	900	1,346	1,225	1,225
Federal Transit Administration	7,179	7,226	7,231	7,305	7,309	7,309
Formula Grants (general fund)	763	—	768	768	768	768
Formula Grants (trust fund)	3,051	5,615	3,071	3,071	3,071	3,071
Capital Investment Grants. (general fund)	603	1,214	599	628	628	628
Capital Investment Grants (trust fund)	2,413	321	2,507	2,512	2,510	2,510
St. Lawrence Seaway Development Corporation	14	14	15	14	14	14
Maritime Administration	230	219	219	228	222	222
Research and Special Programs Administration ^h	105	118	111	110	113	113
Office of Inspector General	55	55	55	56	56	56
Surface Transportation Board	18	18	18	18	18	18
Total, Department of Transportation ⁱ	55,674	54,266	*55,171	59,142	58,794	58,794

Note: Figures were taken from an FY2004 Transportation-Treasury Appropriations bill Conference Report Budget Authority table provided by the House Committee on Appropriations. Because of differing treatment of offsets, the totals will not always match the Administration's totals. The figures within this table may differ slightly from those in the text due to supplemental appropriations, rescissions, and other funding actions. Columns may not add due to rounding or exclusion of smaller program line-items.

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

a. These figures reflect the 0.65% across-the-board rescission included in P.L. 108-7.

b. These figures do not reflect the 0.59% across-the-board rescission included in H.R. 2673.

- c. These amounts are in addition to the \$50 million annual authorization for the Essential Air Service program; thus, the total FY2004 funding would be \$102 million (\$50 million + \$52 million).
- d. For Appalachian Development Highway System (\$187 million).
- e. While the FY2004 FMCSA appropriation was \$81 million less than requested, Congress provided an additional \$111.5 million for grants to states for motor carrier safety activities under FHWA miscellaneous appropriations.
- f. NHTSA's FY2004 request includes \$100 million transferred from FHWA; this funding was previously provided through the FHWA but administered by NHTSA. Therefore, the difference between budgetary resources available to NHTSA for FY2003 and its FY2004 request is \$131 million, not \$231 million.
- g. In addition to Amtrak's FY2003 appropriation, Congress postponed Amtrak's repayment of a \$100 million loan from the DOT; the FY2004 conference agreement would again postpone that repayment.
- h. The figures do not reflect \$14 million in permanent appropriations. Therefore, the total resources for RSPA for FY2003 may be seen as \$119 million, and the total funding for FY2004 as \$132 million.
- i. Rescissions of unobligated previous years' contract authority have been subtracted from this total. Because rescissions of prior years' contract authority have no impact on the budgetary resources available for the current fiscal year, the total resources available could be seen as \$55.9 billion for FY2003 enacted.

Federal Aviation Administration (FAA)

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

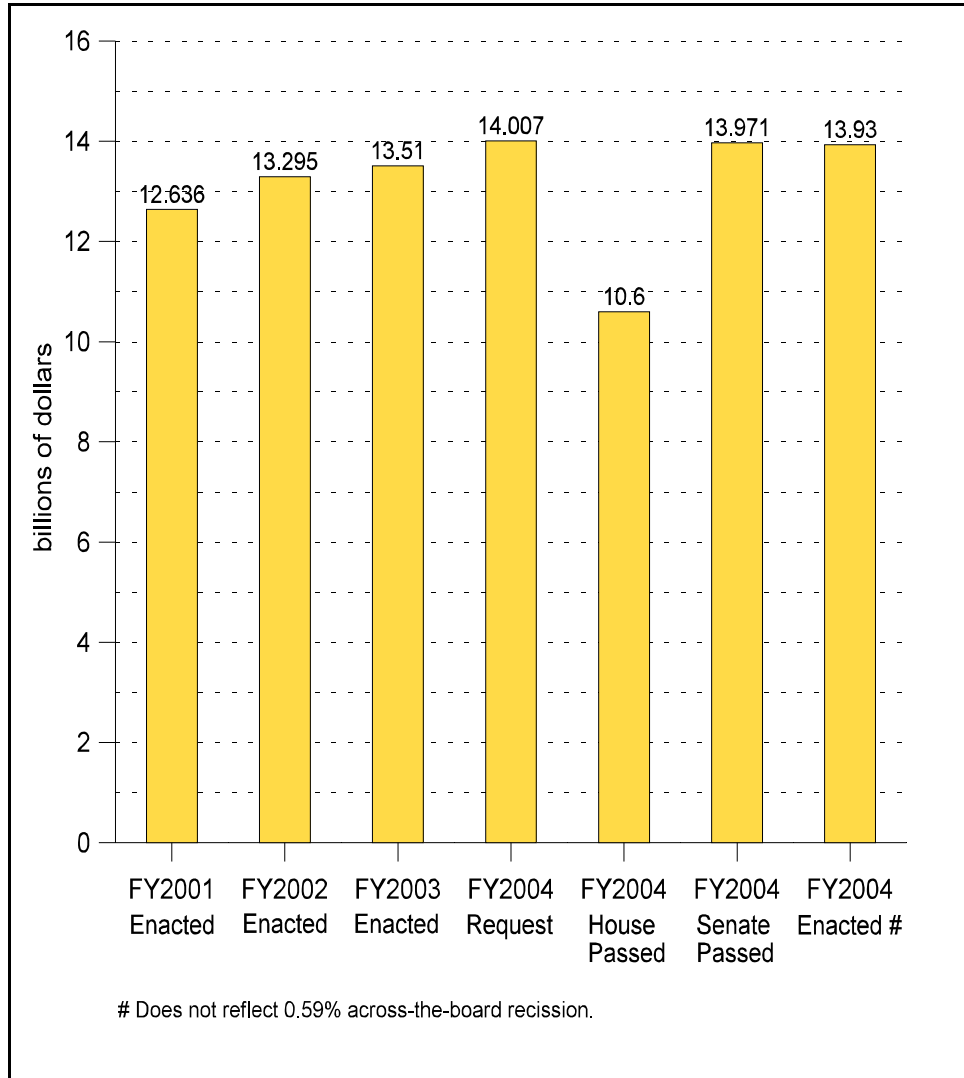
As reported the Consolidated Appropriations Act for FY2004(FY2004 Act) (P.L. 108-199) provides the FAA with \$13.93 billion in FY2004 (excluding an 0.59% across-the-board rescission to be computed later by the Office of Management and Budget). This is a \$440 million increase in funding over the FY2003 enacted level of \$13.5 billion (this amount reflects a 0.65% rescission to which some parts of the FAA budget were subjected). The amount also differs slightly from the amount proposed in the House bill, H.R. 2989, just over \$14 billion and in the Senate bill, S. 1589, that provided \$13.97 billion. The majority of the increased funding in P.L 108-199, and each of the other bills, would be used for Operations & Maintenance (O&M) expenses. With the exception of some program adjustments there are essentially no major new initiatives in any of the FY2004 legislative proposals.

The vast majority of FAA funding is provided from the Airport and Airway Trust Fund. Only O&M funding uses a mix of trust fund and Treasury general fund monies. In FY2002 a Treasury general fund contribution of \$1.1 billion was provided for O&M funding. The Administration proposed a general fund contribution of almost \$3.3 billion for FY2003. Whereas the general fund contribution for FY2002 was on the low side historically, the Administration was trying to return to a higher contribution level. In this effort they were successful, with both the House and the Senate agreeing ultimately on \$3.4 billion. For FY2004 the House Appropriations Committee initially suggested that \$1.5 billion be provided from the general funds. During Floor debate the bill was amended to raise the general fund contribution to approximately \$3.5 billion. The Senate bill provided general funds at the \$1.5 billion level. The FY2004 Act differs from both, however, and raises the general fund contribution to \$4.5 billion. Historically, this funding split has been an important part of the annual FAA budget debate. The rationale behind the general fund contribution has been that the public at large realizes some benefit from aviation whether it uses the system or not.²

² General fund appropriations have varied substantially, both in dollar terms and as a percentage of FAA appropriations as a whole, from year to year. Over the last 12 years the share has ranged from 0% to 47%. See table 1 in CRS Report RS20177, *Airport and Airway* (continued...)

Operations and Maintenance (O&M). The FY2004 Act provides \$7.5 billion for FY2004 O&M spending. The same amount was included in both the House and Senate bills. Each proposal represents a significant increase over the \$7.1 billion level for FY2003 agreed to in P.L. 108-7. The majority of funding in this category is for the salaries of FAA personnel engaged in air traffic control, certification, and safety-related activities. Much of the increased funding called for in the FY2004 request is for increased air traffic control system costs and safety-related activities.

Figure 1. Federal Aviation Administration Appropriations



Facilities and Equipment (F&E). P.L. 108-7 provided \$2.96 billion for this activity in FY2003. The FY2004 Act provides for slightly less, \$2.91 billion, and is in line with decreases in spending proposed in both the House and Senate. A Senate proposal to transfer \$100 million of F&E money to the Airport Improvement

² (...continued)

Trust Fund Issues in the 106th Congress, by (name redacted).

Program (AIP) was dropped in Conference. Unobligated F&E funds of \$30 million are subject to rescission in P.L. 108-199. F&E funding is used primarily for capital investment in air traffic control and safety. There are no significant new F&E spending initiatives in P.L. 108-199, although the bill does include new funding direction through project earmarking.

Research, Engineering, and Development (RE&D). P.L. 108-199 expends \$119.4 million on RE&D. This is more than the House proposal of \$108 million and slightly more than the almost \$119 million in the Senate proposal. The enacted level is well below the \$148.5 million level enacted in FY2003.

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

The FY2004 Act provides \$102 million for EAS, \$50 million from its regular authorization and \$52 million from the aviation trust fund. The Act does not rely on the overflight fee as its principal funding mechanism. This is the same level of funding as had been proposed by the Senate and \$11 million less than had been provided by the House. A major feature of the bill is a provision that precludes funding of a pilot cost sharing program that is included in FAA reauthorization legislation expected to be enacted shortly. In setting the \$102 million program level the FY2004 Act rejects the Bush Administration's calls to reduce the size of the EAS program by half and require a local contribution at each airport receiving EAS service. Also absent in the FY2004 Act is a House provision requiring that DOT ask each community receiving EAS assistance to report by March 1, 2004 on how program coordination and funding could be improved.

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

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

The Senate-passed FY2004 appropriations bill (H.R. 2989 as amended by S. 1589; S.Rept. 108-146) provided \$3.5 billion for AIP. This included a \$100 million transfer from the facilities and equipment (F&E) account. This transferred money would not have been subject to the \$3.4 billion obligation limitation. The report

language for AIP discretionary grants directed the FAA to give priority to projects at 241 airports named in the report. The bill included a prohibition against using AIP grants for airport changes or improvements needed to install bulk explosive detection systems.

The Consolidated Appropriations Act, 2004 (P.L. 108-199) provides \$3.4 billion (prior to the 0.59% rescission) for AIP. The Act does not include the \$100 million transfer from the F&E account included in the Senate-passed bill. P.L. 108-199 prohibits the use of AIP grants to replace baggage conveyor systems, reconfiguration of terminal baggage area or other airport improvements to accommodate bulk explosive detection systems. It also prohibits the use of AIP or any other funds in the bill to implement a ten-city Essential Air Service local participation pilot program set forth in Section 408 of the recently passed FAA reauthorization Act (VISION 100; H.R. 2115). The report language of the conference report (H.Rept. 108-401) place-names, with dollar amounts, nearly 150 airports for airport projects totaling just under \$258 million.

Federal Highway Administration (FHWA)

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

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

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

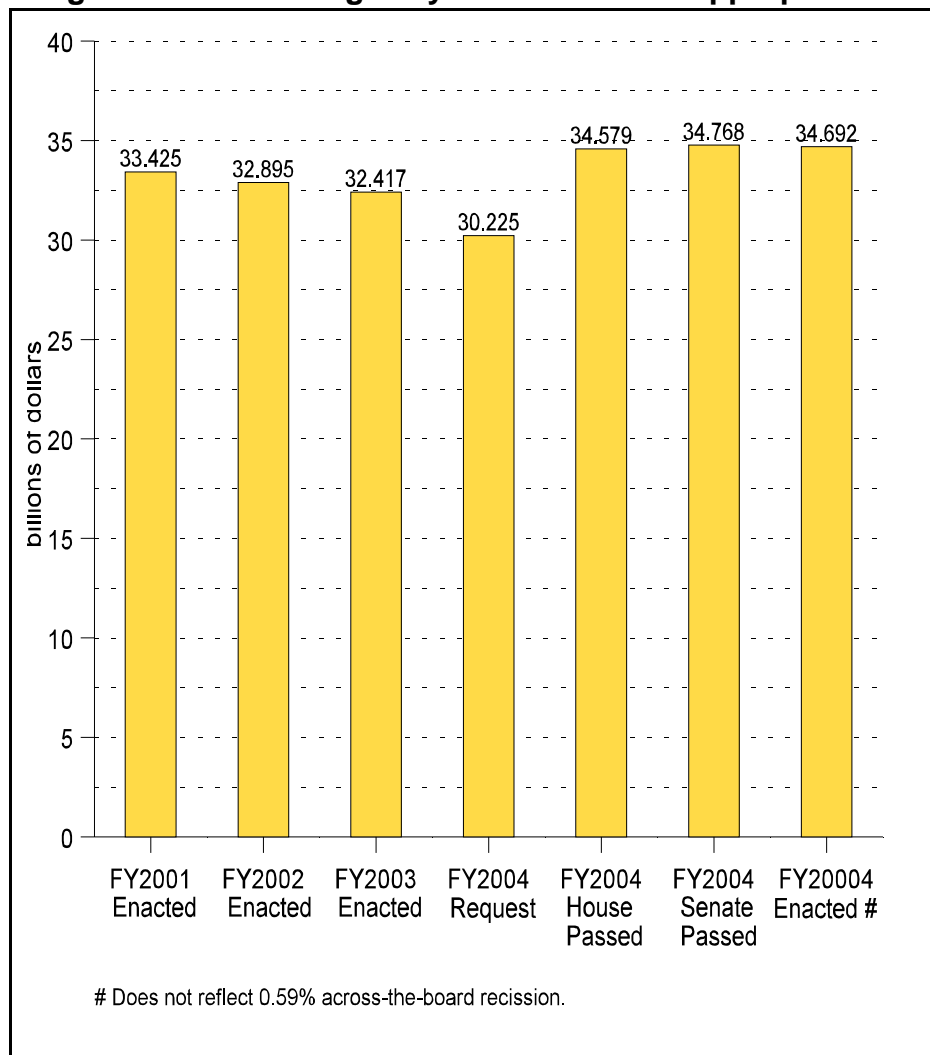
The budget would have continued FHWA's major programs but also proposed some changes, that reflected the Administration's surface transportation reauthorization proposal. A new \$1.0 billion Infrastructure Performance and Maintenance initiative was one of the proposed changes. The program's funds would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

On the revenue side, the budget proposed to redirect revenues from the 2.5 cents-per-gallon excise tax on gasohol, that are now deposited in the Treasury's general fund, to the highway trust fund. This change has been projected to add roughly \$600 million to highway trust fund revenues in FY2004. This change would require legislation in addition to the appropriations bill.

The House Bill. The House-passed FY2004 Appropriations bill (H.R. 2989; H.Rept. 108-243) provided for a total of \$34.6 billion for FHWA. This would have been \$2.2 billion over the FY2003 enacted level and \$4.4 billion above the President's request. The bill set the obligation limitation at \$33.4 billion, \$1.8 billion above the FY2003 level and \$4.1 billion above the President's request. The overall total included exempt obligations of \$931 million (the same as the requested amount). As has been common in recent years, the federal-aid highway discretionary programs were heavily earmarked.

The Senate Bill. The Senate-passed FY2004 appropriations bill (H.R. 2989 as amended by S. 1589; S.Rept. 108-146) provided for a total of \$34.8 billion for FHWA. At \$33.8 billion, the obligation limitation was set roughly \$500 million above the House bill. The \$931 million for exempt obligations was the same as in the House version. As is true with the House bill, the discretionary programs were heavily earmarked by the Senate. The bill also directed that \$175 million under the limitation on administrative expenses be made available for surface transportation projects earmarked in the report language of the bill.

Figure 2. Federal Highway Administration Appropriations



The Consolidated Appropriations Act, 2004 (P.L. 108-199). The enacted Consolidated Appropriations Act provides total budgetary resources of \$34.7 billion (prior to the 0.59% rescission) for FHWA. This is slightly higher than the House total and slightly lower than the Senate total. This is an increase of more than 6% over the FY2003 enacted total and more than 12% over the Administration's budget request. At \$33.8 billion the limitation on obligations is similar to that of both the House and Senate bills.

Project Earmarking. As had become the practice in most of the annual appropriations bills during the TEA-21 authorization cycle, the enacted FY2004 conference agreement either completely or heavily earmarks all of the discretionary programs that are under the nominal control of the FHWA. For example, the Interstate Discretionary, Bridge Discretionary, Ferry Boats and Ferry Terminals, Transportation and Community and System Preservation Pilot Program (TCSP), as well as the National Corridor Planning and Development and Coordinated Border Infrastructure Program (CORBOR) are all fully earmarked.

In what is a departure from traditional practice, however, the Consolidated Appropriations Act, 2004 also earmarks funds under the core formula programs (Interstate Maintenance Program (IM), National Highway System (NHS), Surface Transportation Program (STP), Congestion Mitigation and Air Quality Improvement Program (CMAQ), and the Highway Bridge Replacement and Rehabilitation Program) that in the past were generally left free of earmarks and under the control of the states. Section 115 of Division F in the Conference Report earmarks over \$1 billion of unobligated core program funds. Funding for each project is to be drawn from the state's distributed core program funds under which the project is eligible. Projects not eligible under any of the core programs are to be funded from the state's STP funds distribution. The funds are available for obligation until expended and the federal share is 100%. Providing a 100% federal share for earmarked projects is also a departure from past practice under which the federal share (usually 80% or 90%) has generally been determined by the program under which the project was earmarked.

In addition, under the heading, Miscellaneous Highway and Highway Safety Programs, the act provides for the use of nearly \$300 million unobligated core formula funds for a combination of interagency transfers and project earmarks.³ Most of the money goes for transfers to the Federal Motor Carrier Safety Administration (\$111.5 million) and to the National Highway Traffic Safety Administration (\$150.5 million). In addition, \$15 million is provided for construction of Pennsylvania Avenue in front of the White House and \$20 million for Amber Alert grants. The funds are available until expended and have a 100% federal share. The funds are subject to the obligation limitation only during FY2004 (Section 110 (g)).

³ Section 110 of Division F of the Act modifies the determination of the obligation limitation distribution to include these funds in the initial account set aside. This has the effect of reducing, by a like amount, the final remaining limitation that is distributed to the states via the core formula programs.

The act provides additional \$150 million for the Appalachian Development Highway System (ADHS), \$75 million of which is earmarked. It also adds 65 miles to the ADHS.

The TEA-21 Funding Framework. TEA-21 authorizing authority was scheduled to expire on October 1, 2003. While Congress continues to consider reauthorization proposals, all existing programs continue to operate on the basis of an extension (P.L. 108-88, to February 29, 2004; P.L. 108-202, to April 30, 2004). Any new authorizing legislation that emerges in the months ahead is expected to at least retain a large part of the existing program funding framework. TEA-21 created the largest surface transportation program in U.S. history. For the most part, however, it did not create new programs. Rather, it continued most of the highway and transit programs that originated in its immediate predecessor legislation, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA, P.L. 102-240).

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

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

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

Federal Motor Carrier Safety Administration (FMCSA)

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

The FMCSA was created by the Motor Carrier Safety Improvement Act of 1999 (MCSIA), P.L. 106-159.⁴ This agency became operational on January 1, 2000, and assumed almost all of the responsibilities and personnel of DOT’s Office of Motor

⁴ During various hearings held in the first session of the 106th Congress, a number of organizations, including DOT’s Inspector General, the General Accounting Office, and many industry associations raised a variety of concerns regarding the effectiveness of the federal truck and bus safety program. In response to these concerns, Congress created the FMCSA.

Carrier Safety.⁵ FMCSA issues and enforces the federal motor carrier safety regulations that govern the operation and maintenance of interstate commercial truck and bus operations and specify licensing requirements for commercial drivers. FMCSA also administers several grants and programs to help states conduct various truck and bus safety activities. Together with the states, FMCSA conducts inspections of Mexican-domiciled commercial drivers and vehicles entering the United States, advances Intelligent Transportation Systems for commercial operations, and reviews thousands of carriers transporting property and passengers. Most of the funds used to conduct FMCSA activities are derived from the federal Highway Trust Fund.

The FMCSA appropriation has two primary components: FMCSA administrative expenses (including operations) and research; and financial assistance provided primarily to the states to conduct various truck and bus safety programs, (grants and information systems). The FY2004 Administration request for the FMCSA was \$447 million. This was an increase of almost \$134 million (43%) over the FY2003 appropriation of \$313.1 million. For FY2004, the conference committee specified an FMCSA appropriation of \$366 million: \$176 million for administrative expenses under the FMCSA limitation on administrative expenses account, and \$190 million for motor carrier safety grants and information systems. The conference agreement also provides for an additional \$111.5 million for various other FMCSA programs and activities under the FHWA miscellaneous appropriation.

Administrative and Operations Expenses. The President's budget request for FMCSA's administrative and operations expenses in FY2004 was \$224 million (up from \$124 million in FY03), including funds for research and technology (R&T) and regulatory development. The House approved \$236.8 million, the Senate approved \$246 million, and the conferees agreed to \$176 million. Some of the activities that would be funded include: enforcement to reduce the number of unsafe carriers and drivers; outreach efforts to help educate the motoring public on how to share the road with commercial vehicles; and the establishment of a medical review board to assist FMCSA. Some of the core FMCSA activities or expenses supported by these funds include: rent, administrative infrastructure, personnel compensation and benefits and other related staff expenses for more than 1,000 employees; outreach efforts to help educate the commercial motor vehicle industry about the federal safety regulations; and monies to advance truck and bus, as well as driver, standards and oversight, including funds to establish a medical review board to assist FMCSA. This account also funds agency information systems used to oversee the safety of motor carriers.

Grants to States and Other Activities. The Administration's FY2004 request for these activities was \$223 million; the House approved \$190 million, the Senate approved \$237 million, and the conferees agreed to \$190 million. These funds are used primarily to pay for the Motor Carrier Safety Assistance Program (MCSAP), which provides grants to states to help them enforce commercial vehicle

⁵ DOT's Office of Motor Carrier Safety, which operated from October 9 through December 31, 1999, replaced the Office of Motor Carriers of the Federal Highway Administration of the DOT.

safety and hazardous materials transportation regulations. MCSAP grants cover up to 80% of the costs of a state's truck and bus safety program. Some 10,000 state and local law-enforcement officers conduct more than 2.6 million roadside inspections of trucks and buses annually under the program. The Senate bill included an additional \$47 million for construction of border inspection stations for trucks. For FY2004, the conference agreement includes \$170 million dedicated to MCSAP (with \$1 million going to a crash causation study), and an additional \$20 million for information systems and strategic safety initiatives. Under the FHWA miscellaneous appropriation, the conference agreement provides an additional \$111.5 million for such initiatives as: southern border inspection facilities (\$47 million), southern border operations grants (\$23 million), and CDL improvement grants (\$21 million).

National Highway Traffic Safety Administration (NHTSA)

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

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

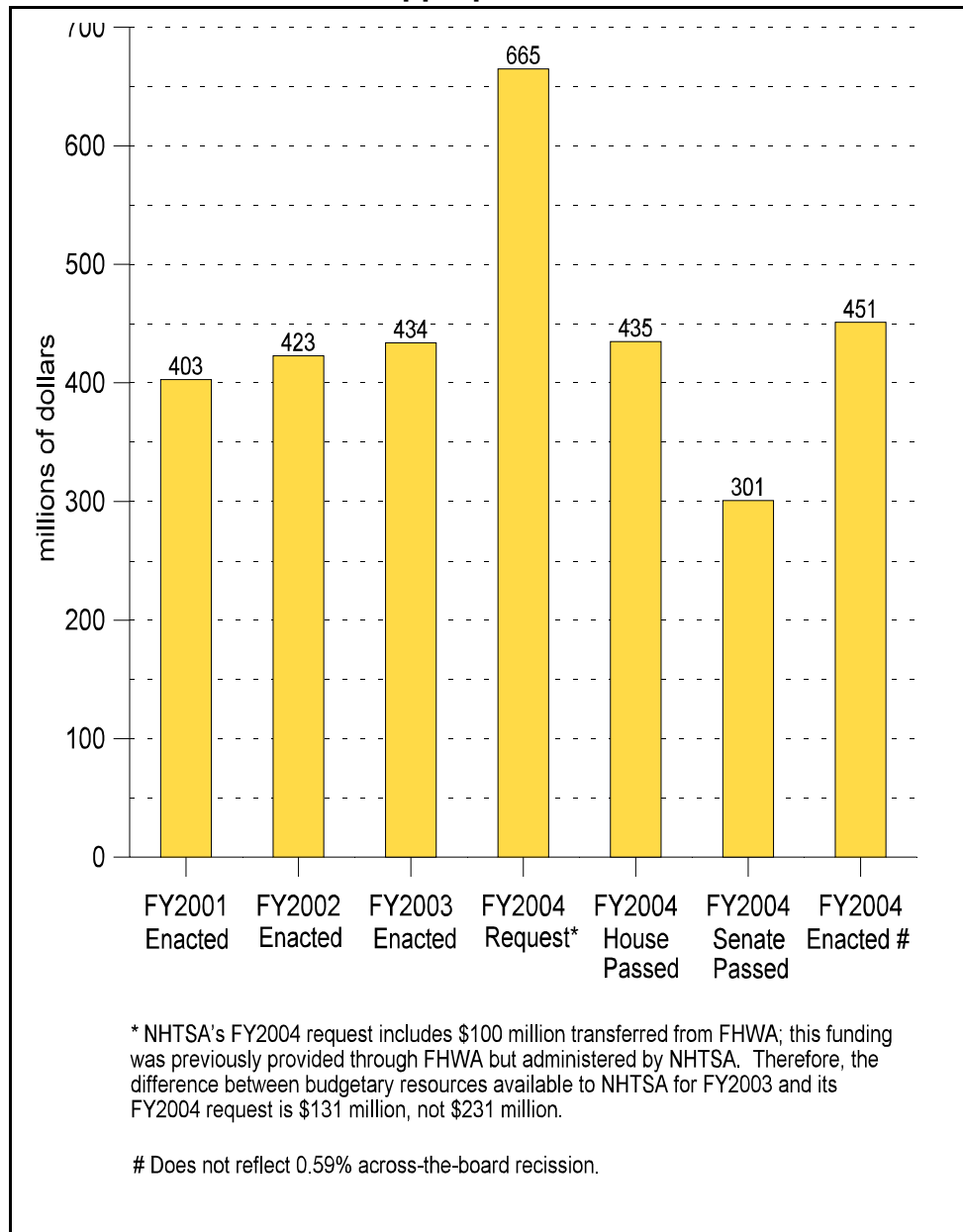
For FY2004, \$665 million was requested by the Administration to carry out the NHTSA mission. This Administration request was an increase of \$231 million above the FY2003 program level: this reflected an increase of \$131 million above the FY2003 program level and the proposed transfer to NHTSA of \$100 million in funding for safety belt use and impaired-driving law incentive programs previously allocated to the FHWA appropriation.⁶

Of the total amount requested by the Administration for FY2004, \$447 million was designated to support traffic safety incentive and performance grants to states, primarily to encourage occupant protection measures and reduce impaired driving, and \$218 million was for NHTSA's operations and research activities to reduce highway fatalities and prevent injuries. Included in the Administration's request was funding in these major areas: research and analysis (e.g., collection of crash statistics and research on vehicle performance and occupant damage during these crashes); highway safety programs (e.g., developing improved countermeasures to combat alcohol- or drug-impaired driving); safety assurance (e.g., testing of vehicles to ensure compliance with federal motor vehicle safety standards and maintaining a legislatively required database to track vehicle defects); and safety performance

⁶ <http://www.dot.gov/bib2004/nhtsa.html>. According to DOT, total funds requested for NHTSA for FY2004: "Includes \$222 million of TEA-21 resources for the Sections 157 and 163 grant programs formerly appropriated to FHWA. NHTSA has always administered these funds; therefore, the budget proposes that the funding be appropriated directly to NHTSA."

standards (e.g., conducting crash avoidance and crash-worthiness testing, and evaluating child safety seats). The House approved \$434.8 million, the Senate approved \$448.7 million, and the conference agreement recommends \$451.1 million for NHTSA: \$225 million for highway traffic safety grants and \$222.5 million for operations and research.⁷

Figure 3. National Highway Traffic Safety Administration Appropriations



⁷ Excluding funds for the National Driver Register.

Federal Railroad Administration (FRA)

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

For FY2004, the Administration requested \$1.09 billion in funding for the FRA. The House agreed to \$1.09 billion, the Senate agreed to \$1.57 billion; P.L. 108-199 provides \$1.455 billion. Most of FRA's funding is for Amtrak. The Administration requested \$900 million for Amtrak, \$150 million less than provided in FY2003 and \$379 million more than the President requested in FY2003. The House agreed to \$900 million for Amtrak, the Senate agreed to \$1.346 billion; P.L. 108-199 provides \$1.225 billion.

The Administration requested \$131 million for railroad safety and operations, which is \$14 million more than provided in FY2003 and \$13 million more than the President requested for FY2003. The House agreed to \$131 million; the Senate also agreed to \$131 million, and P.L. 108-199 provides \$131 million. For railroad research and development, the President requested \$35 million, which is \$6 million more than funding for FY2003. The House agreed to \$28 million, the Senate agreed to \$34 million; P.L. 108-199 provides \$34 million. For next generation high-speed rail, the President requested \$23 million, \$7 million less than last year; the House agreed to \$28 million; the Senate agreed to \$29 million. Conferees agreed on \$37 million.

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

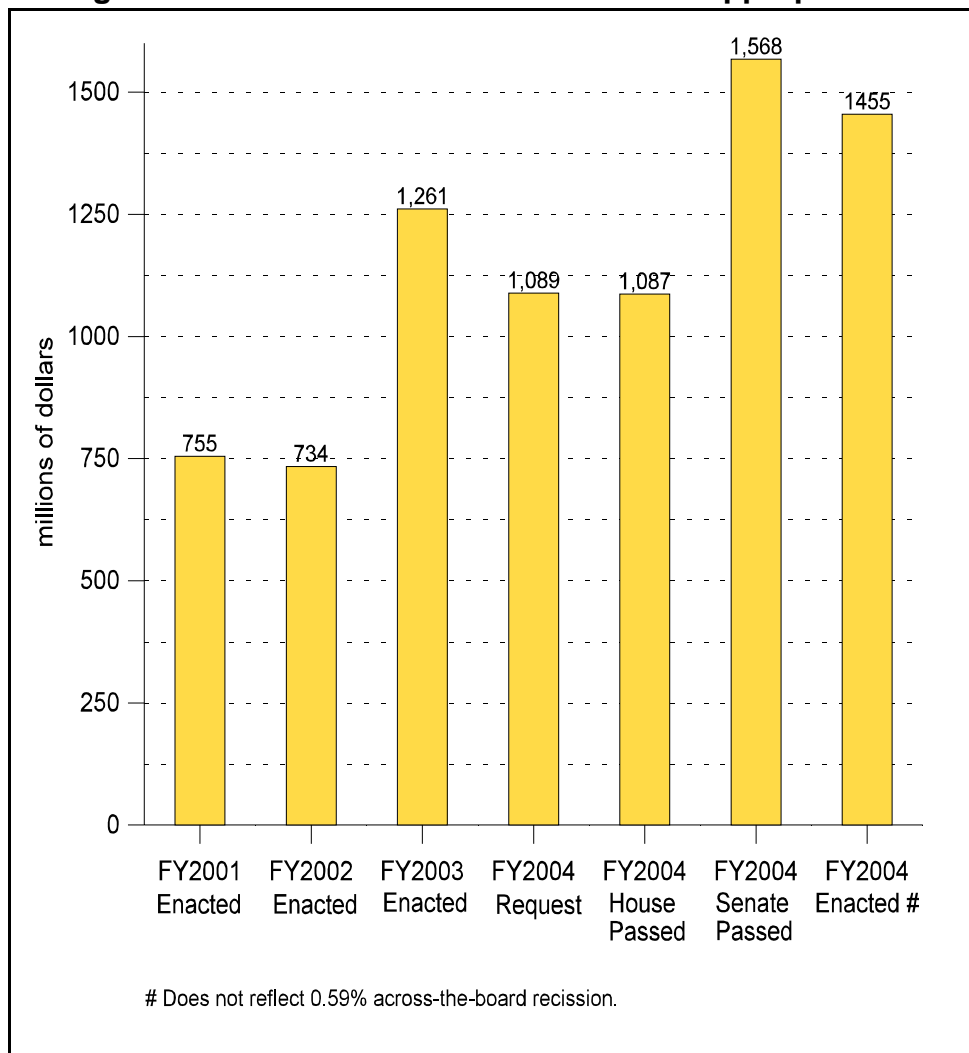
Railroad Safety and Research and Development. The FRA is the primary federal agency that promotes and regulates railroad safety. Increased railroad traffic volume and density make equipment, employees, and operations more vulnerable to adverse safety impacts. The Administration proposes \$131.2 million in FY2004 for FRA's safety program and related administrative and operating activities. This represents about a 13% increase over the \$116.6 million provided in the FY2003 DOT appropriations for rail safety and operations. The House Committee on Appropriations recommended and the House approved \$130.9 million, and the Senate Committee recommended and the Senate approved \$130.8 million. The conference agreement provides \$130.8 million. Most of the funds appropriated are used to pay for salaries as well as associated travel and training expenses for FRA's field and headquarters staff and to pay for information systems monitoring the safety performance of the rail industry.⁸ The funds requested support FRA's goals

⁸ The funds also are used to conduct a variety of initiatives, including the Safety Assurance and Compliance Program (SACP), the Railroad Safety Advisory Committee (RSAC), and field inspections. SACP involves numerous partnerships forged by railroad management, FRA personnel, and labor to improve safety and compliance with federal railroad safety regulations. RSAC uses a consensus-based process involving hundreds of experts who work

(continued...)

of reducing rail accidents and incidents, reducing grade-crossing accidents, and contributing to the avoidance of serious hazardous materials incidents.

Figure 4. Federal Railroad Administration Appropriations



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

To improve railroad safety, the FRA conducts research and development (R&D) on an array of topics, including railroad employee fatigue, technologies to

⁸ (...continued)

together to formulate recommendations on new or revised safety regulations for FRA's consideration.

control train movements, and track dynamics. In reports accompanying House and Senate transportation appropriation bills and in annual conference reports, the appropriations committees historically have allocated FRA's R&D funds among various research categories pertaining to safety. The FY2003 DOT appropriation provided \$29.1 million for the R&D program. For FY2004, the Administration requests \$35 million for these activities. The House Committee recommended and the House approved \$28.2 million, and the Senate Committee recommended and the Senate approved \$34.2 million. The conferees recommend \$34 million.

Next Generation High-Speed Rail R&D. This program supports work on high-speed train control systems, track and structures technology, corridor planning, grade crossing hazard mitigation, and high-speed non-electric locomotives. The Administration requested \$23.2 for this program in FY2004; this is \$7.05 million (23%) less than the FY2003 appropriation of \$30.25 million. The House agreed to \$28.3 million. The difference was largely the House's support for establishing the compliance of diesel multiple units (a form of passenger rail car with its own engine which is used in other countries but is not currently used in this country) with FRA passenger safety regulations. The Senate agreed to \$29.3 million. The difference was largely the Senate's support for additional high-speed corridor planning (\$5 million for Florida's high-speed corridor, \$2.5 million for a few others) and for maglev (\$5 million for 4 maglev projects). P.L. 108-199 provides \$37.4 million; the increase came largely from combining the different projects contained in the House and Senate bills, plus adding some new projects.

Amtrak

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

The President requested \$900 million for Amtrak for FY2004. This was \$150 million below Amtrak's FY2003 appropriation of \$1,050 million⁹ and \$900 million less than the \$1.8 billion Amtrak requested for FY2004. Amtrak said that it could not survive FY2004 on \$900 million; the DOT Inspector General agreed with that assessment. The House agreed to \$900 million, similar to the Administration request. It also added a provision allowing states to apply to FHWA to transfer a portion of their allocation of an appropriation of \$267 million from the Highway Trust Account to Amtrak.¹⁰ The Senate agreed to \$1.346 billion for Amtrak, and extended to all Amtrak routes the requirement (begun for FY2003) that Amtrak's long-distance routes be funded through the grant request process. P.L. 108-199 provides \$1.225 billion, postpones repayment of a \$100 million loan from DOT, continues the new funding structure begun in FY2003, and extends to all Amtrak routes the requirement for funding through grant requests.

P.L. 108-199 adds a provision directing the Secretary of Transportation to establish a procedure for competitive bidding by non-Amtrak operators for state-supported routes currently operated by Amtrak. If a state wishes to contract with an

⁹ For FY2003, Congress also deferred Amtrak's repayment of a \$100 million loan to the DOT.

¹⁰ The provision is in the House Committee on Appropriations report (p. 72), not the bill.

operator other than Amtrak for service, the state may contract with Amtrak for use of Amtrak's equipment, facilities, and services necessary to enable the non-Amtrak operator to provide the service. If Amtrak and the state cannot agree on terms for this use, the Secretary of Transportation is given the power to compel Amtrak to provide the equipment, facilities and services on terms and conditions set by the Secretary.

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

Amtrak's authorization expired at the end of FY2002. Two bills have passed out of committee that would reauthorize Amtrak in its current configuration: the House Transportation and Infrastructure Committee has reported out H.R. 2572 that would authorize Amtrak at \$2 billion annually for three years, and the Senate Commerce, Science, and Transportation Committee has approved a surface transportation safety bill, S. 1978, that includes an amendment authorizing \$2 billion annually for Amtrak for six years.

Several bills have been introduced that would change the structure of federal passenger rail policy. The Administration has submitted a plan for restructuring Amtrak and passenger rail service (S. 1501) which would shift much of the planning and financial responsibility for passenger rail service to the states. Sen. Hutchinson and others have submitted a plan for restructuring Amtrak and passenger rail service (S. 1505) that would give the federal government more responsibility for planning and implementing passenger rail service, authorize \$2 billion annually for 6 years for Amtrak operations, and authorize \$48 billion in bonds to finance capital improvements to the nation's passenger rail system. Sen. Hollings and others have submitted a plan that would authorize \$2 billion annually for 6 years for Amtrak, and would authorize \$30 billion in bonds to finance capital improvements to the nation's rail network (S. 1961). See CRS Report RL31743, *Amtrak Issues in the 108th Congress*, for further information.

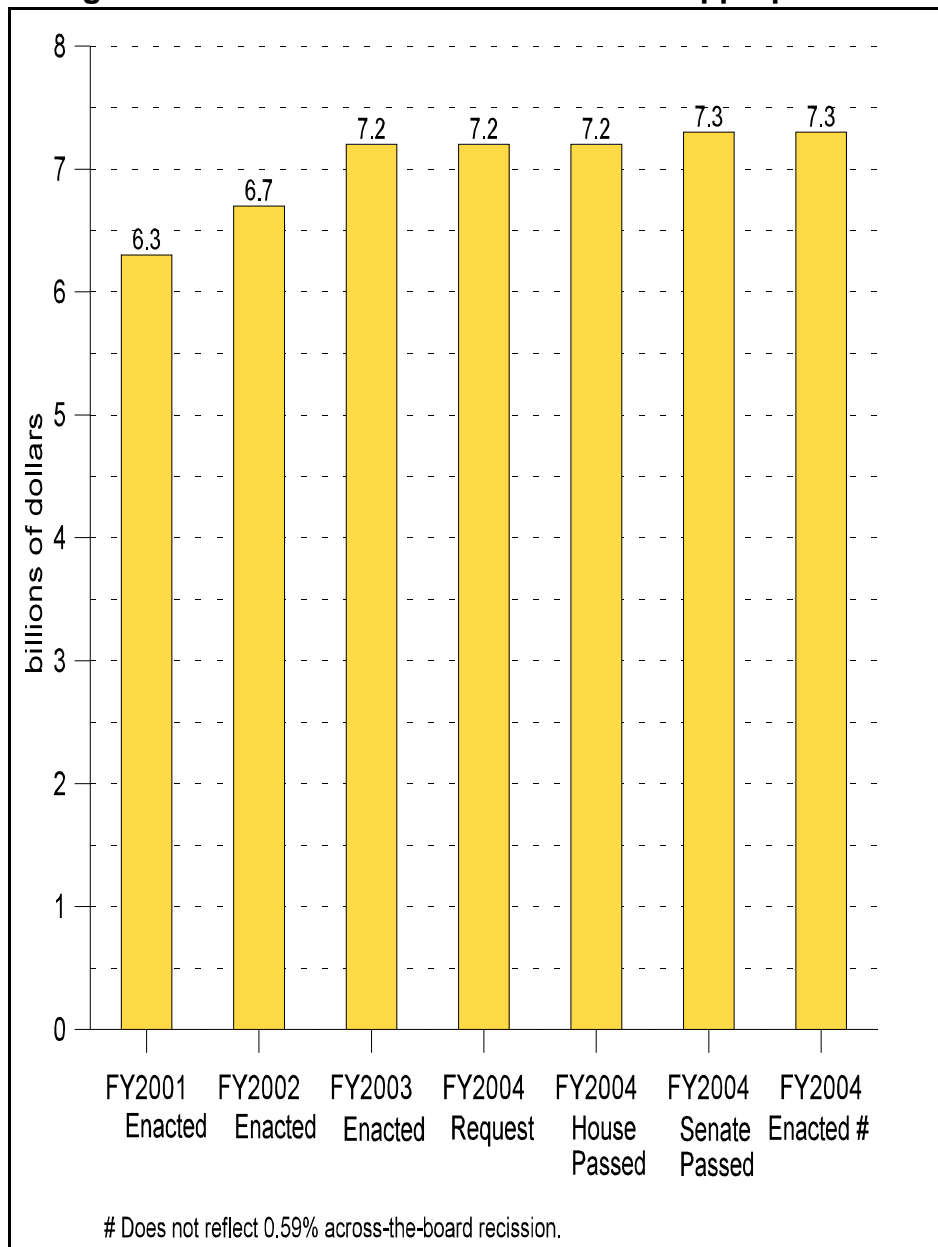
Federal Transit Administration (FTA)

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

President Bush's FY2004 budget request for FTA was \$7.226 billion, virtually the same level as FTA's FY2003 appropriation (FTA's FY2003 \$7.226 billion final

appropriation was reduced to \$7.179 billion after the 0.65% rescission).¹¹ The Administration's request also proposed changes to FTA's program structure, reflecting the Administration's reauthorization proposal (the proposed changes are described below). The House agreed to \$7.231 billion, the Senate agreed to \$7.305 billion; P.L. 108-199 provides \$7.309 billion. Since the Administration's reauthorization proposal has not been approved, the proposed program changes are not reflected in the FTA appropriations.

Figure 5. Federal Transit Administration Appropriations



¹¹ These figures for FTA do not include any projections to account for possible flexible funding transfers from FHWA to FTA. In FY2002 such transfers amounted to \$1.1 billion.

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

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

Program	FY2003 Enacted	FY2004 Request	FY2004 House Passed	FY2004 Senate Passed	FY2004 Conference*	FY2004 Enacted *
Urbanized Areas Formula Program (Section 5307)	3,407	3,521	3,429	3,429	3,429	3,429
Capital Investment Grants & Loans Program (Section 5309) Total	3,016	2,729	3,107	3,140	3,138	3,138
New Starts Program	1,207	1,515	1,214	1,318	1,324	1,324
Fixed Guideway Modernization Program	1,207	1,214	1,214	1,214	1,207	1,207
Bus Discretionary Program	603	—	678	607	**607	**607
Non-Urbanized Areas Formula Program (Section 5311)	237	359	239	239	239	239
Job Access & Reverse Commute Program	149	—	85	125	125	125
Elderly & Individuals with Disabilities Formula Program (Section 5310)	90	87	91	91	91	91
Rural Transportation Accessibility Incentive Program (Section 3038), also known as the Over-the-Road Bus Accessibility program	7	7	7	7	7	7
Planning & Research	121		122	122	126	126
Other	145	108	151	152	155	155
New Freedom Initiative	—	145	—	—	—	—
FTA Total	7,179	7,226	7,231	7,305	7,309	7,309

Note: numbers may not add due to rounding.

Source: Figures were taken from an FY2004 Transportation-Treasury Appropriations bill Conference Report Budget Authority table provided by the House Committee on Appropriations.

* The Consolidated Appropriations Act, 2004 contains an across-the-board rescission of 0.59%; that rescission is not reflected in these figures.

** The Conference Report directs that this \$607 million is supplemented with \$70 million transferred from other FTA programs, for a total of \$677 million.

Maritime Administration (MARAD)

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

MARAD's mission is to promote the development and maintenance of a U.S. merchant marine capable of carrying the Nation's waterborne domestic commerce, a portion of its waterborne foreign commerce, and to serve as a naval and military auxiliary in time of war. MARAD administers programs that benefit U.S. vessel owners, shipyards, and ship crews. For FY2004, the President requested a total of \$219 million for MARAD, which is about \$12 million more than the President requested, and about \$11 million less than Congress appropriated, for FY2003. The Consolidated Appropriations Act provides a total of \$226.4 million for MARAD which is about \$7.8 million more than the House passed bill and \$1.2 million less than the Senate passed bill.

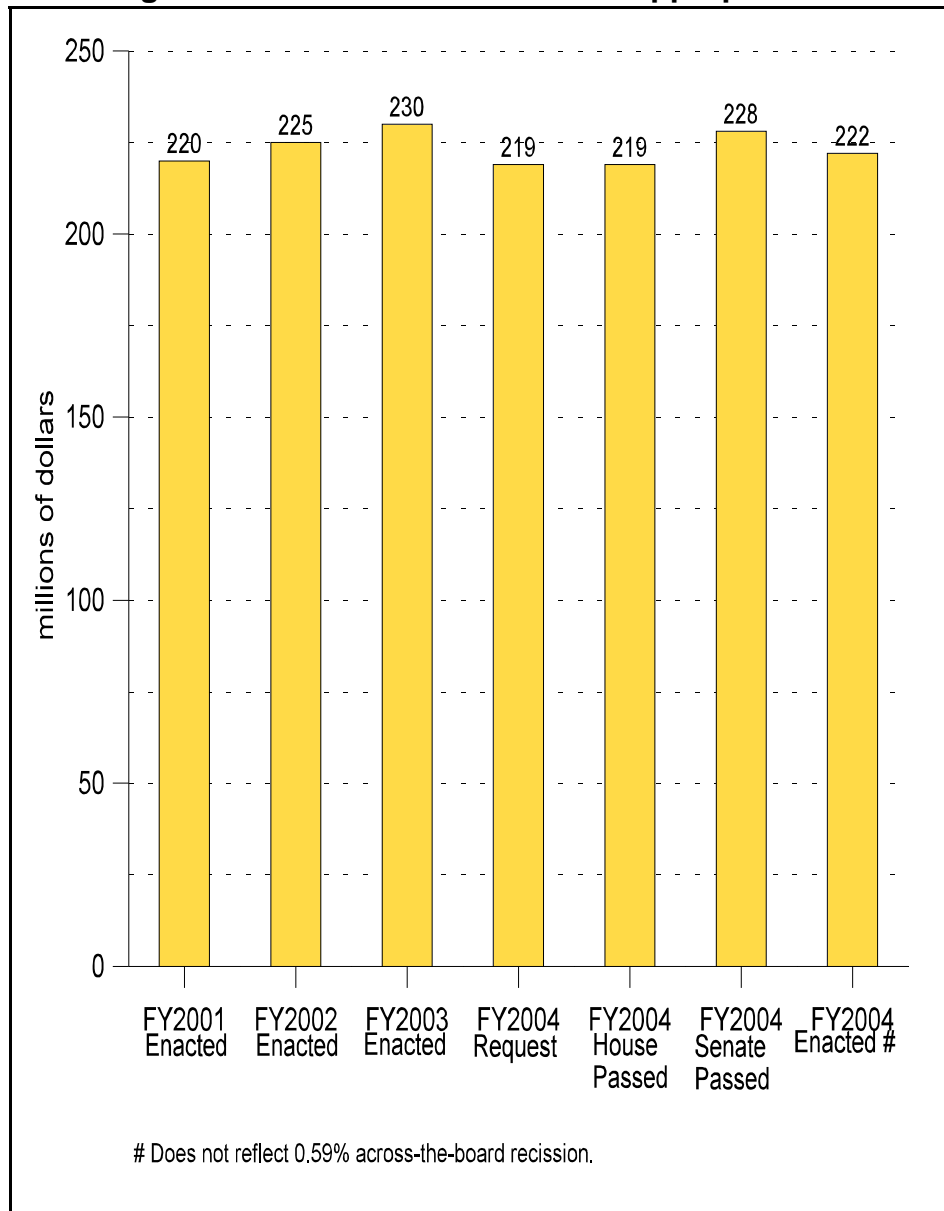
Much of the discussion concerning MARAD's budget focuses on the Maritime Guaranteed Loan Program (the "Title XI" program). This program provides guaranteed loans for purchasing ships from U.S. shipyards and for the modernization of U.S. shipyards. The purpose of the program is to promote the growth and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

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

For operations and training, the Administration requested \$104.4 million, about \$12 million more than Congress appropriated in FY2003. Of this amount, \$52.9 million is requested for the U.S. Merchant Marine Academy in Kings Point, New York; \$9.5 million for state maritime academies; and \$42 million for the operations of MARAD. The Consolidated Appropriations Act provides \$107 million for operations and training. For the Maritime Security Program (MSP), the Administration requested \$98.7 million, virtually the same amount as Congress provided last year. The Consolidated Appropriations Act agrees with the President's

request. MSP is a fleet of 47 privately-owned U.S. flag commercial vessels engaged in international trade that are available to support the Department of Defense in a national emergency.

Figure 6. Maritime Administration Appropriations



For the disposal of obsolete vessels in the National Defense Reserve Fleet (NDRF), the Administration requested \$11.4 million, about the same amount Congress appropriated in FY2003. There are over 130 vessels in the NDRF that are awaiting disposal because of their age. These vessels have raised environmental concerns due to the presence of asbestos and other hazardous substances. MARAD has until 2006 to dispose of these surplus ships, most of which are located on the James River in Virginia and in Suisan Bay, California. The Consolidated Appropriations Act provides \$16.2 million for ship disposal, which is \$2.2 million

more than the House passed measure and \$2.2 million less than the Senate passed measure.

Research and Special Programs Administration (RSPA)

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

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

For FY2004, the Administration requested a budget of \$118 million for RSPA; most of this funding was for activities that promote transportation safety. For RSPA's pipeline transportation safety program, \$67 million was proposed by the Administration (an increase of \$3 million over the FY2003 appropriation); for the hazardous materials transportation safety program, \$25 million was requested (an increase of \$2 million over the FY2003 appropriation). Much of the additional funding requested was intended to enhance RSPA's ability to ensure that the federal hazardous materials transportation pipeline safety regulations are complied with and to assist DOT in participating in the safety oversight of containment systems that will be used to ship spent nuclear fuel and high-level radioactive wastes. The House Appropriations Committee recommended and the House approved \$111.3 million for RSPA in FY2004, including \$23.6 million for hazardous materials transportation safety, and \$64.1 million for pipeline safety. The Senate Appropriations Committee recommended and the Senate approved \$110.3 million for RSPA in FY2004, including \$22.8 million for hazardous materials transportation safety, and \$67.6 million for pipeline safety. The Consolidated Appropriations Act, 2004 provides \$112.9 million for RSPA, including \$23.7 million for hazardous materials transportation safety and \$66.3 million for pipeline safety.¹²

¹² The conference Agreement includes a limitation on obligations for emergency preparedness grants of \$14.3 million.

Title II: Treasury Appropriations

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

Program or Account	FY2003 Enacted	FY2004 Request	FY2004 House Passed	FY2004 Senate Passed	FY2004 Conference ^a	FY2004 Enacted
Departmental Offices	158	167	176	175	176	176
Department-wide Systems and Capital Investments	37	37	37	37	36	36
Office of Inspector General	11	—	13	13	13	13
Treasury Inspector General for Tax Administration	124	—	128	128	128	128
Treasury Inspector General	—	135	—	—	—	—
Air Transportation Stabilization Program	6	3	3	3	3	3
Treasury Building Repair and Restoration	29	25	25	25	25	25
Financial Crimes Enforcement Network	51	58	58	58	58	58
Interagency Crime and Drug Enforcement	107	—	—	—	—	—
Financial Management Service	221	229	229	229	229	229
Alcohol and Tobacco Tax and Trade Bureau	79	80	80	80	80	80
Bureau of the Public Debt	189	174	174	174	174	174
Internal Revenue Service, Total	9,835	10,437	10,352	10,276	10,245	10,245
Processing, Assistance and Management	3,930	4,075	4,038	4,048	4,033	4,033
Tax Law Enforcement	3,705	3,977	4,221	4,173	4,196	4,196
Information Systems	1,622	1,670	1,629	1,591	1,591	1,591
Business Systems Modernization	364	429	429	429	390	390
Health Insurance Tax Credit Administration	70	35	35	35	35	35
Total, Dept. of the Treasury	10,840	11,343	11,273	11,196	11,166	11,166

Source: Figures were taken from an FY2004 Transportation-Treasury Appropriations bill Conference Report Budget Authority table provided by the House Committee on Appropriations.

a. The Consolidated Appropriations Act, 2004 contains an across-the-board rescission of 0.59%; that rescission is not reflected in these figures.

Department of the Treasury Budget and Key Policy Issues

In recent decades, the Treasury Department has performed four basic functions: (1) formulating, recommending, and implementing economic, financial, tax, and fiscal policies; (2) serving as the financial agent for the federal government; (3) enforcing federal financial, tax, counterfeiting, customs, tobacco, alcoholic beverage, and gun laws; and (4) producing postage stamps, currency, and coinage. With the creation of the Department of Homeland Security (DHS) late in 2002 and its assumption in March 2003 of the authorities transferred to it by executive order, this functional profile has changed significantly. While Treasury still serves as one of the federal government's principal economic policymakers and its financial manager, revenue collector, and producer of currency, coinage, and stamps, its role in law enforcement is now much more limited.

At its most basic level of organization, the Department consists of departmental offices and operating bureaus. The departmental offices are responsible for the formulation and implementation of policy and the management of the Department as a whole, while the operating bureaus carry out specific duties assigned to the Department. The bureaus typically account for more than 95% of the Department's employment and funding.

With one notable exception, the bureaus can be divided into those having financial responsibilities and those engaged in law enforcement. In recent decades, financial responsibilities have been handled by the Comptroller of the Currency, U.S. Mint, Bureau of Engraving and Printing, Financial Management Service, Bureau of Public Debt, Community Development Financial Institutions Fund, and Office of Thrift Supervision; and law enforcement has been done by the Bureau of Alcohol, Tobacco, and Firearms (BATF), U.S. Secret Service, Federal Law Enforcement Training Center, U.S. Customs Service, Financial Crimes Enforcement Network (FinCen), and Treasury Forfeiture Fund. The exception to this dichotomy is the Internal Revenue Service (IRS), which performs both financial duties and law enforcement through its administration of federal tax laws.

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

In its budget request for FY2004, the Bush Administration sought \$11.408 billion in funding for the Treasury Department.¹³ This amount was 3.5% greater than the amount enacted for FY2003 (\$11.018 billion), after adjusting for the transfer of functions to DHS and the Justice Department. According to budget documents, the Administration's top priorities for Treasury operations in FY2004 were to bolster IRS's efforts to monitor and enforce compliance with tax laws, improve the Department's overall efficiency by further streamlining operations, and elevate the Department's role in federal efforts to combat money laundering and disrupt financial networks supporting international terrorist activities. Under the newly configured Treasury accounts, the IRS accounts for 91.5% of the proposed Treasury budget, followed by the Financial Management Service (2.0%), the Bureau of Public Debt (1.6%), and Departmental Offices (1.5%).

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

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

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

¹³ The Administration's budget request for the Treasury Department in FY2004 is \$65 million greater than the requested amounts being considered by the House and Senate appropriations committees. This difference reflects funding for two programs administered by Treasury but funded through separate appropriations accounts: the Community Development Financial Institutions Fund (CDFI) and international technical assistance. Funding for the former is covered under appropriations for the Department of Housing and Urban Development, and for the latter under appropriations for foreign operations.

added \$1.7 million to OIG's budget for FY2003 and \$3.8 million to TIGTA's budget for FY2003. But it matched the Administration's requested funding for FinCen in FY2004.

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

The other amendment was introduced by Representative Bernie Sanders and would have barred the Treasury Department from using funds appropriated under H.R. 2989 to "assist in overturning the judicial ruling" in a case known as *Cooper v. IBM*. In July 2003, the federal judge in the case ruled that IBM's cash benefit pension plan violated a federal law proscribing discrimination on the basis of age because the rate of benefit accrual under the plan declines as a participant's age increases.¹⁴ In December 2002, the IRS issued proposed regulations on the application of age-discrimination rules to the conversion of traditional pension plans to cash balance plans.¹⁵ Some Members of Congress feared that if the IRS were to make those regulations final, IBM would have a better chance of prevailing if it were to appeal the judge's ruling.¹⁶ The amendment passed by a vote of 258 to 160. Otherwise, the House-passed version of H.R. 2989 endorsed the recommended levels of funding for Treasury departmental offices and operating bureaus approved by the Appropriations Committee.

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

¹⁴ CRS Report RL30196, *Pension Issues: Cash Balance Plans*, by Patrick J. Purcell, p. 15.

¹⁵ *Ibid.*, pp. 15-16.

¹⁶ See Alan K. Ota, "Pension Amendment Unlikely on Transportation-Treasury Bill," *CQ Weekly*, Sept. 13, 2003, p. 2225, available at [<http://www.cq.com>].

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

The Senate Appropriations Committee opposed the merger mainly because the duties and responsibilities of OIG and TIGTA "remain vastly different in substance ... and are not conducive to being integrated." Instead, it recommended an increase in funding for OIG of \$1.6 million and for TIGTA of \$3.8 million in FY2004. But, like H.R. 2989, the bill matched the Administration's recommended increase in funding for FinCen of \$6.1 million, in part to manage the new responsibilities taken on by the bureau under the USA Patriot Act of 2001 (P.L. 107-56). Under the Act, FinCen gains the status of a Treasury Department bureau and has the primary responsibility for enforcing the Department's regulations against money laundering and collecting and sharing financial and other information useful in anti-terrorism investigations.

On October 23, 2003, the Senate substituted the language of S. 1598 as reported favorably by the Appropriations Committee as an amendment to H.R. 2989 and passed it by a vote of 93 to 1. In the debate over the measure, it considered and approved a number of amendments, several of which related to Treasury appropriations. By voice vote, the Senate passed an amendment by Sen. Mary Landrieu that requires the IRS to undertake a comprehensive study of a proposed pilot program to pre-certify eligibility for the EITC. The study would focus on the time and cost to program participants, the administrative cost to the IRS, and the number of participants who are denied certification because of ineligibility or failure to complete the required documents. In addition, the Senate passed by voice vote an amendment by Sen. Tom Harkin to prevent the Treasury Department from implementing a new regulation that would permit companies to convert traditional pension plans to cash balance plans. It was similar in intent to an amendment to the version of H.R. 2989 approved by the House. The principal differences in appropriations for the Treasury Department between the Senate-passed and House-passed versions of H.R. 2989 related to funding of IRS operations.

The House and Senate agreed to a conference to resolve the differences between the two versions of H.R. 2989. On November 12, 2003, the conferees reached an agreement, which was submitted to both houses for approval. Under the agreement, funding for Treasury Department operations in FY2004 would total \$11.166 billion. This was \$317 million greater than the amount enacted for FY2003 but \$177 million less than the amount requested by the Bush Administration, \$107 million less than the amount approved by the House, and \$30 million less than the amount approved by the Senate. In each instance, virtually the entire difference related to funding for the IRS, which would account for 92% of total Treasury appropriations in FY2004. Under the agreement, Treasury departmental offices would receive \$176.1 million;

Treasury programs for capital investment, \$36.4 million; the Office of Inspector General, \$13 million; TIGTA, \$128 million; the Air Transportation Stabilization Program, \$2.5 million; the Treasury Building and Annex Repair and Restoration Fund, \$25 million; FinCen, \$57.6 million; the Financial Management Service, \$228.5 million; the Alcohol and Tobacco Tax and Trade Bureau, \$80 million; the Bureau of Public Debt, \$173.6 million; and the IRS, \$10.245 billion.

Leaders of the House and Senate agreed in late November to incorporate the measure into an consolidated appropriations bill (H.R. 2673) covering seven separate appropriations bills. The conference report on H.R. 2673 (H.Rept. 108-401) included the language of the conference agreement on H.R. 2989. It also imposed an across-the-board cut of 0.59% on all discretionary spending approved in non-defense appropriations bills, including those already enacted. This cut was not reflected in the budget totals discussed above. On December 8, 2003, the House approved the conference report by a vote of 242 to 176. The Senate did likewise on January 22, 2004. President Bush signed the measure into law the next day (P.L. 108-199).

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

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

The proposed budget placed a high priority on improving compliance with tax laws. It would set aside \$133 million for a new program aimed at curbing five sources of tax evasion: (1) the promotion of abusive tax schemes; (2) the misuse of trusts and offshore accounts to hide or illegally lower taxable income; (3) the use of abusive corporate tax avoidance schemes; (4) the under-reporting of income by

upper-income individuals; and (5) the failure of employers to file employment tax returns and pay substantial amounts of employment taxes in a timely manner. The Administration contended that such a program to curb tax evasion would lead to a 72% increase in the number of audits of tax returns for high-income individuals and businesses. Nonetheless, some expressed concern that the Administration's proposed funding for IRS operations fell short of what would be needed to enable the IRS to enforce the tax laws adequately.¹⁷

A key player in the annual appropriations process for the IRS is the IRS Oversight Board, which originated with the IRS Restructuring and Reform Act of 1998. Under the Act, the Board is required to review the annual IRS budget request prepared by the IRS Commissioner and submit its recommendations to the Secretary of the Treasury. The President in turn is required to submit the Board's budget recommendations to Congress along with his own budget request for the IRS.

For FY2004, the Board recommended that the IRS be given a budget of \$10.724 billion, or \$287 million more than the amount requested by the Bush Administration.¹⁸ It also recommended that the IRS hire an additional 2,120 full-time employees in FY2004, compared to the 238 additional full-time employees included in the Administration's request. The Board's budget recommendations were intended to accomplish three goals. One was to achieve a real growth rate of 2% in the next five years for the purpose of channeling adequate resources into efforts to monitor and enforce compliance with tax laws. The second goal was to provide more resources for the BSM, which the Board views as essential to the transformation of the IRS into an efficient, fair, customer-friendly collector of revenue and enforcer of tax laws. The third goal was to restore funds for customer service and tax law enforcement that were diverted in recent years to cover unanticipated expenses, such as unfunded increases in annual pay raises for federal civilian employees. Nearly 85% of the difference between the Administration's budget request for FY2004 and the Board's recommended budget was due to funding for two accounts: processing, assistance, and management; and business systems modernization.

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

¹⁷ Alison Bennett, "Rossotti Details IRS Successes, Notes Much Work Remains for Years Ahead," *Daily Report for Executives*, Bureau of National Affairs, no. 210, Oct. 30, 2002, p. G-6; and George Guttman, "Oversight Board Concerned About IRS Budget Situation," *Tax Notes*, vol. 97, no. 11, pp. 1404-1406.

¹⁸ For more details on the Board's budget recommendations for FY2004, see the statement made by Nancy Killefer, the chair of the IRS Oversight Board, before the House Appropriations Subcommittee on Transportation and Treasury on May 7, 2003, available at [www.nexis.com].

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

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

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

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

The Committee report (S.Rept. 108-146) on the bill praised two IRS programs: the Tax Counseling Program for the Elderly and Low-Income Taxpayer Clinics. It recommended that the former be funded at a level of \$3.9 million and the latter at a level of \$7.0 million in FY2004. In addition, the report recommended that the IRS manage its earned income tax compliance initiative as part of its budget for tax law enforcement, and that the IRS "realign development activities funded under the Information Systems account so that they are managed and integrated formally into Business Systems Modernization activity." It was unclear from the report how the Committee viewed recent controversial proposals to pre-certify the eligibility of

certain taxpayers for the earned income tax credit and to hire private collection agents to collect unpaid or overdue taxes.

On October 23, 2003, the Senate substituted the language of S. 1589 as an amendment to the House-passed version of H.R. 2989 and passed the measure by a vote of 93 to 1. It made no changes in the level of funding in FY2004 for IRS operations approved by the Appropriations Committee. But the Senate did approve by voice vote two amendments that related to the IRS. One would prevent the Treasury Department from using any of the appropriated funds to implement a recently issued IRS final regulation making it easier for companies to convert from traditional pension plans to a cash balance plan. The second amendment would require the IRS to undertake a comprehensive study of its proposed pilot program to pre-certify the eligibility of thousands of taxpayers for the EITC. Among other things, the study would examine the time and cost to program participants and the administrative cost to the IRS, and the number of participants who are denied certification because they are deemed ineligible or failed to complete the required documents.

The version of H.R. 2989 passed by the House gave the IRS about \$76 million more in funding for FY2004 than the Senate-passed version. The difference was distributed among three accounts: processing, assistance, and management (-\$10 million); tax law enforcement (+\$48 million); and information systems (+\$38 million).

Leaders of the House and Senate agreed to a conference to resolve the differences between the two versions of H.R. 2989. Under a conference agreement reached on November 12, 2003, funding for the IRS in FY 2004 would total \$10.245 billion, or \$410 million more than the amount enacted for FY2003 but \$192 million less than the amount requested by the Bush Administration, \$107 million less than the amount approved by the House, and \$31 million less than the amount approved by the Senate. More specifically, the agreement provides \$4.033 billion for processing, assistance and management, of which \$4.1 million must be used to fund the Tax Counseling for the Elderly Program and \$7.5 million is to be made available to fund grants for low-income taxpayer clinics; \$4.196 billion for tax law enforcement; \$1.591 billion for information systems; \$390 million for BSM, none of which may be spent without the prior approval of the House and Senate Appropriations Committees; and \$35 million to administer the health insurance tax credit. Proposed funding for the BSM represented a reduction of \$39 million in the amounts approved by the House and the Senate and could be construed as an expression of congressional dissatisfaction with the results of the program so far and distrust of the ability of IRS managers to remedy known problems with it. The problems reportedly include unanticipated cost increases, delays in the completion of crucial projects, and poor management.

In addition, the conference agreement on H.R. 2989 prohibited the IRS from using appropriated funds to issue final regulations lifting a 1999 moratorium on the conversion of corporate pension plans from traditional defined-benefit plans to cash-balance plans. Cash-balance plans often result from the conversion of traditional defined-benefit pension plans to defined-contribution pension plans. Instead, the agreement required the agency to present to Congress within six months of its

enactment proposed legislation that would “provide transition relief for older and longer-service participants affected by conversions of their employers’ traditional pension plans to cash-balance pension plans.” The agreement also required the IRS to submit to Congress by June 30, 2005 a final report examining various aspects of any program established by the IRS to certify or pre-certify the eligibility of certain taxpayers for the EITC, including the costs incurred by affected taxpayers in participating in the program and the IRS in administering the program.

The conference agreement was incorporated into a consolidated appropriations measure (H.R. 2673) covering seven separate appropriations bills. H.R. 2673 imposed an across-the-board cut of 0.59% in discretionary spending for all federal programs outside of defense and military construction in FY2004. On December 8, 2003, the House approved the conference report for H.R. 2673 (H.Rept. 108-401) by a vote of 242 to 176. The Senate followed suit on January 22, 2004. President Bush signed the measure into law the next day (P.L. 108-199).

Title III: Postal Service

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

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

Source: Figures were taken from an FY2004 Transportation-Treasury Appropriations bill Conference Report Budget Authority table provided by the House Committee on Appropriations.

Note: The Senate table of budget authority lists the Postal Service appropriation under the “Related Agencies” (“Independent Agencies” in the Senate report) Title, rather than as a separate title. The Conference Report table follows this convention.

a. The Consolidated Appropriations Act, 2004 contains an across-the-board rescission of 0.59%; that rescission is not reflected in these figures.

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

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

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

In its detailed justification of its FY2004 budget request, USPS asked Congress for an additional \$350 million (above the OMB proposal of \$65.5 million) in emergency response funds to protect the safety of employees and customers from threats such as the 2001 anthrax attack. The funds would be used to continue acquisition and deployment of ventilation and filtration equipment that was begun with \$762 million provided in FY2002 specifically for emergency response. Neither the Administration’s FY2003 Budget nor its FY2004 Budget included any additional funds for emergency preparedness for the Postal Service. As a condition to receiving the largest part of its previous emergency response funding, on March 6, 2002 USPS submitted to its oversight and appropriations committees an emergency preparedness plan to combat the threat of biological and chemical substances in the mail.¹⁹ The March 6, 2002 emergency preparedness plan did identify substantial needed appropriations of \$799.8 million for FY2003, and \$897.5 million for FY2004.

Both the House and the Senate versions of the FY2004 bill (H.R. 2989) mirrored the Administration’s request, providing \$60 million for FY2004, made up of \$29 million for past revenue forgone, and \$31 million payable in FY2004 though appropriated in the FY2003 law. The House and the Senate also provided \$36.5 million as an advance appropriation for revenue forgone to be payable in FY2005, a provision carried through in the end-of-session consolidated appropriations bill. Neither Committee’s report referred to the Postal Service’s supplementary request for bio-terrorism prevention. Both versions of the bill and the final Consolidated Appropriations Act, 2004 continue long-standing language forbidding USPS to reduce service below the six-day delivery and rural delivery standards that have prevailed since 1983, or to close rural or other small post offices during FY2004. The end-of-session Consolidated Appropriations Act (H.R. 2673; P.L. 108-199) also contained a provision (Division F, title V, section 541) amending 39 U.S.C. 414(h) to extend the authorized sales period for the Breast Cancer Research semi-postal stamp. Sales of the stamp, which fund research into a cure for breast cancer, had

¹⁹ See [http://www.usps.com/news/2002/press/pr02_pmg0313.htm], visited Sept. 11, 2003.

been authorized only through December 31, 2003. The amendment extends the sales authorization through December 31, 2005.

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

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

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

Office	FY2003 Enacted	FY2004 Request	FY2004 House Passed	FY2004 Senate Passed	FY2004 Conference	FY2004 Enacted
Compensation of the President	0.5	—	0.5	0.5	0.5	0.5
The White House Office (salaries and expenses)	50	—	66	62	69	69
Homeland Security Council	19	—	—	8	—	—
Executive Residence at the White House (operating expenses)	12	—	13	13	13	13
White House Repair and Restoration	1	—	4	4	4	4
Council of Economic Advisors	4	—	4	5	5	5
Office of Policy Development	3	—	4	4	4	4
National Security Council	8	—	9	11	11	11
Office of Administration	91	—	83	77	83	83
The White House	—	184	—	—	—	—
Office of Management and Budget	62	77	63	75	67	67
Office of National Drug Control Policy (salaries and expenses)	26	27	29	28	28	28
Office of National Drug Control Policy Counterdrug Technology Assessment Center	48	40	40	42	42	42
Federal Drug Control Programs: High Intensity Drug Trafficking Areas Program	225	206	226	226	226	226
Federal Drug Control Programs: Other Programs	222	250	230	174	229	229

Office	FY2003 Enacted	FY2004 Request	FY2004 House Passed	FY2004 Senate Passed	FY2004 Conference ^a	FY2004 Enacted
Office of the Vice President (salaries and expenses)	4	4	4	4	4	4
Official Residence of the Vice President (operating expenses)	0.3	0.3	0.3	0.3	0.3	0.3
Total, EOP and Funds Appropriated to the President	777	791	776	735	787	787

Source: Figures were taken from an FY2004 Transportation-Treasury Appropriations bill Conference Report Budget Authority table provided by the House Committee on Appropriations.

a. The Consolidated Appropriations Act, 2004 contains an across-the-board rescission of 0.59%; that rescission is not reflected in these figures.

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

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

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

The budget stated that the consolidation "initiative provides enhanced flexibility in allocating resources and staff in support of the President and Vice President, and permits more rapid response to changing needs and priorities."²⁰ The Administration proposed similar consolidations in the FY2002 and FY2003 budgets, but the conference committees for the Treasury and General Government Appropriations

²⁰ U.S. Executive Office of the President, Office of Management and Budget, *Budget of the United States Government Fiscal Year 2004 Appendix* (Washington: GPO, 2003), p. 882. (Hereafter referred to as FY2004 Budget, Appendix.)

Act, FY2002 (P.L. 107-67) and FY2003 (P.L. 108-7, Division J) agreed to continue with separate appropriations for the EOP accounts. A concern of the Administration has been the “needless complexity [of different accounts] that adds expense, that adds burdens, that adds administrative hurdles that they must go through to accomplish anything.”²¹ A concern of Congress about consolidation has been its “legitimate needs and desires to have oversight over spending of public funds.”²²

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

- The White House (Compensation of the President, White House Office (including the Office of Homeland Security), Executive Residence, White House Repair and Restoration, Office of Administration, Office of Policy Development, National Security Council, Council of Economic Advisers)
- Office of Management and Budget
- Office of National Drug Control Policy
- Special Assistance to the President and Official Residence of the Vice President (transfers would be subject to the approval of the Vice President)
- Council on Environmental Quality and Office of Environmental Quality
- Office of Science and Technology Policy
- Office of the United States Trade Representative²³

According to the EOP budget submission, the transfer authority would “allow the President to address, in a limited way, emerging priorities and shifting demands” and would “provide the President with flexibility, improve the efficiency of the EOP, and reduce administrative burdens.”²⁴ The OMB director, or such other officer as the President may designate, could, 15 days after giving notice to the Senate and House Committees on Appropriations, transfer up to 10% of any appropriation to any other appropriation, to be merged with, and available for, the same time and for the same purposes as the appropriation to which transferred. An appropriation could not be increased by more than 50% by such transfers.²⁵

²¹ Representative Ernest Istook, then chairman of the Subcommittee on Treasury, Postal Service and General Government of the House Committee on Appropriations, discussing the FY2002 proposal for consolidation of the Executive Office of the President accounts. *Congressional Record*, daily edition, July 25, 2001, p. H4570.

²² *Ibid.*

²³ FY2004 Budget, Appendix, p. 882. U.S. Executive Office of the President, *Fiscal Year 2004 Congressional Budget Submission* (Washington: GPO, [Feb. 2003]), p. 11. (Hereafter referred to as EOP Budget Submission.)

²⁴ EOP Budget Submission, p. 11.

²⁵ *Ibid.*

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

Last year, the Committee gave this request considerable deliberation and concluded that the existing structure served the Committee's and the public's need for transparency in the funding and operation of these important functions well. The existing structure also provides the executive branch with the flexibility it needs to reprogram funds within accounts to address unforeseen budget needs upon the notification and approval of the Committee. As noted in discussions with administration officials in past years, at no time has this Committee rejected an administration's request to reprogram existing funds within accounts in this Title.²⁶

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

Compensation of the President. The President's FY2004 budget proposed an appropriation of \$450,000, which includes an expense allowance of \$50,000. This is the same amount as was appropriated in FY2003. The salary of the President is \$400,000 *per annum*, effective January 20, 2001. The House and Senate Committees on Appropriations recommended, the House and Senate passed, and the law provides the same amount as the President requested. The law also amends 3 U.S.C. 102 to provide that any unused amount of the expense allowance shall revert to the Treasury pursuant to 31 U.S.C. 1552 and that no amount of the allowance shall be included in the President's gross income.

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

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

²⁶ S.Rept. 108-146, p. 132.

‘report’ that said very little about the status of efforts in this regard.”²⁷ (This provision is not included in the conference agreement as the report has been submitted.)

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

On repeated occasions, the Committee has sought specific answers to questions about the use of non-federal funds for renovating and furnishing GSA facilities occupied by agencies of the Executive Office of the President. In particular, the Committee believes more information is needed on the use of non-federal funding for renovation and furnishing efforts for the Eisenhower Executive Office Building [EEOB], for which \$65,757,000 is included in this bill. The Committee directs EOP to review and report on the use of non-federal funds for renovation and furnishings in the [EEOB] should identify the federal agency that coordinated the work funded by non-federal sources, the specific sources and amounts of non-federal funding used, a description of each project, and an explanation of why non-federal funds were used in each specific instance. Finally, the report should determine which agency’s gift authority was used to accept the contribution of non-federal funds and whether this authority was used properly. Given EOP’s reluctance to provide information on this subject thus far, a provision is included in the bill prohibiting the obligation of more than \$35,000,000 on this project until this report is submitted to the Congress.²⁸

The Senate Committee on Appropriations recommended and the Senate passed an appropriation of \$61.9 million, “a decrease of \$8,331,000 below the budget estimate as funds requested under this account for the Homeland Security Council are provided in a separate account.”²⁹ Of the total, \$8.65 million would be available for reimbursements to the White House Communications Agency.

The law provides an appropriation of \$69.168 million. Of the total, \$8.65 million would be available for reimbursements to the White House Communications Agency.

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

²⁷ H.Rept. 108-243, pp. 163-164.

²⁸ H.Rept. 108-243, p. 164.

²⁹ S.Rept. 108-146, p. 132.

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

It is clear that most of [the responsibilities of OHS] have now been assumed by the Secretary of the Department of Homeland Security [DHS]. Although the Administration has changed the "Office of Homeland Security" to the "Homeland Security Council," it is not clear what work remains that cannot be effectively performed by the [DHS]. Although the Committee understands the President's need for policy support and advice, it is not clear why that would require 66 staff, given the existence and support of the [DHS].³⁰

The Senate Committee on Appropriations recommended and the Senate passed the same appropriation as the President requested. The Committee did not approve funding for the council within the White House Office, believing that the council "should be funded as a separate account, which is consistent with the budgetary treatment of its predecessor, the Office of Homeland Security."³¹

The law provides an appropriation of \$7.231 million and funds the council under the White House office.

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

The President's FY2004 budget proposed an overall appropriation of \$16.7 million for this account, an increase of 25.4% over the \$13.3 million appropriated in FY2003. For the executive residence, the budget proposed an appropriation of \$12.5 million, an increase of 2.9% over the \$12.3 million appropriated in FY2003. For repair and restoration of the White House, the budget proposed an appropriation of \$4.2 million, an increase of 254.4% over the \$1.2 million appropriated in FY2003. The EOP budget submission states that the repair and restoration funding would be used to renovate various specific electrical, mechanical, and control system components; replace two power servers; and complete the second phase of the restoration of the East and West Wing exterior.³²

Maintenance and repair costs for the White House are also funded by the National Park Service as part of that agency's responsibility for national monuments. Entertainment costs for state functions are funded by the Department of State. Reimbursable political events in the Executive Residence are to be paid for in advance by the sponsor, and all such advance payments are to be credited to a Reimbursable Expenses account. The political party of the President is to deposit \$25,000 to be available for expenses relating to reimbursable political events during the fiscal year. Reimbursements are to be separately accounted for and the

³⁰ H.Rept. 108-243, p. 163.

³¹ S.Rept. 108-146, p. 135.

³² EOP Budget Submission, p. 62.

sponsoring organizations billed, and charged interest, as appropriate. The staff of the Executive Residence must report to the Committees on Appropriations, after the close of each fiscal year, and maintain a tracking system on the reimbursable expenses.

The House and Senate Committees on Appropriations recommended, the House and Senate passed, and the law provides the same appropriations as the President requested. The House committee report accompanying H.R. 2989 states that the repair and restoration funds “will finance the ongoing restoration of the east and west wing exterior (\$3,500,000), replacement or repair of various electrical, mechanical, and control system components (\$530,000), and replacement of computer servers and backup power supplies (\$195,000).”³³

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

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

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

An additional programmatic increase of \$70,000, or 1.7 percent was requested for costs associated with official Vice Presidential travel. Since September 11, 2001, the Vice President’s travel has been augmented by travel to undisclosed locations for security purposes. This travel is 100 percent official ...³⁴

The House and Senate Committees on Appropriations recommended, the House and Senate passed, and the law provides the same appropriation as the President requested. This funding level “will allow for 24 full-time permanent positions in fiscal year 2004,” according to the Senate committee report accompanying S. 1589.³⁵ The law places the appropriation at the end of the title as proposed by the House.

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

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

The House and Senate Committees on Appropriations recommended, the House and Senate passed, and the law provides the same appropriation as the President requested. In its report accompanying S. 1589, the Senate Committee stated that it “has had a longstanding interest in the condition of the residence and expects to be kept fully apprised by the Vice President’s office of any and all renovations and

³³ H.Rept. 108-243, p. 165.

³⁴ EOP Budget Submission, p. 164.

³⁵ S.Rept. 108-146, p. 133.

alterations made to the residence by the Navy.”³⁶ The law places the appropriation at the end of the title as proposed by the House.

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

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

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

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

The President’s FY2004 budget proposed an appropriation of \$4.1 million, an increase of 27.2% over the \$3.2 million appropriated in FY2003. Of the total, an estimated \$2.1 million supports the Office of Policy Development’s DPC functions and \$2.0 million supports the office’s NEC functions.³⁷

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

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

The President’s FY2004 budget proposed an appropriation of \$10.6 million, an increase of 35.8% over the \$7.8 million appropriated in FY2003. Of the total, \$9.8 million funds the operations of the NSC, including the Office for Combating Terrorism, and \$741,000 funds the President’s Foreign Intelligence Advisory Board.³⁸

³⁶ S.Rept. 108-146, p. 134.

³⁷ EOP Budget Submission, p. 102.

³⁸ EOP Budget Submission, p. 129.

The House Committee on Appropriations recommended and the House passed an appropriation of \$9 million, \$1.6 million less than the President's request. The Senate Committee on Appropriations recommended, the Senate passed, and the law provides the same appropriation as the President requested. This funding level "will support 60 full-time equivalent positions, or the same since the fiscal year 1996 level for the normal activities of the NSC."³⁹

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

The President's FY2004 budget proposed an appropriation of \$77.2 million, a decrease of 15.1% from the \$90.9 million appropriated in FY2003. Of the total, \$56.6 million is for salaries and expenses and \$20.6 million is for capital investment.⁴⁰

The House Committee on Appropriations recommended and the House passed an appropriation of \$82.8 million of which \$17.5 million would remain available until expended for the Capital Investment Plan for continued modernization of the information technology infrastructure within the EOP. This amount is \$5.7 million more than the President's request. The committee report accompanying H.R. 2989 stated that the "recommendation maintains funding to continue the core enterprise pilot program in this account (+\$8,258,000) and acknowledges program savings for security guard services provided to the Office of Science and Technology Policy (-\$1,096,000) and for information technology contract services provided to the Homeland Security Council (-\$1,500,000)." The Committee also recommended continuation of the "pilot project to determine whether economies of scale could be achieved through centralized procurement of certain common goods and services."⁴¹

The Senate Committee on Appropriations recommended and the Senate passed the same appropriation as the President requested. Of the total, \$20.578 million would remain available until expended for the Capital Investment Plan for continued modernization of the information technology infrastructure within the EOP. The EOP would submit a report to the Committees on Appropriations that includes a current description of (1) the Enterprise Architecture, as defined in OMB Circular A-130 and the Federal Chief Information Officers Council guidance; (2) the Information Technology (IT) Human Capital Plan; (3) the capital investment plan for implementing the Enterprise Architecture; and (4) the IT capital planning and investment control process. The report would be reviewed and approved by OMB, and reviewed by GAO. In its report accompanying S. 1589, the Committee states its continuing support for the Centralized Procurement Pilot Project, "but recommends funding for such items [information technology, rent, printing and reproduction,

³⁹ S.Rept. 108-146, p. 135.

⁴⁰ EOP Budget Submission, p. 73.

⁴¹ H.Rept. 108-243, pp. 166-167.

supplies and materials and equipment] in individual offices within the EOP until saving and other benefits are identified.”⁴²

The law provides the House-passed appropriation. Of the total, \$20.578 million would remain available until expended for the Capital Investment Plan for continued modernization of the information technology infrastructure within the EOP. The law includes funding for the core enterprise pilot program (+\$8,258,000) and reflects reductions for security guard services provided to the Office of Science and Technology Policy (-\$1,096,000) and for information technology contract services provided to the Homeland Security Council (-\$1,500,000). The Administration is encouraged to include all EOP funds for the core enterprise pilot program under this appropriation in the FY2005 budget request.

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

The President’s FY2004 budget proposed an appropriation of \$77.4 million, an increase of 24.9% over the \$62.0 million appropriated in FY2003. According to the EOP budget submission, “Since the start of the Administration, OMB has maintained a very tight budget” and “In light of constrained funding levels over the past two years, the majority of the increase in the FY2004 request will permit OMB to continue current operations.”⁴³

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

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

⁴² S.Rept. 108-146, p. 136.

⁴³ EOP Budget Submission, p. 189.

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

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

[T]o involve the House and Senate Committees on Appropriations in the development of PART [program assessment rating tool] ratings [which rate the effectiveness of federal programs] at all stages in the process.⁴⁴

The Senate Committee on Appropriations recommended and the Senate passed an appropriation of \$75.4 million, \$2 million less than the President's request. "[T]he reduction is manageable by limiting the growth for staff and professional development," according to the committee report accompanying S. 1589.⁴⁵ The Committee also expressed its concern "that agencies are shielding significant, influential data and related documents funded by the Federal government from the requirements of the Federal Data Quality Act [FDQA]" and "directs the Administrator of the Office of Information and Regulatory Affairs [OIRA] to submit a report to the House and Senate Committees on Appropriations not later than 30 days on how guidelines to agencies may be updated to address these concerns and improve the transparency of agency science." Expressing strong support for the Truman Scholarship program, the Committee directs the program's board "to strictly adhere to its statutory mandate to assure that at least one Truman scholar shall be selected each year from each State in which there is at least one resident applicant who meets the minimum criteria established by the Foundation."⁴⁶

The law provides an appropriation of \$67.159 million and includes the following instructions for the Office of Information and Regulatory Affairs (OIRA) and the implementation of the Federal Data Quality Act.

The conferees direct that \$1,000,000 of the total funding provided in [the OIRA] appropriation be withheld from obligation until resolution of existing programmatic concerns by House conferees are addressed and the House and Senate Committees on Appropriations approve of such obligation.

The conferees are concerned that agencies are not complying fully with the requirements of the Federal Data Quality Act (FDQA). The conferees agree that data endorsed by the Federal Government should be of the highest quality, and that the public should have the opportunity to review the data disseminated by the Federal Government for its accuracy and have available to it a streamlined procedure for correcting inaccuracies. The Administrator [of OIRA] is directed to submit a report to the House and Senate Committees on Appropriations by June 1, 2004 on whether agencies have been properly responsive to public requests for correction of information pursuant to the FDQA, and suggest

⁴⁴ H.Rept. 108-243, pp. 167-169.

⁴⁵ S.Rept. 108-146, p. 136.

⁴⁶ Ibid., p. 137.

changes that should be made to the FDQA or OMB guidelines to improve the accuracy and transparency of agency science.⁴⁷

The House- and Senate-passed funding and the law provide that none of the funds appropriated or made available to OMB

may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937;

may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committees on Appropriations or the Committees on Veterans' Affairs or their subcommittees ... the preceding shall not apply to printed hearings released by the Committees on Appropriations or the Committees on Veterans' Affairs;

may be available to pay the salary or expenses of any employee of the Office of Management and Budget who calculates, prepares, or approves any tabular or other material that proposes the sub-allocation of budget authority or outlays by the Committees on Appropriations among their subcommittees.

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

The President's FY2004 budget proposed an appropriation of \$27.3 million, an increase of 3.8% over the \$26.3 million appropriated in FY2003. Of the total, \$25.9 million is for salaries and expenses operations and \$1.4 million is for policy research.⁴⁸

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

The Senate Committee on Appropriations recommended, the Senate passed, and the law provides an appropriation of \$27.997 million, \$706,500 more than the President's request. Of the total, \$1.35 million would remain available until expended for policy research and evaluation and \$1.5 million is to be used for the National Alliance for Model State Drug Laws.

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

⁴⁷ H.Rept. 108-401, p. 1016.

⁴⁸ EOP Budget Submission, p. 216.

The President's FY2004 budget requested \$40 million, a decrease of 16.1% from the \$47.7 million appropriated in FY2003. Of the total, \$18 million is for counternarcotics research and development projects (which shall be available for transfer to other federal departments or agencies) and \$22 million is for the continued operation of the technology transfer program.⁴⁹

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

The Senate Committee on Appropriations recommended and the Senate passed an appropriation of \$42 million, \$2 million more than the President's request. Of the total, \$18 million would be for counternarcotics research and development projects and would be available for transfer to other federal departments or agencies. The continuation of the technology transfer program to State and local law enforcement in their efforts to combat drugs is funded at \$24 million. Several Committee expectations with regard to CTAC are stated in the report accompanying S. 1589. In addition, ONDCP is directed "to report to the House and Senate Committees on Appropriations, no later than December 15, 2003, on CTAC funding allocations, specifically providing a detailed spending plan for the research and development program as well as the technology transfer program for fiscal years 2001, 2002, and 2003." The Committee requests "that the fiscal year 2005 budget request include a specific accounting of the total number of grant applications received and the number awarded in the previous year so that the Committee may have a true understanding of CTAC's ability to meet demand."⁵⁰

The law provides the Senate-passed appropriation and includes the following instructions.

The conferees direct ONDCP to report to the Committees on Appropriations, no later than December 31, 2003, on CTAC funding allocations, specifically providing a detailed spending plan for both the research and development program and the technology transfer program for fiscal years 2001-2003. In addition, the conferees direct the chief scientist to notify the Committees on Appropriations on how fiscal year 2004 funds will be spent, as well as to provide biannual reports on priority counterdrug enforcement research and development requirements and the status of projects funded by CTAC. Finally, the conferees direct ONDCP to include in the fiscal year 2005 budget request a specific accounting of the total number of grant applications received and the number awarded in the previous fiscal year.⁵¹

Federal Drug Control Programs. The High Intensity Drug Trafficking Areas (HIDTA) program provides assistance to federal, state, and local law

⁴⁹ FY2004 Budget, Appendix, p. 1053.

⁵⁰ S.Rept. 108-146, p. 138.

⁵¹ H.Rept. 108-401, p. 1017.

enforcement entities operating in those areas most adversely affected by drug trafficking. Funds are disbursed at the discretion of the director of ONDCP for joint local, state, and federal initiatives.

The President's FY2004 budget proposed an appropriation of \$206.4 million, a decrease of 8.2% from the \$224.9 million appropriated in FY2003. No less than 51% of the total would be transferred to State and local entities for drug control activities, which would be obligated within 120 days of enactment of the Transportation/Treasury appropriations act. Up to 49% of the total would remain available until September 30, 2005, and could be transferred to federal agencies and departments at a rate to be determined by the director, of which not less than \$2.1 million would be used for auditing services and associated activities, and at least \$500,000 of the \$2.1 million would be used to develop and implement a data collection system to measure the performance of the High Intensity Drug Trafficking Areas Program.⁵²

The House Committee on Appropriations recommended and the House passed an appropriation of \$226.350 million, \$20 million more than the President's request. According to the committee report accompanying H.R. 2989, the increase is

to meet requirements to fully fund existing HIDTA program activity, to expand HDTAs where such expansion is justified, to fund new HDTAs as appropriate, and to fund HIDTA activities through the Central Priority Organization Targets (CPOT) initiative The Committee directs that HDTAs existing in fiscal year 2003 shall receive funding at least equal to the fiscal year 2003 initial allocation level, which does not include funding provided through the CPOT initiative As ONDCP reviews candidates for new HIDTA funding, the Committee recommends that it consider the following: increased funding for the Central Florida, Central Valley, Lake County, and Midwest (Platte and Madison counties, Nebraska) HDTAs; and expansion of the Appalachian HIDTA (Letcher County, Kentucky).⁵³

The Senate Committee on Appropriations recommended and the Senate also passed an appropriation of \$226.350 million, \$20 million more than the President's request. The additional amount, which is subject to reprogramming guidelines, is to fully fund existing HIDTA program activities, expand existing HDTAs where warranted, and fund new HDTAs and new HIDTA activities that are consistent with the program's mission. Existing HDTAs are to be funded at no less than the FY2003 initial allocation level, unless the ONDCP Director submits to, and the House and Senate Committees on Appropriations approve, a request to reprogram funds "based on clearly articulated priorities for the HIDTA program, as well as published ONDCP performance measures of effectiveness."⁵⁴ No funds would be used for any further or additional consolidation of the Southwest Border HIDTA, except for the operation of an office with a coordinating role, until the office submits a report on the structure of the HIDTA. According to the committee report accompanying S. 1589:

⁵² FY2004 Budget, Appendix, p. 1051.

⁵³ H.Rept. 108-243, p. 170.

⁵⁴ S.Rept. 108-146, p. 139.

In allocating the HIDTA funds, the Committee expects the Director of ONDCP to ensure that the activities receiving these limited additional resources are used strictly for implementing the strategy for each HIDTA, taking into consideration local conditions and resource requirements. These funds should not be used to supplant existing support for ongoing Federal, State, or local drug control operations normally funded out of the operating budgets of each agency. The remaining funds may be transferred to Federal agencies and departments to support Federal antidrug activities.⁵⁵

Several Committee expectations with regard to the HIDTA program are stated in the report. Additionally, the Committee directs ONDCP to consult with the House and Senate Committees on Appropriations “in the developmental stages of any new grant programs that it plans to institute in the future.”⁵⁶ ONDCP also is directed by the Committee “to coordinate with other Federal agencies with a core mission to target international drug traffickers in an effort to pool personnel, intelligence, and available resources to further the originally conceived CPOT [Consolidated Priority Organizational Targets] program and to report to the House and Senate Committees on Appropriations no later than 90 days after enactment of this Act on the progress of these efforts.” The General Accounting Office is directed “to conduct a study on the effectiveness of the CPOT program, its conformity with the HIDTA mission ... and what resources other Federal law enforcement agencies contribute to the program.”⁵⁷ Committee views with regard to methamphetamine reduction, and issues specific to the Midwest, New England, Southwest Border, Appalachia, Northwest, and Southern Ohio HDTAs also are expressed in the report.⁵⁸

The law provides the same appropriation as passed by the House and Senate. No less than 51% of the total shall be transferred to State and local entities for drug control activities, which shall be obligated within 120 days of enactment of the Transportation/Treasury appropriations act. Up to 49% of the total shall remain available until September 30, 2005, and may be transferred to federal agencies and departments at a rate to be determined by the director, of which not less than \$2.1 million shall be used for auditing services and associated activities, and at least \$500,000 of the \$2.1 million shall be used to develop and implement a data collection system to measure the performance of the HIDTA program. HDTAs designated as of September 30, 2003 shall be funded at no less than the FY2003 initial allocation levels unless the director submits to the Committees on Appropriations and the committees approve, justification for changes in those levels based on clearly articulated priorities for the HIDTA programs as well as published ONDCP performance measures of effectiveness. A request, complying with reprogramming guidelines, shall be submitted to the Committees on Appropriations for approval prior to the obligation of funds of an amount in excess of the FY2004 budget request.

⁵⁵ Ibid.

⁵⁶ Ibid., p. 140.

⁵⁷ Ibid.

⁵⁸ S.Rept. 108-146, pp. 140-142.

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

The President's FY2004 budget proposed an appropriation of \$250 million, an increase of 12.7% over the \$221.7 million appropriated in FY2003. Of the total, \$170 million is to support a national media campaign, as authorized by the Drug-Free Media Campaign Act of 1998; \$70 million is for a program of assistance and matching grants to local coalitions and other activities, as authorized in chapter 2 of the National Narcotic Leadership Act of 1988, as amended; \$4.5 million is for the Counterdrug Intelligence Executive Secretariat; \$2 million is for evaluations and research related to National Drug Control Program performance measures; \$1 million is for the National Drug Court Institute; \$1.5 million is for the United States Anti-Doping Agency for anti-doping activities; and \$1 million is for the United States membership dues to the World Anti-Doping Agency.⁵⁹

The House Committee on Appropriations recommended and the House passed an appropriation of \$230 million. The money would be allocated in the same manner as the President proposed except that \$150 million would support a national media campaign. This amount is \$20 million less than the President's request. According to the committee report accompanying H.R. 2989, "The Committee has changed the name of the Special Forfeiture Fund account to Other Federal Drug Control Programs as requested by the President, reflecting the fact that this account receives no forfeiture funds but only direct appropriations." The report "encourages ONDCP to explore options for using alternative media in schools as a way of utilizing traditional learning tools in non-traditional ways, such as children's books tailored with an anti-drug message, provided that such media can be utilized in a manner consistent with the goals and parameters of the Media Campaign."

The report also states the Committee's belief "that without a convincing demonstration that the Media Campaign has had an impact on youth drug use that can be at least somewhat different from the general trends in such use, any increase in funding for the Media Campaign cannot be justified at this time." The Director of ONDCP is directed to submit an evaluation plan for the Media Campaign for fiscal years 2004-2008 to the Committees on Appropriations no later than 120 days after this Act's enactment. The Committee also is requiring "that no less than 77 percent of funds be spent on advertising time and space."⁶⁰

The Senate Committee on Appropriations recommended and the Senate passed an appropriation of \$174 million, \$76 million less than the President's request. Of the total, \$100 million is for continuation of the National Youth Anti-Drug Media Campaign; \$7.2 million is for the United States Anti-Doping Agency; \$60 million is for the Drug-Free Communities Program (including \$1 million to continue the National Community Anti-Drug Coalition Institute); \$1.5 million is for the Counterdrug Executive Secretariat; \$1 million is for the National Drug Court

⁵⁹ FY2004 Budget, Appendix, p. 1052.

⁶⁰ H.Rept. 108-243, pp. 171-172.

Institute; \$2 million is for Performance Measures Development; and \$800,000 is for United States dues to the World Anti-Doping Agency. Noting that the current source of funding for this account is direct appropriations, the Committee concurred with changing the name of the account.

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

Today, a large portion of the campaign's budget pays for outside media and advertising consultants and the Committee is concerned about the amount of resources that are being consumed by these parties. The Committee has provided \$100,000,000 for the national media campaign and directs that no less than 80 percent of the funding provided be used for the purchase of advertising time and space unless ONDCP submits and the House and Senate Committees on Appropriations approves a request for reprogramming of the funds based on clearly articulated principals and priorities. The Committee directs the General Accounting Office to conduct a study to determine the extent to which outside consultants are being used by the Media Campaign, the cost-effectiveness of this method, and if this system is producing more effective ads that aid ONDCP in its core mission.⁶¹

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

It has come to the Committee's attention however, that while ONDCP is purchasing peak time for specific ads, they are agreeing to have that time and space matched with different ads at different times. The Committee believes that this violates the intent of Congress and directs ONDCP to provide a detailed report to the House and Senate Committees on Appropriations regarding all advertising, their placement and what matches are being provided by all media in all markets. Further, the Committee directs ONDCP to more closely scrutinize the matching proposals and to ensure that the one to one match more appropriately mirrors the time and space that has been purchased.⁶²

The report also states that "the Committee intends to rely on the scientifically rigorous NIDA study to gauge [the advertising campaign's] ultimate impact."⁶³

The law provides an appropriation of \$229 million. Of the total, \$145 million is to support a national media campaign (no less than 78% shall be used to purchase advertising time and space); \$70 million is to continue a program of matching grants to drug-free communities (of which \$1 million is a directed grant to the Community Anti-Drug Coalitions of America for the National Community Anti-Drug Coalition Institute; \$3 million is for the Counterdrug Intelligence Executive Secretariat; \$2 million is for evaluation and research related to National Drug Control Program performance measures; \$1 million is for the National Drug Court Institute; \$7.2

⁶¹ S.Rept. 108-146, p. 143.

⁶² Ibid.

⁶³ Ibid., p. 144.

million is for the United States Anti-Doping Agency (USADA) for anti-doping activities; and \$800,000 is for the United States membership dues to the World Anti-Doping Agency. The funds may be transferred to other federal departments and agencies to carry out such activities.

With regard to the USADA, the conferees direct the agency to provide the Committees on Appropriations with a prior year expenditure report and a detailed spending plan for FY2004 no later than 120 days after the enactment of the Transportation and Treasury appropriations act. Each report is to include USADA's efforts to secure funding from sources other than the federal government. As for the National Youth Anti-Drug Media Campaign, the conferees reemphasize the need to demonstrate that "welcome trends in the incidence of youth drug use" can be linked to the media campaign. ONDCP is directed to submit an FY2004-FY2008 evaluation plan for the media campaign to the Committees on Appropriations no later than 120 days after the enactment of the Transportation and Treasury appropriations act. The conferees further direct ONDCP to provide a detailed report to the Committees on Appropriations on the "type and content of all advertising, its timing and placement in media markets, and the matches provided for all advertising."⁶⁴

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

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

Title V: Independent Agencies

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

Agency	FY2003 Enacted	FY2004 Request	FY2004 House Passed	FY2004 Senate Passed	FY2004 Conference	FY2004 Enacted
National Transportation Safety Board	72	72	77	73	74	74
Federal Election Commission	50	50	50	50	51	51
Election Assistance Commission	835	500	500	1,500	501	501
Federal Labor Relations Authority	29	30	30	30	30	30
Federal Maritime Commission	17	18	18	18	18	18
General Services Administration	1,222	464	426	615	649	649
Merit Systems Protection Board	34	36	33	36	33	33

⁶⁴ H.Rept. 108-401, p. 1018.

Agency	FY2003 Enacted	FY2004 Request	FY2004 House Passed	FY2004 Senate Passed	FY2004 Conference	FY2004 Enacted
Morris K. Udall Foundation	3	1	3	3	3	3
National Archives and Records Administration	262	298	300	269	309	309
Office of Personnel Management (total)	16,558	18,012	17,506	17,512	17,513	17,513
Government Payments for Annuitants, Employees Health Benefits	6,853	7,219	7,219	7,219	7,219	7,219
Government Payments for Annuitants, Employee Life Insurance	34	35	35	35	35	35
Payment to Civil Service Retirement and Disability Fund	9,410	9,987	9,987	9,987	9,987	9,987
Office of Special Counsel	12	14	14	14	14	14
United States Tax Court	37	40	40	40	40	40
Total, Independent Agencies	19,151	19,555	19,021	*20,180	*19,259	*19,259

Source: Figures were taken from an FY2004 Transportation-Treasury Appropriations bill Conference Report Budget Authority table provided by the House Committee on Appropriations.

Note: A newly created independent agency which begins operation in FY2004, the Election Assistance Commission, received an additional appropriation of \$1 billion for election reform grants in a separate division of the appropriations act.

*The Senate Committee on Appropriations and the Conference Report table list the Postal Service under the Independent Agencies Title, rather than as a separate title. For comparative purposes, the Postal Service appropriation (\$97 million) has been subtracted from the Independent Agencies total Senate and Conference reports' total figure.

a. The Consolidated Appropriations Act, 2004 contains an across-the-board rescission of 0.59%; that rescission is not reflected in these figures.

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

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

The House-passed bill contained the same \$50.4 million funding level as requested by the Administration and the agency, with a stipulation that no less than \$6.4 million be used for automated data processing systems. The House bill also

contained two legislative provisions added by the Appropriations Committee: to extend the FEC's administrative fines program by two years, through the end of 2005, and to allow reports filed by overnight delivery, priority, or express mail to be considered as timely based on the postmark or, if by non-U.S. Postal Service carriers, by the date delivered to that carrier.

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

The conference version appropriates \$51.2 million for the FEC, with the additional \$800,000 above the House and Senate figure designated for interim activities of the agency's Office of Election Administration, pending its incorporation into the newly created Election Assistance Commission. Conferees included the House bill's stipulation that no less than \$6.4 million be used for automated data processing systems, as well as the House's legislative provisions dealing with extension of the administrative fines program and the timing of filing of reports. In a separate division of the Consolidated Appropriations Act, 2004 (Division H, Section 159), conferees added \$1 billion for the activities of the Election Assistance Commission.

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

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

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

Fund / Office	FY2003 Enacted	FY2004 Request	FY2004 House Passed	FY2004 Senate Passed	FY2004 Conference ^a	FY2004 Enacted
Federal Buildings Fund						
Appropriations	373	217	247	407	446	446

Fund / Office	FY2003 Enacted	FY2004 Request	FY2004 House Passed	FY2004 Senate Passed	FY2004 Conference ^a	FY2004 Enacted
Limitations on Obligations	6,567	6,634	6,558	6,772	6,812	6,812
Government-wide Policy	66	74	56	62	56	56
Operating Expenses	72	85	79	85	88	88
Office of Inspector General	38	39	39	39	39	39
Allowances and Office Staff for Former Presidents	3	3	3	3	3	3
Electronic Government (E-Gov) Fund	5	45	1	5	3	3
Election Reform Payments and Reimbursements	665	—	—	—	—	—
GSA appropriations total	1,222	464	426	615	649	649

Source: Figures were taken from an FY2004 Transportation-Treasury Appropriations bill Conference Report Budget Authority table provided by the House Committee on Appropriations.

a. The Consolidated Appropriations Act, 2004 contains an across-the-board rescission of 0.59%; that rescission is not reflected in these figures.

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

As reconciled by agreement to the conference report (H.Rept. 108-401), P.L. 108-199 authorizes a total of \$56.4 million for government-wide policy and \$88.1 million for operating expenses; \$39.2 million for the Office of Inspector General; \$3.4 million for allowances and office staff for former Presidents; and \$3.0 million to remain available until expended for the electronic government fund.

As agreed to in the Senate, S.Amdt. 1943 (to H.R. 1989) recommended a total of \$61.8 million for government-wide policy and \$85.1 million for operating expenses; \$39.2 million for the Office of Inspector General; \$3.4 million for allowances and office staff for former Presidents; and \$5.0 million to remain available until expended for the electronic government fund.

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

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

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

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

As reconciled by agreement to the conference report (H.Rept. 108-401), P.L. 108-199 authorizes that an additional \$446.0 million be deposited into the FBF, for a total of \$6,758.2 million. Of this total, \$708.3 million is to remain available until expended for new construction, including \$204.6 million for nine courthouses. An additional \$991.3 million is to remain available until expended for repairs and alterations. This amount includes \$208.2 million for repairs to five existing courthouse; \$5.0 million to implement a chlorofluorocarbons program; \$20.0 million for a glass fragmentation program; and amounts necessary to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property as may be appropriate to enable the U.S. Secret Service to perform its protective functions.

As agreed to in the Senate, S.Amdt. 1943 (to H.R. 2989) recommended that an additional \$407.0 million be deposited into the FBF, for a total of \$6,717.3 million. Of this total, \$659.7 million was to remain available until expended for new construction. An additional \$1,000.9 million was to remain available until expended for repairs and alterations.

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

H.R. 2989, as introduced, reported, and passed by the House, recommended that an additional \$247.4 million be deposited into the FBF, for a total of \$6,557.5 million. Of this total, \$406.1 million was to remain available until expended for new

construction. An additional \$1,010.5 million was to remain available until expended for repairs and alterations. This amount included \$208.2 million for repairs to five existing courthouses; \$20.0 million to implement a glass fragmentation program; \$5.0 million to implement a chlorofluorocarbons program; and for funding any costs associated with implementing security improvements in federal buildings.

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

Electronic Government Fund. The Senate and House adopted the conferees' recommended allocation of \$3 million for the e-gov fund, a midpoint compromise between the amounts initially approved by each chamber. This appropriation is \$2 million less than the amounts provided in FY2002 and FY2003 and considerably less than the \$45 requested by the President for FY2004.

The Senate had initially approved the appropriators' recommended \$5 million for the e-gov fund for FY2004, the same amount recommended and ultimately approved for FY2003. House appropriators had initially recommended only \$1 million for the e-gov fund for FY2004, and this was subsequently approved by the House. The House committee report offered no explanation for the reduced amount. The account statement noted that the fund has been authorized by the E-Government Act of 2002, which had previously been a matter of concern for appropriators.⁶⁵ Under the terms of the authorizing provision, the fund is administered by the Administrator of General Services as a GSA account to support projects approved by the director of OMB. No transfers of monies from the fund to federal agencies may be made until 10 days after a proposed spending plan and justification for each project to be undertaken using such monies has been submitted to the Committees on Appropriations.

Funding for the Electronic Government Fund was a somewhat contentious matter between the President and Congress in FY2003, as it had been in FY2002. On February 28, 2001, in advance of his proposed budget for FY2002, the President released: *A Blueprint for New Beginnings: A Responsible Budget for America's Priorities*. Intended as a 10-year budget plan, the *Blueprint*, among other innovations, proposed the establishment of an electronic government account seeded with "\$10 million in 2002 as the first installment of a fund—that will grow to a total of \$100 million over three years—to support interagency electronic Government (e-gov) initiatives." Managed by OMB, the fund was foreseen as supporting "projects

⁶⁵ See 116 Stat. 2899 at 2906; 44 U.S.C. 3604.

that operate across agency boundaries,” facilitating “the development of a Public Key Infrastructure to implement digital signatures that are accepted across agencies for secure online communications,” and furthering “the Administration’s ability to implement the Government Paperwork Elimination Act of 1998, which calls upon agencies to provide the public with optional use and acceptance of electronic information, services and signatures, when practicable, by October 2003.”⁶⁶ About one month later, on March 22, OMB Deputy Director Sean O’Keefe announced that the Bush Administration had decided to double the amount to be allocated to the e-gov fund, bringing it to \$20 million.⁶⁷

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

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

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

Seeking \$45 million for the e-gov fund, the budget acknowledged that this amount was “a significant increase over the \$20 million requested in 2002,” but noted that the request “is supported by specific project plans developed by the

⁶⁶ U.S. Executive Office of the President, Office of Management and Budget, *A Blueprint for New Beginnings*, pp. 179-180.

⁶⁷ William Matthews, “Bush E-gov Fund to Double,” *Federal Computer Week*, vol. 15, Mar. 26, 2001, p. 8.

Quicksilver Task Force.”⁶⁸ Furthermore, according to the fund account statement, these monies “would also further the Administration’s implementation of the Government Paperwork Elimination Act (GPEA) of 1998, which calls upon agencies to provide the public with optional use and acceptance of electronic information, services, and signatures, when practicable, by October 2003.”

The House appropriators again rejected the amount requested by the President and recommended \$5 million for the fund, reiterating, as previously, that transfers of monies from the fund to federal agencies could not be made until 10 days after a proposed spending plan and justification for each project to be undertaken using such monies had been submitted to the Committees on Appropriations. The House Committee also declined to recommend an appropriation for the fund as a GSA account, but did fund it as an account under the jurisdiction of the Office of Management and Budget within the Executive Office of the President.⁶⁹ Senate appropriators, however, recommended the full \$45 million requested by the President. Their report stated that OMB “would control the allocation of the fund and direct its use for information systems projects and affect multiple agencies and offer the greatest improvements in access and service.”⁷⁰ Final funding, as provided by P.L. 108-7, nonetheless, was \$5 million.

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

The Senate and House adopted the conferees’ recommended allocation of \$316.3 million for NARA. This appropriation results from several adjustments in NARA funding as initially approved by the two chambers. The conferees recommended \$256.7 million for operating expenses, with \$600,000 of this amount designated for the preservation of the records of the Freedman’s Bureau. For the electronic records archive, \$35.9 million was recommended, of which \$22 million is to remain available until the end of FY2006. Similarly, while \$13.7 million was recommended for repairs and restoration, portions of this amount were specified for three particular projects: \$500,000 for the Military Personnel Records Center requirements study; \$2.25 million for land acquisition for a new regional archives and records facility in Anchorage, Alaska; and \$5 million for repair of the plaza of

⁶⁸ U.S. Office of Management and Budget, *Fiscal Year 2003 Budget of the U.S. Government*, pp. 386-387.

⁶⁹ U.S. Congress, House Committee on Appropriations, *Treasury, Postal Service, and General Government Appropriations Bill, 2003*, a report to accompany H.R. 5120, 107th Cong., 2nd sess., H.Rept. 107-575 (Washington: GPO, 2002), pp. 64, 83.

⁷⁰ S.Rept. 107-212, p. 77.

the Lyndon Baines Johnson Presidential Library. Finally, \$10 million was recommended for the NHPRC.

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

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

The President's budget requested \$305.6 million for FY2004, which was slightly more than \$42 million above the FY2003 appropriation for NARA. Of the requested amount, \$294.1 million was sought for operating expenses, \$6.5 million for repairs and restoration, and \$5 million for the NHPRC grants program. Compared with FY2003 funding, increased monies were being sought for operating expenses; amounts sought for the latter two accounts were below the amounts appropriated for them for FY2003.

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

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

\$25,000,000 in appropriated funds in their budget.”⁷¹ According to the budget submission:

Beginning in fiscal year 2004, at the request of [OMB], the [MSPB] is not requesting funds be transferred from the Civil Service Retirement and Disability Trust Fund. Instead, the funding previously supplied from the Trust Fund for adjudication of Civil Service Retirement appeals is being requested as part of the regular appropriation total of \$35,503,000. OMB has recommended this change to simplify the financial record keeping for both the [MSPB] and the Civil Service Retirement and Disability Trust Fund. We checked with the Office of Personnel Management, which has responsibility for the Trust Fund, and they have no objection to this change.⁷²

The House and Senate Committees on Appropriations recommended, the House and Senate passed, and the law provides an appropriation of \$32.9 million, \$2.6 million less than the President’s request. In addition, up to \$2.6 million for administrative expenses could be transferred from the Civil Service Retirement and Disability Fund to adjudicate retirement appeals. The conferees agreed to the trust fund transfer rather than providing a direct appropriation as the President had requested. According to the House committee report accompanying H.R. 2989

The decrease from the President’s request reflects the Committee’s decision to continue the practice of appropriating funds to MSPB from the Civil Service Retirement and Disability Fund rather than discontinuing this practice as requested by the President; this request has not been adequately justified.⁷³

Office of Personnel Management (OPM). The budget for OPM is comprised of budget authority for both permanent and current appropriations. This report discusses the budget authority for current appropriations. The agency is responsible for administering personnel functions. The OPM helps agencies to develop merit-based human resources management accountability systems to support their missions. The Strategic Human Resources Policy Division designs and develops human resources policies and strategies linked to agency accomplishment of missions. The Human Capital Leadership and Merit Systems Accountability Division assists agencies in implementing and assessing human capital strategies. The Human Resources Products and Services Division supports federal agencies by administering retirement and insurance programs, providing personnel investigation services, managerial and executive training, and other human resources services.⁷⁴ The Office of Inspector General (OIG) conducts audits, investigations, evaluations,

⁷¹ U.S. Merit Systems Protection Board, *Fiscal Year 2004 Budget Justification*, Feb. 3, 2003, p. 6.

⁷² *Ibid.*, p. 5.

⁷³ H.Rept. 108-243, pp. 191-192.

⁷⁴ U.S. Office of Personnel Management, *Congressional Budget Justification; Annual Performance Plan Fiscal Year 2004*, Feb. 2003, p. 3. (Hereafter referred to as OPM Budget Justification.)

and inspections throughout the agency and may issue administrative sanctions related to the operation of the Federal Employees Health Benefits Program.

The President's FY2004 budget proposed an appropriation of \$18.0 billion for OPM. This total included discretionary funding of \$118.7 million⁷⁵ for salaries and expenses and \$1.5 million for OIG salaries and expenses. It also included mandatory funding of \$7.5 billion for the government payment for annuitants of the employees health benefits program,⁷⁶ \$35.0 million for the government payment for annuitants of the employee life insurance program, and \$10.0 billion for payment to the civil service retirement and disability fund. Included in this total as well were trust fund transfers of \$135.9 million⁷⁷ for salaries and expenses and \$14.4 million⁷⁸ for OIG salaries and expenses. (In FY2003, \$120.8 million for salaries and expenses and \$10.9 million for OIG salaries and expenses were transferred from trust funds.)

According to OPM's budget submission, the \$118.7 million requested for salaries and expenses "includes \$111,748,000 in annual funds [for such things as enhanced information technology support and competitive sourcing studies], \$4,500,000 in no-year funds for e-Government (e-Gov) projects, and \$2,500,000 to remain available through the end of FY2005 to coordinate and conduct program evaluation and performance management."⁷⁹

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

will finance more audit staff, special agent criminal investigators, associated analytical staff, and improved information systems. OPM expects to reduce the audit cycle from 5 years to 3.6 years for community-related carriers. Recoveries are expected to increase by \$16 million annually as a result.⁸⁰

The OPM budget request is 8.8% more than the \$16.6 billion appropriated in FY2003. Specifically, it is 7.7% less than the \$128.6 million appropriated in FY2003 for salaries and expenses; 0.7% less than the \$1.5 million for OIG salaries and expenses; 5.3% more than the \$6.9 billion for the government payment for annuitants of the employees health benefits program; 2.9% more than the \$34.0 million for the

⁷⁵ Of this total of \$118,748,000, \$2,000,000 shall remain available until expended for the cost of the enterprise human resources integration project, \$2,500,000 shall remain available until expended for the cost of leading the government-wide initiative to modernize federal payroll systems and service delivery, and \$2,500,000 shall remain available through September 30, 2005 to coordinate and conduct program evaluation and performance measurement.

⁷⁶ This was the amount of funding estimated in the FY2004 budget. OPM reported to the House Appropriations Committee that funding of \$7.2 billion would be needed.

⁷⁷ Of this total of \$135,914,000, \$36,700,000 shall remain available until expended for the cost of automating the retirement record keeping systems.

⁷⁸ This money is for administrative expenses to audit, investigate, and provide other oversight of OPM's retirement and insurance programs.

⁷⁹ OPM Budget Justification, p. 5.

⁸⁰ FY2004 Budget, Appendix, p. 974.

government payment for annuitants of the employee life insurance program; and 6.1% more than the \$9.4 billion for payment to the civil service retirement and disability fund.⁸¹

The House Committee on Appropriations recommended and the House passed an appropriation of \$119.498 million for salaries and expenses (\$750,000 more than the President's request), of which \$2 million would be for the cost of the enterprise human resources integration project; \$2.5 million would be for the cost of leading the government-wide initiative to modernize federal payroll systems and service delivery; and \$2.5 million would be to coordinate and conduct program evaluation and performance measurement. The Committee recommended the same amounts as the President requested for OIG salaries and expenses, the government payment for annuitants of the employees health benefits program, the government payment for annuitants of the employee life insurance program, and payment to the civil service retirement and disability fund. In addition, the Committee recommended trust fund transfers of \$126.9 million for salaries and expenses, \$9.1 million less than the President requested, and \$14.4 million for OIG salaries and expenses, the same amount as the President requested. The committee report accompanying H.R. 2989 states that

The increase of \$750,000 above the President's request is to provide additional funding for the ongoing 'retirement readiness' project being done by OPM in conjunction with the International Foundation for Retirement Education (InFRE)... The Committee directs OPM to award this money to InFRE as a grant or contract, and to report to the Committee on the progress of this project no later than 60 days after enactment of this Act.⁸²

The report also "urges the Director of OPM to certify that any transfer of DSS [Defense Security Service] functions to OPM will not have a detrimental impact on the ability of OPM to handle its current caseload," directs OPM to "notify the Committees if any research, audit, or investigation regarding PBMs [pharmacy benefit managers] has been delayed or terminated at the formal or informal request of another Federal agency" by September 1, 2003, encourages OPM to complete the comprehensive outside audit to determine the true cost of mandated services under the Federal Employees Health Benefits Program (FEHBP) and "promptly submit a report of the results to the Committee," and "directs OPM to consider Hampshire and Hampden counties [in Massachusetts] for inclusion into the Hartford [CT] Locality Pay Area."⁸³

⁸¹ The amounts of \$6,853,000,000; \$34,000,000; and \$9,410,000,000 for FY2003 are from P.L. 108-7. OPM notifies the Secretary of the Treasury of the "such sums as may be necessary" to fund these accounts each fiscal year. The FY2004 estimates for these accounts are \$7,219,000,000; \$35,000,000; and \$9,987,000,000 (from the House Committee on Appropriations Table: *Presidents Request with Outlays*, FY2004).

⁸² H.Rept. 108-243, p. 196.

⁸³ H.Rept. 108-243, pp. 197-198.

The Committee directs OPM

to conduct a study in both the aggregate and by State to: (1) determine the approximate number of Federal employees and retirees who are eligible to participate in the FEHBP, but who are not covered by this program or by any other health insurance program; (2) the principal reasons why these individuals do not obtain health insurance; and (3) by which agencies these people are employed and at which pay grades, levels, or rates of pay. The results of this study shall be submitted to the Committees on Appropriations no later than September 30, 2004.⁸⁴

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

Two years ago, the Committee recommended that OPM reach out to GAO for guidance and support because OPM could benefit from the experiences that GAO has documented with other Federal agency modernization projects. OPM did not act on the Committee's suggestion, therefore, last year, the Committee directed OPM to conduct quarterly meetings with GAO on the progress of the IT modernization project. These meetings did not occur quarterly. Instead only one meeting occurred in 2002 and none in 2003. The Committee is now aware that this multi-year effort has been plagued with problems. The Committee is disappointed by this lack of cooperation and therefore directs GAO to do a comprehensive audit on the problems and any mismanagement of the modernization project.⁸⁵

The law provides an appropriation of \$119.498 million for salaries and expenses (the House-passed amount and allocated in the same way) and the same amounts as the President requested for the other accounts. The conferees direct OPM to consider implementing the Federal Salary Council's recommendation to include Franklin, Hampshire, and Hampden Counties in Massachusetts in the Hartford, CT pay area.

During consideration of the appropriations bill, the Senate agreed by voice vote to an amendment (No. 1949) offered by Senator Charles Grassley that would prohibit any funds appropriated or made available under the Act from being used to implement regulations proposed by OPM on September 9, 2003,⁸⁶ relating to the detail of executive branch employees to the legislative branch. Senator Grassley explained the need for the amendment as follows.

⁸⁴ H.Rept. 108-243, p. 198.

⁸⁵ S.Rept. 108-146, pp. 162-163.

⁸⁶ U.S. Office of Personnel Management, "Employment (General)," *Federal Register*, vol. 68, no. 174, Sept. 9, 2003, pp. 53054-53055.

The regulation proposed by the Office of Personnel Management ... seeks to reduce to 6 months [from typically 1 to 2 years] the time that a detailee can spend in Congress. This is too short a time for even the most industrious of detailees to understand the intricacies of the legislative process and contribute to that process. Moreover, this regulation attempts to limit the activities in which executive branch employees can engage while under the direct supervision of a Congressional office in an effort to micro-manage from afar. This is unacceptable.⁸⁷

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

is designed to create performance-driven pay systems for employees and reinforce the value of employee performance management systems. The Administration proposes providing additional pay over and above any annual, across-the-board pay raise to certain civilian employees based on individual or organizational performance and/or other critical agency human capital needs. Ninety percent of funds appropriated would be distributed to agencies on a pro rata basis, upon OPM approval of an agency's plan. The remainder, and any amount withheld from agencies due to inadequate plans, would be allocated at the discretion of OPM.⁸⁸

The House Committee on Appropriations recommended and the House passed an appropriation of \$2.5 million, \$497.5 million less than the President's request. Obligation of the funding is contingent upon legislation authorizing the creation of the fund within OPM.⁸⁹ No funds would be available until the OPM Director notifies the relevant subcommittees of jurisdiction of the Committees on Appropriations of the approval of a performance pay plan for an agency and the prior approval of the subcommittees has been attained. The Committee directs OPM "to report annually to the Committees on Appropriations on the performance pay plans that have been approved, and the amounts that have been obligated or transferred."⁹⁰

The Senate Committee on Appropriations did not recommend and the Senate did not pass an appropriation for the fund. "The Committee believes that an initiative of this type should be budgeted and administered within each individual agency," according to the report accompanying S. 1589.⁹¹

The law provides an appropriation of \$1 million. The money shall not be obligated or transferred until legislation is enacted to establish the fund within OPM. Funds also shall not be obligated or transferred to any federal agency until the OPM

⁸⁷ *Congressional Record*, vol. 149, daily edition, Oct. 23, 2003, p. S13120.

⁸⁸ FY2004 Budget, Appendix, p. 973.

⁸⁹ The Human Capital Performance Fund is created at Section 1129 of P.L. 108-136, the National Defense Authorization Act for FY2004, enacted on Nov. 24, 2003. See CRS Report RL31954, *Civil Service Reform: Analysis of the National Defense Authorization Act for FY2004*.

⁹⁰ H.Rept. 108-243, p. 200.

⁹¹ S.Rept. 108-146, p. 165.

Director notifies and receives prior approval from the relevant subcommittees of jurisdiction of the Committees on Appropriations of OPM approval of an agency's performance pay plan. Such amounts as determined by the OPM Director may be transferred to federal agencies to carry out the purposes of the fund.

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

The President's FY2004 budget proposed an appropriation of \$13.5 million for the OSC, an increase of 9.2% over the \$12.4 million appropriated in FY2003. According to the budget, the funding "will enable OSC to continue its efforts to reduce its long-standing case processing backlogs This request provides funding for seven additional full time staff in [the Hatch Act and Disclosure Units] to address growing backlog concerns."⁹²

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

Title VI: General Provisions

This section of the report discusses, briefly, general provisions such as government-wide guidance on basic infrastructure-like policies. Examples are provisions related to the Buy America Act, drug-free federal workplaces, and authorizing agencies to pay GSA bills for space renovation and other services which are annually incorporated into the Treasury and General Government appropriations legislation. Quite frequently, additionally, there have been provisions which relate to specific agencies or programs. For both Transportation/Treasury-related general provisions and government-wide general provisions, with noted exceptions, the sections discussed here will be those which are new or contain modified policies. The Consolidated Appropriations Act, 2004, contain these provisions. It should be noted that there are also general provisions which relate only to agencies and accounts within the bill.

The Administration's proposed language for government-wide general provisions can be found in the *Appendix*.⁹³ Most of the general provisions continued language which has appeared under that title for several years. For an array of reasons, Congress has determined that reiterating the language is preferable to placing the provisions in permanent law.

⁹² FY2004 Budget, Appendix, p. 1091.

⁹³ *FY2004 Budget, Appendix*, pp. 9-13.

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

Table 11. Government-wide General Provisions

Administration Proposals	FY2004 Enacted
Repeats recommendation eliminating of the provision (section 609, FY2003) which prohibits payment to political appointees functioning in jobs for which they have been nominated, but not confirmed. This provision has been in the bill for at least 20 years. The previous administration also recommended its elimination.	Sec. 609. Continues the provision prohibiting payments to persons filling positions for which they have been nominated after the Senate has voted not to approve the nomination. House and Senate provisions were identical.
Recommended elimination of the provision (section 612, FY2003) which prohibits use of funds to “implement, administer, or enforce any regulation” which has been disapproved through statutorily authorized means. If the provision were eliminated, conceivably the executive could continue regulatory activities which Congress had disapproved, through resolution of disapproval or the Congressional Review Act. The provision, in the bill since the early 1980s, had been recommended for elimination in FY2002 and by the previous administration also.	Sec. 612. Continue the provision prohibiting the use of funds for enforcing regulations disapproved in accordance with the applicable law of the United States. House and Senate provisions were identical.
Recommends elimination of provision banning use of funds to Customs Service for importation or release in the United States of goods found to be manufactured by forced or indentured child labor (FY2003, Sec. 619). This provision may reappear under the Department of Homeland Security appropriation.	
Recommends, elimination of provision (section 621, FY2002) which requires that no funds may be obligated or expended for employee training not directly related to the employee’s official duties; that may induce high levels of emotional response or psychological stress in some participants; that fails to inform re course content or post-course evaluation; that contains methods or content “associated with religious or quasi-religious belief systems or ‘new age’ belief systems;” and that is offensive to, or designed to change, participants’ personal values or lifestyles away from the workplace. Elimination of language in the bill since the mid-1990s, was requested previously by both the Bush Administration and the Clinton Administration.	Sec. 619. Continues the provision prohibiting federal training not directly related to the performance of official duties. House and Senate provisions were identical.

Administration Proposals	FY2004 Enacted
Section 622 (FY2003) prohibits the use of funds to require and execute employee non-disclosure agreements without those agreements having whistle-blower protection clauses. The Bush proposal repeats their FY2002 and FY2003 requests for elimination of that provision, which has been in the bill for over ten years.	Sec. 620. Continues the provision prohibiting the expenditure of funds for implementation of agreements in non-disclosure policies unless certain provisions are included. House and Senate provisions were identical.
Section 625 (FY2003) requires approval by the Committees on Appropriations of release of any “non-public” information such as mailing or telephone lists to any person or any organization outside the federal government. The Bush Administration is repeating their request for its elimination.	Sec. 623. Continues the provision prohibiting funds to be used to provide non-public information such as mailing or telephone lists to any person or organization outside the government without the approval of the Committee on Appropriations. House and Senate provisions were identical.
Federal employees in executive agencies are required (section 627, FY2003) to “use official time in an honest effort to perform official duties.” That requirement, in the bill since FY1999, has been slated for elimination by both the Bush and Clinton budget proposals. The argument has been that the ethics statutes, in fact, place that same requirement on all federal personnel.	Sec. 625. Continues the provision directing agency employees to use official time in an honest effort to perform official duties. House and Senate provisions were identical.
Proposed section 630 would amend provisions of the Federal Employees Compensation Act (FECA) which relates to workmen’s compensation available to federal employees. [See discussion below under “Federal Employees Workers’ Compensation Program (FECA)” section.]	
Proposed section 631 would authorize funding if provisions like those of the proposed Managerial Flexibility Act of 2001 (S. 1612, 107 th Congress), relating to the accrual of funds for the payment of federal pensions and post-retirement health benefits, were enacted. Similar legislation has not yet been introduced in the 108 th Congress.	
Proposed section 632 would authorize the Administration to transfer up to 5% from any appropriation, with certain limitations.	
	Sec. 628. A new section which would prohibit use of funds to operate an online employment information service for the federal government under certain circumstances. Language adopted from S. 1589. No similar House provision.

Administration Proposals	FY2004 Enacted
	<p>Sec. 637. A new provision which would prohibit the purchase of a product or service offered by the Federal Prison Industries, Inc., unless the agency making such purchase determines that such product or service provides the best value.</p> <p>Language adopted from S. 1589. No similar House provision.</p>
	<p>Sec. 638. A new provision which would require agencies to evaluate the creditworthiness of an individual before issuing the individual a government travel charge card and would limit agency actions accordingly.</p> <p>House and Senate provisions were identical.</p>
	<p>Sec. 640. Would provide that the adjustment in rates of basic pay for federal employees under statutory pay systems taking effect in fiscal year 2004 shall be an increase of 4.1%.</p> <p>House and Senate provisions were identical.</p> <p>See section, "Federal Personal Issues," elsewhere in this report.</p>
	<p>Sec. 641. A new provision which would allow for the timely filing of reports with the Federal Election Commission using overnight delivery, priority, or express mail.</p> <p>Language adopted from H.R. 2989. No similar Senate provision.</p>
	<p>Sec. 642. A new provision which would allow the use of appropriated funds for official travel by federal departments and agencies to participate in the fractional aircraft ownership pilot program.</p> <p>Language adopted from S. 1589. No similar House provision.</p>
	<p>Sec. 643. A new provision which would prohibit the expenditure of funds for the acquisition of additional federal law enforcement training facilities.</p> <p>Language adopted from S. 1589. No similar House provision.</p>

Administration Proposals	FY2004 Enacted
	<p>Sec. 644. Sense of the Congress that no pay localities, as defined for the General Schedule, would be disestablished.</p> <p>Language adopted from H.R. 2989. No similar Senate provision.</p>
<p>Proposed section 635 would allow the Administration to transfer funds between accounts funding operations in the Executive Office of the President. In previous funding cycles, the Administration had requested that all of the accounts within the Executive Office of the President be consolidated into one account. Congress rejected that proposal.</p>	
<p>Proposed section 636 would establish a Human Capital Performance Fund to be administered by the Office of Personnel Management (OPM). See discussion above related to OPM funding.</p>	
<p>Proposed section 637 would change the pay system for the Senior Executive Service.</p>	
	<p>Sec. 648. A new provision which requires each agency to reimburse the Federal Aviation Administration for the operation of the Midway Atoll Airfield.</p> <p>Language adopted from S. 1589. No similar House provision.</p>
	<p>[S. 1589, Sec. 645. A new provision which would require the Secretary of Transportation to amend the Manual on Uniform Control Devices to include information to assist motorists in locating licensed 24-hour pharmacy services.]</p> <p>Senate-passed provision not agreed to.</p>
	<p>[S. 1589, Sec. 646. A new provision which would prohibit use of funds to remove an entity in a federal General Schedule locality pay area.]</p> <p>Senate-passed provision not agreed to.</p>
<p>Proposed section 634 would authorize interagency funding of the National Oceanographic Partnership Program Office.</p>	<p>[H.R. 2989, Sec. 737. A new provision which would permit interagency funding of the National oceanographic Partnership Program Office and the Coastal America program and would require a report.]</p> <p>House-passed provision was not agreed to.</p>

Administration Proposals	FY2004 Enacted
	<p>[H.R. 2989, Sec. 738. A new provision which would extend the Federal Election Commission's administrative fine program through December 31, 2005.]</p> <p>House-passed provision was not agreed to.</p>
	<p>[H.R. 2989, Sec. 741. A new provision which would require a report from each agency on competitive sourcing activities. S. 1589, Sec. 642. Senate Provision similar to House language. S. 1589, Sec. 644. Would impose a reporting requirement relating to competitive sourcing.]</p> <p>House and Senate provisions were not included in conference report.</p> <p>See section, "Competitive Sourcing of Federal Activities" elsewhere in this report."</p>
	<p>[H.R. 2989, Sec. 743. Shifts \$1 million from one California Bay Area transit project to another.]</p> <p>House-passed provision not agreed to.</p>
	<p>[H.R. 2989, Sec. 744. Appropriates \$63 million for the Essential Air Service program, replacing funding from the Airport and Airway Trust Fund that was stricken on a point of order.]</p> <p>House-passed provision not agreed to.</p>
	<p>[H.R. 2989, Sec. 745. A new provision which would change travel restrictions to Cuba. Sec. 643. Senate Provision similar to House language.]</p> <p>Provisions not agreed to in conference.</p> <p>See section, "Cuba Sanctions" elsewhere in this report.</p>
	<p>[H.R. 2989, Sec. 746. A new provision which would prohibit use of funds to enforce any restriction on remittances to nationals of Cuba or Cuban households.]</p> <p>House-passed provision not agreed to.</p>
	<p>[H.R. 2989, Sec. 747. A new provision which would prohibit use of funds in overturning the July 31, 2003 judicial ruling related to IBM Person Pension Plan.]</p> <p>House-passed provision not agreed to.</p>

Administration Proposals	FY2004 Enacted
	<p>[H.R. 2989, Sec. 748. A new provision which would prohibit use of funds to implement revision to OMB Circular A-76.]</p> <p>House-passed provision not agreed to.</p>
	<p>[H.R. 2989, Sec. 749. A new provision which would prohibit use of funds to implement, administer, or enforce Code of Federal Regulations amendments relating to specific licenses for “people-to-people” educational exchanges.]</p> <p>House-passed provision not agreed to.</p>

Federal Personnel Issues

General Schedule Pay. At the close of the 108th Congress, 1st Session, the prospects for General Schedule January 2004 pay adjustments were uncertain. A 2% adjustment was effective the first pay period beginning on or after January 1, 2004 (January 11 for most).⁹⁴ Now that the Consolidated Appropriations Act, 2004 has been enacted, an average 4.1% increase will go into effective, retroactive to January 1, 2004. The 4.1% includes the 2% adjustment.

Under the Federal Pay Comparability Act of 1990 (FEPCA), federal white collar employees, paid under the General Schedule and related salary systems, are to receive annual adjustments based on two separate mechanisms. The first is the adjustment to base pay which is based on changes in private sector salaries as reflected in the Employment Cost Index (ECI). The rate of pay adjustment is supposed to be the percentage rate of change in that element of the ECI, minus 0.5. Under that formula, for January 2003, the base pay adjustment was 3.1%. On December 31, 2002, the President signed an Executive Order establishing the salary schedules for federal civilian personnel effective January 2003.⁹⁵ Under the provisions of Section 637, Division J, P.L. 108-7, the full pay increase for the General Schedule was 4.1%. There was no stipulation as to how the additional 1% would be apportioned between base pay and locality-based comparability payments. The payment was retroactive to January 2003. On March 21, it was announced that the additional 1% would be applied exclusively to locality-based comparability payments.⁹⁶

⁹⁴ U.S. National Archives and Records Administration, “Executive Order 13322 — Adjustments of Certain Rates of Pay,” *Federal Register*, vol. 69, January 2, 2004 (Washington: GPO, 2004), p. 231. E. O. 13322, dated December 30, 2003.

⁹⁵ U.S. National Archives and Records Administration, “Executive Order 13282 — Adjustments of Certain Rates of Pay,” *Federal Register*, vol. 68, January 8, 2003 (Washington: GPO, 2003), pp. 1133-1142. E. O. 13282, dated December 31, 2002.

⁹⁶ U.S. National Archives and Records Administration, “Executive Order 13291 — Further Adjustment of Certain Rates of Pay,” *Federal Register*, vol. 68, March 25, 2003 (Washington: GPO, 2003), pp. 14525-14526. E. O. 13291, dated March 21, 2003.

Much the same situation existed for January 2004. The President's budget proposed a federal civilian pay increase of 2.0% in January 2004.⁹⁷ He submitted an alternative plan at the end of August which would provide a 1.5% increase in basic pay and a 0.5% increase in locality pay. Because Congress has not completed action on legislation to establish other rates, the President's plan was effective in January 2004.

Section 601 of the FY2004 budget resolution (H.Con.Res. 95, H.Rept. 108-71) contained a Sense of the Senate provision stating that the civilian and military pay increases should be in parity. The H.R. 2989, as passed by the House and the Senate would have established a January 2004 pay increase, at a rate of 4.1%, for civilian employees, equal to the Administration's proposal for the military. It would be left to the President's discretion as to how the increase would be split between basic and locality pay. The pay provision is in the pending Consolidated Appropriations, 2004 (H.R. 2673, Division F, Section 640). According to the Office of Personnel Management, the 4.1% will be split with 2.7% for basic pay (the rate that would have been established if the ECI mechanism had been the only basis for the adjustment) and 1.4% for the locality-based payments.

The net rates of adjustment for the Washington, DC area were 2.12% under the overall 2% adjustment and will be 4.41% under the overall 4.1% adjustment.

Federal Wage System. The Federal Wage System (FWS) is designed to compensate the federal blue collar, or skilled labor, force at rates prevailing in local wage areas for like occupations. If the statutory system were allowed to be managed as planned, the wage rates and the rates of adjustment in the over 130 wage areas would vary, according to the labor costs and compensation in the private sector. For the last several years, Congress has limited the rates of adjustment, based on the rates of adjustment for the General Schedule (for FY2003: P.L. 108-7, Division J, Section 613 and for FY2004: H.R. 2673, Division F, Sections 613 and 640(b)). Part of the rationale for that decision is that, in certain high cost areas, some FWS wages would exceed the salaries paid to General Schedule supervisors. Wages in lower cost areas will be allowed to increase according to the findings of the wage surveys but the high cost area wages will be capped.

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

Senior Executive Service Salaries. Section 637 of the President's proposed General Provisions requested an amendment to the statute governing the determination of salary levels for the Senior Executive Service. The provisions to change the system by eliminating the six-tier system, by changing the salary setting authority from the President to the Office of Personnel Management, and by taking them out of the locality pay system and capping their rates at Level II of the Executive Schedule, were enacted under the National Defense Authorization Act for

⁹⁷ *FY2004 Budget, Analytical Perspectives*, p. 287.

2004.⁹⁸ For January 2004 the minimum rates of pay is \$103,700 and the maximum for most is \$145,600. Those in agencies with performance appraisal systems certified by OPM, will be able to receive a maximum of \$158,100, a salary equal to that of Members of Congress and U.S. District Court judges.⁹⁹

Human Capital Performance Fund. The Administration's FY2004 pay proposal would combine a 2% across-the board increase with a performance component. A \$500 million fund would be set aside government-wide to allow managers to reward top-performing individuals with permanent increases in base pay.¹⁰⁰ See the section on the Office of Personnel Management above for a more detailed discussion.

Members of Congress, Judges, and Other Officials. There are no provisions in either the House-passed or Senate-reported versions which address the pay of Members of Congress, Judges, or other federal officials. If Congress is legislatively silent, the annual adjustment goes into effect automatically. A pay adjustment of 2.2% is scheduled for the officials of the three branches effective January 2004. However, because the General Schedule basic pay adjustment rate was 1.5% until passage of the Consolidated Appropriations Act, 2004, the rate of pay adjustment for these federal officials was limited to 1.5%. The full adjustment of 2.2% will go into effect and will be retroactive. The Senate, on October 23, 2003, voted to table an amendment which would have denied the pay increase to Members and would not have affected the pay of other officials.¹⁰¹

Under the Ethics Reform Act of 1989, as amended, pay adjustments for federal officials, including Members of Congress and judges, are also based on ECI calculations, but for a different 12-month period. The ECI calculations dictate a pay adjustment in January 2004 of 2.2%. However, the statute limits those adjustments to the rate of adjustment for base pay of the General Schedule. Therefore, since the General Schedule base pay was adjusted at the rate of 1.5%, pending final action on the Consolidated Appropriations bill, 1.5% was the temporary maximum rate of adjustment in salaries of federal officials. Because the mechanism described above is automatic, no bill language is necessary to establish the pay adjustment.¹⁰²

⁹⁸ P.L. 108-136, Sec. 1125; Nov. 24, 2003.

⁹⁹ U.S. National Archives and Records Administration, "Executive Order 13322 — Adjustments of Certain Rates of Pay," *Federal Register*, vol. 69, January 2, 2004 (Washington: GPO, 2004), p. 231. E. O. 13322, dated December 30, 2003 and "Office of Personnel Management: Senior Executive Service Pay and Performance Awards," *Federal Register*, vol. 69, January 13, 2004 (Washington: GPO, 2004), p. 2048.

¹⁰⁰ *FY2004 Budget, Appendix*, p. 12 and *Analytical Perspectives*, p. 287.

¹⁰¹ Consideration and debate on H.R. 2989, *Congressional Record*, vol. 149, 108th Cong., 1st sess., daily edition, Oct. 23, 2003 (Washington: GPO, 2003), pp. S13087-S13089.

¹⁰² See also, CRS Report RL30014, *Salaries of Members of Congress: Current Procedures and Recent Adjustments* and CRS Report 97-1011, *Salaries of Members of Congress: Payable Rates and Effective Dates, 1789-2001*, both by (name redacted). Also see, CRS Report RS20388, *Salary Linkage: Members of Congress and Other Federal Officials*; CRS (continued...)

Unlike that for Members of Congress and executive branch officials, the annual pay increase must be specifically authorized for judges. P.L. 108-167 (December 6, 2003) was enacted for that purpose with regard to the January 2004 adjustment. At no time, since the authorization was required, have the judges received lower adjustments than the other officials.

President. Pursuant to the Treasury and General Government Appropriations Act, 2000 (P.L. 106-58), effective noon, January 20, 2001, the President receives a salary of \$400,000 *per annum*. Since 1969, Presidents had been paid a salary of \$200,000. No further action on presidential pay is expected. Former Presidents receive a pension equal to the rate of pay for Cabinet Secretaries (currently \$171,900) and the pension is adjusted automatically as those pay rates are changed.¹⁰³

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

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

Competitive Sourcing of Federal Activities¹⁰⁴

In its "Statement of Administration Policy," on H.R. 2989, the Administration reiterated its support for competitive sourcing, objected to an amendment that was thought would hinder competitive sourcing, and stated that the President's senior

¹⁰² (...continued)

Report RS20278, *Judicial Salaries: Current Situation*; and CRS Report 98-53, *Salaries of Federal Officials*, by (name redacted).

¹⁰³ See CRS Report RS20114, *Salary of the President Compared with That of Other Federal Officials*, by (name redacted).

¹⁰⁴ Prepared by (name redacted), Analyst in American National Government, Government and Finance Division.

advisers would recommend that the President veto the bill if it contained a prohibition on funding for public-private competitions.¹⁰⁵ After H.R. 2989 had been inserted into H.R. 2673, the Consolidated Appropriations Act, 2004 (Division F), and the conference report had been prepared, but not yet filed, the Office of Management and Budget (OMB) apparently was successful in having some of the competitive sourcing provisions altered or removed.¹⁰⁶

Competitive sourcing, which applies only to the commercial activities of federal executive agencies, is one of the components of the President's Management Agenda (PMA). Since February 2001, the OMB has implemented several initiatives designed to promote competitive sourcing, including revising OMB Circular A-76 (May 29, 2003) and requiring agencies to submit inventories of their inherently governmental activities. Circular A-76 provides policy and guidance for public-private competitions.

The enacted versions of the competitive sourcing provisions are found in Section 647 of H.R. 2673 (P.L. 108-199), Division F, Title VI. Section 647(a), which applies only to departments and agencies funded by the Departments of Transportation and Treasury, and Independent Agencies Appropriations bill of 2004, would place two conditions on competitions that involve more than 10 federal employees. First, an agency would be required to develop a plan for a most efficient organization (MEO),¹⁰⁷ which already is required by Circular A-76 for standard competitions, but is not required for streamlined competitions.¹⁰⁸ While this requirement might facilitate the preparation of an in-house (government) cost estimate that is competitive, the time necessary to complete an MEO might make it

¹⁰⁵ Executive Office of the President, Office of Management and Budget, "Statement of Administration Policy, H.R. 2989 – Departments of Transportation and Treasury and Independent Agencies Appropriations Bill, FY2004," Sept. 4, 2003, available at [http://www.whitehouse.gov/omb/legislative/sap/108-1/hr2989_sap-h.pdf], visited Dec. 15, 2003.

¹⁰⁶ Christopher Lee, "Outsourcing Shield Weakened," *Washington Post*, Nov. 26, 2003, P. A23; Amelia Gruber, "White House Wins Deal to Undo Job Competition Revisions," *Government Executive*, Daily Briefing, Nov. 25, 2003, available at [<http://www.govexec.com>], visited Dec. 15, 2003.

¹⁰⁷ "The MEO is an agency's staffing plan The MEO is not usually a representation of the incumbent organization, but is the product of management analyses that include, but are not limited to, activity based costing, business case analysis, consolidation, functionality assessment, industrial engineering, market research, productivity assessment, reengineering, reinvention, utilization studies, and value engineering." (U.S. Office of Management and Budget, *Circular No. A-76 (Revised)*, May 29, 2003, p. B-10.) Circular A-76 is available at [http://www.whitehouse.gov/omb/circulars/a076/a76/incl_tech_correction.pdf], visited Dec. 15, 2003.

¹⁰⁸ An agency must conduct a standard competition if the activity is performed by more than 65 full-time equivalents (FTEs). An agency may conduct a standard competition or a streamlined competition if the activity is performed by 65 or fewer FTEs. (Ibid., p. B-1.) A full-time equivalent is the "staffing of Federal civilian employee positions, expressed in terms of annual productive work hours (1,776) rather than annual available hours that includes non-productive hours (2,080 hours)." (Ibid., p. D-5.)

difficult for an agency to meet the circular's 90-day deadline (or 135 days if an extension is granted) for streamlined competitions.¹⁰⁹

Second, Section 647(a) also apparently would require consideration of the conversion differential in *streamlined* competitions. Under Circular A-76, the differential is not used in streamlined competitions. (The conversion differential is the lesser of \$10 million or 10% of the personnel costs of the government's MEO.¹¹⁰) However, since the circular may not have less stringent requirements than a law, Section 647(a) – which has a requirement that is more stringent than the circular's concerning the application of the conversion differential to streamlined competitions – apparently would take precedence. Section 647(a) would direct the competitive sourcing official (CSO) to consider how the conversion differential would affect the contractor's cost.¹¹¹ Under Section 647(a)(2), this official would consider whether “the cost of performance of the activity or function by a contract would be less costly to the executive agency” by \$10 million, or 10% of the government's personnel costs, whichever is less. Left unstated is the criterion or standard against which the CSO should compare the cost of contractor performance to determine if it is less costly to the agency. Additionally, it remains to be seen whether, or how, a performance decision, which involves completing the streamlined competition form, could take into account the conversion differential.¹¹² Could a CSO's consideration override a performance decision?

It seems that both the circular and Section 647(a) would apply to *standard* competitions. However, unlike the circumstances surrounding streamlined competitions, the more stringent requirement for standard competitions is found in the circular. Therefore, agencies would continue to add the conversion differential to the cost of the non-incumbent's performance on the standard competition form, which is a requirement of Circular A-76.¹¹³

Section 647(b) would require all executive agencies to submit annual reports to Congress on their competitive sourcing activities. The first report would be due

¹⁰⁹ U.S. Office of Management and Budget, *Circular No. A-76 (Revised)*, May 29 2003, p. B-5. A competitive MEO (or agency tender) is one that has a reasonable chance of being selected to perform the work.

¹¹⁰ *Ibid.*, p. B-16. The rationale for the differential, as presented in Circular A-76, is that it “precludes conversions based on marginal estimated savings, and captures non-quantifiable costs related to a conversion, such as disruption and decreased productivity.” (*Ibid.*, p. B-16.)

¹¹¹ An agency's competitive sourcing official (CSO) is “an assistant secretary or equivalent level official with responsibility for implementing” Circular A-76. (U.S. Office of Management and Budget, *Circular No. A-76 (Revised)*, p. 1.)

¹¹² The performance decision is the “outcome of a streamlined or standard decision based on SLCF [streamlined competition form] or SCF [standard competition form] certifications.” (*Ibid.*, p. D-7.) The performance decision determines who – a government agency or a private contractor – will do the work.

¹¹³ The rationale for the conversion differential is that it “precludes conversions based on marginal estimated savings, and captures non-quantifiable costs related to a conversion, such as disruption and decreased productivity.” (*Ibid.*, p. B-16.)

within 120 days after enactment; the deadline for subsequent reports would be December 31 of each year. The reports would include the number of completed competitions and the number of announced, but not yet completed, competitions (and FTEs associated with each category); the cost of conducting competitions (including costs for contractors and consultants); estimated and actual savings; the projected number of FTEs scheduled to be competed in the next fiscal year; and a description of the agency's competitive sourcing decision-making process. A reporting requirement could aid congressional oversight of agency competitive sourcing activities while facilitating the collection of useful information. Agency reports could be used to inform OMB policy and guidance, and agency decisions. However, the absence of an established methodology for identifying, defining, and collecting the required information might detract from its usefulness. Furthermore, fulfilling this requirement possibly could add to the costs of competitive sourcing.

Under Section 647(c), agency heads would not be required to limit the performance period in a letter of obligation issued to an MEO to five years or less.¹¹⁴ Apparently, as required by Circular A-76, MEOs would still be subject to recompetition,¹¹⁵ but, as a result of the flexibility allowed by this provision, recompetitions might occur less frequently than would be the case otherwise. This modification could result in different treatment for government agencies and private sector sources. Per Circular A-76, contractors who win public-private competitions are subject to recompetition under the provisions of the *Federal Acquisition Regulation* (FAR).¹¹⁶ On the other hand, allowing agencies to write letters of obligation with performance periods longer than five years could mitigate against any potential recruitment or retention problems among federal government employees, and prospective employees, who are concerned about the possibility of relatively frequent recompetitions and the implications for their positions.

Another competitive sourcing provision, Section 647(d), would permit agency heads to use appropriated funds, and any other funds made available to their agencies, for monitoring the performance of an activity that had been subjected to a public-private competition. Depending upon what form monitoring might take, this provision could support oversight efforts and enhance agency decision-making by funding the collection, recording, and analysis of information about agency competitions. Depending upon the extent, and associated costs, of such an initiative, however, agencies might be reluctant to expend funds on this type of activity.

Section 647(e) states that any work converted to contractor performance could not be moved to a location outside the United States if the work had been previously performed by federal government employees within the United States. This provision possibly could affect the ability of some contractors to prepare competitive bids or proposals if, for example, labor costs in a given industry or sector are cheaper

¹¹⁴ A letter of obligation is a "formal agreement that an agency implements when a standard or streamlined competition results in agency performance (e.g., MEO)." (Ibid., p. D-6.)

¹¹⁵ U.S. Office of Management and Budget, *Circular No. A-76 (Revised)*, p. B-19.

¹¹⁶ The *Federal Acquisition Regulation* includes regulations concerning government procurement. The FAR is Parts 1 through 53 of Title 48 of the *Code of Federal Regulations*.

in other countries than in the United States. On the other hand, implementation of this provision could help to retain jobs for residents of the United States, while some employers might benefit from keeping their workforce in relatively close proximity to their facilities in the United States.

Cuba Sanctions¹¹⁷

Both House- and Senate-approved versions of the FY2004 Transportation-Treasury appropriations bill, H.R. 2989, had nearly identical provisions that would have prevented funds from being used to administer or enforce restrictions on travel or travel-related transactions. But the provisions were dropped in the conference report to the Consolidated Appropriations Act, 2004, P.L. 108-199 (H.R. 2673, H.Rept. 108-401, filed November 25, 2003), which incorporated seven regular appropriations acts, including Transportation-Treasury appropriations. The conference also dropped two Cuba provisions from the House version of H.R. 2989 on remittances and on people-to-people educational exchanges. The White House had threatened to veto any legislation that weakened economic sanctions against Cuba. The Administration's Statement of Administration Policy on H.R. 2989 stated that if the final version of the bill contained provisions weakening current sanctions against Cuba, the President's senior advisors would recommend that he veto the bill.

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

Cuba sanctions have been controversial in recent years, and numerous initiatives have been introduced in the 108th Congress that would lift or ease restrictions on Cuba sanctions. While there appears to be broad congressional agreement on the overall objective of U.S. policy toward Cuba—to help bring democracy and respect for human rights to the island—there are several schools of thought on how to achieve that objective. Some advocate maximum pressure on the Cuban government until reforms are enacted, others argue for lifting some U.S. sanctions that they believe are hurting the Cuban people, and still others call for a swift normalization of U.S.-Cuban relations by lifting the U.S. embargo.

House Action. The House-approved version of H.R. 2929 had three Cuba provisions, approved during September 9, 2003 floor consideration, that would have prevented funds from being used to administer or enforce restrictions on travel

¹¹⁷ Prepared by (name redacted), Specialist in Latin American Affairs, Foreign Affairs, Defense, and Trade Division.

(section 745) and remittances (section 746), and from being used to eliminate the travel category of people-to-people educational exchanges (section 749).

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

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

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

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

Senate Action. On October 23, 2003, during Senate floor consideration of H.R. 2989, the Senate approved by voice vote S.Amdt. 1900 (Dorgan) that would

have prevented funds from being used to administer or enforce restrictions on Cuba travel or travel-related transactions; its language became section 643 of the Senate version. A motion to table the Dorgan amendment was defeated by a vote of 59-36. The Senate provision was nearly identical to the Flake amendment in the House version of the bill described above; the only difference was that the Dorgan amendment, as amended by S.Amdt. 1901 (Craig), stated that the provision would take effect one day after enactment of the bill.

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

For further information, see CRS Report RL31740, *Cuba: Issues for the 108th Congress*; and CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Legislative Initiatives*.

List of Transportation Acronyms

ARC: Amtrak Reform Council

AIP: Airport Improvement Program (FAA)

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

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

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

BRR: Bridge Replacement and Rehabilitation program (FHWA)

BTS: Bureau of Transportation Statistics

CG: Coast Guard

CMAQ: Congestion Mitigation and Air Quality program (FHWA)

DOT: Department of Transportation

EAS: Essential Air Service (FAA)

F&E: Facilities and Equipment program (FAA)

FAA: Federal Aviation Administration

FAHP: Federal-Aid Highway Program (FHWA)

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

FHWA: Federal Highway Administration

FRA: Federal Railroad Administration

FTA: Federal Transit Administration

Hazmat: Hazardous materials (safety program in RSPA)

HPP: High Priority Projects (FHWA)

HTF: Highway Trust Fund

IM: Interstate Maintenance program (FHWA)

ITS: Intelligent Transportation Systems (FHWA)

MCSAP: Motor Carrier Safety Assistance Program (FMCSA)

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

NHS: National Highway System; also a program within FHWA

NHTSA: National Highway Traffic Safety Administration

NMCSA: National Motor Carrier Safety Administration

O&M: Operations and Maintenance program (FAA)

OIG: Office of the Inspector General of the DOT

OST: Office of the Secretary of Transportation

RABA: Revenue-Aligned Budget Authority

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

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

RSPA: Research and Special Projects Administration

SCASD: Small Community Air Service Development program (FAA)

STB: Surface Transportation Board

STP: Surface Transportation Program (FHWA)

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

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

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

TSA: Transportation Security Administration

Appendix 1: The Transportation Appropriations Framework

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

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

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

Transportation Equity Act for the 21st Century (TEA-21)

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

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

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

Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (FAIR21 or AIR21)

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

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

Appendix 2: Transportation Budget Terminology

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

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

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

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

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

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