



Commerce, Justice, Science and Related Agencies: FY2009 Appropriations

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Summary

This report monitors actions taken by the 110th Congress for the FY2009 Commerce, Justice, Science, and Related Agencies (CJS) appropriations bill. On September 30, 2008, the President signed a continuing resolution (P.L. 110-329) that funds most CJS agencies at their FY2008 levels through March 6, 2009, or until a full-year appropriation is enacted. In addition, several CJS agencies are funded at rates above their FY2008 level. For example, the Census Bureau is funded at a rate that would be equal to a full-year FY2009 appropriation of \$2.906 billion—double the amount provided for FY2008.

Earlier, the House Appropriations Committee approved a draft FY2009 CJS appropriations bill that would have provided \$59.657 billion, or 9.2% more than the FY2008 enacted level of \$54.637 billion. The Senate Appropriations Committee reported a comparable FY2009 bill (S. 3182) that would have provided \$60.724 billion, or 11.1% more than the FY2008 enacted level. The Administration's FY2009 request initially included \$56.563 billion for CJS agencies, or 3.5% more than the FY2008 enacted level, but later the Administration amended its request for the Department of Commerce. For Commerce, the FY2009 request initially included \$8.217 billion, or 19.8%, more than the FY2008 enacted level. The amended request included an additional \$546.0 million for the 2010 Census that was partially offset by canceling or shifting other amounts for Commerce. This budget amendment, however, was submitted too late for either House or Senate consideration. The House bill would have provided \$8.707 billion for Commerce (a 27% increase), including \$2.605 billion for Census. The Senate bill would have provided \$9.402 billion for Commerce (a 37.1% increase), including \$3.151 billion for Census.

For Justice, the FY2009 request included \$23.089 billion, or 2.1% less than the FY2008 enacted level. Although this decrease largely reflected a proposed \$1.5 billion cut in law enforcement assistance, the request also included increases of \$492.7 million for national security investigations, \$100.0 billion for a Southwest border crime initiative, and \$67.1 million to support federal detention and incarceration programs. For Justice, the House bill would have provided \$25.439 billion (a 7.8% increase) and the Senate bill, \$25.779 billion (a 9.3% increase). Both bills included increased funding for law enforcement assistance.

For science agencies, the FY2009 request included \$24.474 billion, or 4.7% more than the FY2008 enacted level. The House bill included \$24.628 billion (a 5.3% increase) for science agencies, the Senate bill, \$24.673 billion (a 5.5% increase). For related agencies, the FY2009 request included \$784.0 million, or 3.1% less than the FY2008 enacted level. The House bill included \$833.1 million (a 9.2% increase) for related agencies, the Senate bill \$869.4 million (an 11.1% increase).

In addition, Congress passed FY2008 supplemental funding (P.L. 110-252) for several CJS accounts, including the Census Bureau (\$210.0 million), the Department of Justice (\$449.0 million), and science agencies (\$125.0 million). This report will be updated to reflect legislative action.

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Most Recent Developments

On September 30, 2008, the President signed into law the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (P.L. 110-329; H.R. 2638).¹ This law includes a continuing resolution (CR) that funds most Commerce, Justice, Science (CJS) and related agencies at their FY2008 levels through March 6, 2009, or until a full-year appropriations bill is enacted. For several accounts, however, the CR includes funding at levels above those appropriated for FY2008. For example, the CR funds the Census Bureau through March 6, 2009, at a rate that would be equal to a full-year FY2009 appropriation of \$2.906 billion. By comparison, Congress appropriated \$1.440 billion for Census for FY2008 (including a \$210.0 million supplemental appropriation).

The CR funds the Federal Prison System at a rate of \$5.397 billion for the entire fiscal year, the Detention Trustee at \$1.246 billion, and Department of Justice Legal Activities at \$3.390 billion. The CR requires that about a third of the funding provided for Legal Activities be transferred to the Office of Personnel Management for costs associated with the federal observer program authorized under the Voting Rights Act of 1965. Finally, for most agencies, the CR stipulates that FY2008 emergency funding will not be regarded in calculating FY2009 funding levels, except for certain agencies, which include the Federal Bureau of Investigation (FBI).

In addition, P.L. 110-329 includes supplemental emergency funding for three CJS-related accounts for relief and recovery from recent hurricanes and other natural disasters. For example, the law provides \$400.0 million for the Economic Development Administration to provide disaster relief under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Other amounts are provided for the National Oceanic and Atmospheric Administration (\$92.0 million) and the National Aeronautics and Space Administration (NASA) (\$30.0 million). For FY2009, the NASA provision also allows the Administration to maintain its current seven decision unit budget structure rather than reverting to its previous budget structure of three units.

On June 25, 2008, the House Appropriations Committee approved a draft FY2009 Commerce, Justice, Science, and Related Agencies (CJS) appropriations bill that would have provided \$59.657 billion (\$56.858 billion in discretionary funding). The House committee-approved draft bill included \$8.707 billion for the Department of Commerce (DOC), \$25.439 billion for the Department of Justice (DOJ), \$17.769 billion for NASA, \$6.854 billion for the National Science Foundation (NSF), among other amounts.

On June 19, 2008, the Senate Appropriations Committee reported an FY2009 CJS appropriations bill (S. 3182; S.Rept. 110-397) that would have provided \$60.724 billion. The Senate-reported bill included \$9.402 billion for DOC, \$25.779 billion for DOJ, \$17.814 billion for NASA, \$6.854 billion for NSF, among other amounts.

¹ For further information, see CRS Report RL34711, *Consolidated Appropriations Act for FY2009 (P.L. 110-329): An Overview*, by Robert Keith.

Table 1. Legislative Status of CJS Appropriations

Subcommittee Markup		House Committee	Senate Committee [S. 3182]	House Passage	Senate Passage	Conference Report		Public Law
House	Senate					House Passage	Senate Passage	
06/12/08	06/18/08	Approved 06/25/08; Draft Bill	Approved 06/19/08; Filed 06/23/08; S.Rept. 110-397					a

a. Continuing Resolution enacted September 30, 2008; P.L. 110-329

Also, on June 26, 2008, the Supplemental Appropriations Act, 2008 (H.R. 2642) was cleared by Congress, following an exchange of amendments that resolved differences (principally related to domestic spending) in previous House- and Senate-passed versions of this bill. For DOJ, the Administration had requested \$185.8 million for DOJ in FY2008 supplemental funding for counterterrorism-related activities and programs. The President signed H.R. 2642 into law on June 30, 2008 (P.L. 110-252). For FY2008, this act provided the Census Bureau with an additional \$210.0 million, DOJ with \$449.0 million, NASA with \$62.5 million, and NSF with \$62.5 million.

Overview of FY2009 CJS Appropriations

FY2009 Request

As **Table 2** shows, the Administration's FY2009 request originally included \$56.563 billion for those departments and agencies funded through the CJS appropriation, or \$1.926 billion more than the enacted FY2008 appropriation of \$54.637 billion (a 3.5% increase). On June 9, 2008, however, the Administration submitted an FY2009 budget amendment to Congress for the DOC that addressed difficulties associated with the 2010 Decennial Census that have been encountered by the Census Bureau. This amendment requested an additional \$546.0 million for the 2010 Census that was partly offset by \$111.0 million in reductions in other DOC programs and by shifts in other amounts within the Census Bureau account. The House CJS subcommittee chair, Representative Alan Mollohan, observed that the budget amendment was submitted too late for the subcommittee to consider it before the scheduled June 12, 2008 markup.

**Table 2. CJS Appropriations,
FY2008 Enacted and FY2009 Proposed**
(budget authority in millions of dollars)

Departments and Related Agencies	FY2008 Enacted	FY2009 Request ^a	House Draft Bill	House- Passed	Senate- Reported	Senate- Passed	FY2009 Final
Department of Commerce	6,856.5	8,216.5 ^a	8,706.9		9,402.4		
Department of Justice	23,591.9 ^b	23,088.9	25,438.8		25,778.6		
Science Agencies	23,379.6	24,473.5	24,628.4		24,673.3		
Related Agencies	808.8	784.0	883.1		869.4		
Total	54,636.8^b	56,563.0	59,657.1		60,723.6		

Sources: House Appropriations Committee Print on the Consolidated Appropriations Act, 2008 (H.R. 2764/P.L. 110-161); Budget of the United States Government, Fiscal Year 2009—Appendix; House Appropriations Committee-approved draft bill and report; and S. 3182 (S.Rept. 110-397).

Note: Numbers may not add to totals due to rounding.

- a. On June 9, 2008, the Department of Commerce submitted an FY2009 budget amendment to Congress that substantially changed the amount requested for the Department of Commerce. See **Table 4**.
- b. The Consolidated Appropriations Act, 2008 (P.L. 110-161) includes \$285.5 million in emergency spending for the Department of Justice.

Neither the House nor the Senate incorporated the Administration's budget amendment into the tables in the legislative reports accompanying the House draft and Senate-reported CJS appropriations bills. As a consequence, with the exception of **Table 4** on Commerce, the tables in this report do not reflect the FY2009 budget amendment. Nor do the tables in this report include the amounts provided for FY2008 to CJS departments and agencies by the Supplemental Appropriations Act, 2008 (P.L. 110-252).

For Commerce, nonetheless, the Administration's FY2009 request initially included \$8.217 billion, or \$1.360 billion more than the enacted FY2008 level (a 19.8% increase). This increase included an additional \$1.374 billion for Bureau of the Census, but also included decreases of \$147.1 million (-52.6%) for the Economic Development Administration and \$17.1 million (-47.1%) for the National Telecommunications and Information Administration.

For Justice, the President's FY2009 budget request included \$23.089 billion, or \$502.8 million less than the enacted FY2008 level (a 2.1% decrease). This decrease largely reflected proposed reductions in state and local law enforcement assistance. The FY2009 request, for example, included \$792.7 million for the Office of Justice Programs (OJP), or nearly \$1.489 billion less than the FY2008 enacted level of \$2.282 billion (a 65.3% decrease). And, the FY2009 request included \$280.0 million for the Office of Violence Against Women (OVW), or a proposed reduction of \$120.0 million less than the FY2008 enacted level of \$400.0 million (a 30% decrease). Conversely, the FY2009 request included new funding of \$492.7 million for national security investigations, \$100.0 million for a Southwest border crime fighting initiative, and \$67.1 million to support essential federal detention and incarceration programs.

For science agencies, the FY2009 request included \$24.474 billion, or \$1.094 billion more than the enacted FY2008 level (a 4.7% increase). Among other things, the FY2009 request included \$396.8 million for the NSF and the National Nanotechnology Initiative.

For related agencies, the FY2009 request included \$784.0 million, or nearly \$24.8 million less than the enacted FY2008 level (a 3.1% decrease). The Legal Services Corporation would have absorbed the bulk of this decrease, as the FY2009 budget request for the corporation only included \$311.0 million, a reduction of \$39.5 million, as compared to the corporation's enacted FY2008 appropriation (an 11.3% decrease).

FY2009 House Appropriations Committee-Approved Draft Bill

The House Appropriations Committee approved a draft FY2009 spending measure that would have provided CJS departments and agencies with \$59.657 billion, a 9.2% increase over the FY2008 enacted level and a 5.5% increase over the FY2009 request. For Commerce, this measure included \$8.7 billion, a 27% increase over the FY2007 enacted level and a 6% increase over the FY2009 request. The House draft bill included \$2.605 billion for the Census Bureau, the same amount as originally requested by the Administration (a 111.7% increase over the FY2008 enacted level). The draft bill also included \$4.253 billion for the National Oceanic and Atmospheric Administration (NOAA) and \$816.7 million for National Institute of Standards and Technology (NIST).

For Justice, the draft bill would have provided \$25.439 billion, a 7.8% increase over the FY2008 enacted level and a 10.2% over the FY2009 request. This amount included \$7.108 billion for the FBI, \$1.939 billion for the Drug Enforcement Administration (DEA), \$1.054 billion for the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), and \$5.734 billion for the Bureau of Prisons. The draft bill also included \$3.129 billion for state and local law enforcement assistance (OJP and OVW), instead of cutting such funding by \$1.609 billion, as proposed by the Administration.

For science agencies, the draft bill would have provided \$24.628 billion, including \$17.769 billion for NASA and \$6.854 billion for NSF. This amount would have provided a 5.3% increase over the FY2008 enacted level and a 0.6% increase over the FY2009 request. For related agencies, the bill would have provided \$883.1 million, a 9.2% increase over the enacted level and a 12.6% increase over the FY2009 request. It included \$350.4 million for the Equal Employment Opportunity Commission (EEOC) and \$390.0 million for the Legal Services Corporation (LSC).

FY2009 Senate-Reported Bill

The Senate Appropriations Committee reported an FY2009 CJS spending bill (S. 3182; S.Rept. 110-397) that would have provided \$60.724 billion, an 11.1% increase over the FY2008 enacted level and a 7.4% increase over the FY2009 request. The Senate-reported bill included \$9.402 billion for the DOC, a 37.1% increase over the FY2008 enacted level and a 14.4% increase over the FY2009 request. This bill included \$3.151 billion for the Census Bureau (a 156.1% increase over the FY2008 enacted level). It also included \$4.446 billion for NOAA and \$814.0 million for NIST.

For the DOJ, the Senate bill included \$25.779 billion, a 9.3% increase over the FY2008 enacted level and an 11.6% increase over the FY2009 request. This amount included \$7.27 billion for the

FBI, \$1.954 billion for the DEA, \$1.043 billion for the ATF, and \$5.974 billion for the Bureau of Prisons. It also included \$3.136 billion for the state and local law enforcement assistance (OJP and OVW), rather than cutting such assistance by \$1.609 billion, as proposed by the Administration.

For science agencies, the Senate bill would have provided \$24.673 billion, including \$17.814 billion for NASA and \$6.854 billion for the NSF. This amount would have been a 5.5% increase over the FY2008 enacted level and a 0.8% increase over the FY2009 request. For related agencies, the bill would have provided \$869.0 million, including \$342.0 million for the EEOC and \$390.0 million for the LSC.

Synopsis of Enacted FY2008 Appropriations

On December 26, 2007, the President signed the Consolidated Appropriations Act, 2008 (H.R. 2764) into law (P.L. 110-161). This act included the FY2008 CJS appropriations bill, as well as 10 other appropriations bills, in addition to emergency military funding for Iraq and Afghanistan. Congressional leaders opted to use the Department of State, Foreign Operations, and Related Appropriations bill, 2008 (H.R. 2764) as the legislative vehicle for the FY2008 omnibus spending measure. As shown in **Table 2**, Congress appropriated \$54.637 billion for the federal departments, bureaus, agencies, administrations, offices and activities funded under the CJS appropriations bill in P.L. 110-161. Congress had previously passed continuing resolutions to fund those departments and agencies in the absence of the regular FY2008 CJS appropriation.² Also, Congress has passed a second FY2008 supplemental spending measure, the Supplemental Appropriations Act, 2008 (H.R. 2642; P.L. 110-252), that includes funding for several CJS accounts.³

Funding Trends, FY2002-FY2008

Table 3 shows CJS appropriations over a seven year period FY2002-FY2008, including supplemental appropriations. Funding for the Department of Commerce increased by 14.1% from FY2002 through FY2005. Due to rescissions, it decreased by 1.9% for FY2006, but when compared to the previous year increased by 3.1% for FY2007 and 3.5% for FY2008.

² For further information, see CRS Report RL30343, *Continuing Resolutions: Latest Action and Brief Overview of Recent Practices*, by Sandy Streeter.

³ For further information, see CRS Report RL34451, *FY2008 Spring Supplemental Appropriations and FY2009 Bridge Appropriations for Military Operations, International Affairs, and Other Purposes (P.L. 110-252)*, by Stephen Daggett et al.

Table 3. Funding Trends for CJS Departments and Agencies, FY2002-FY2008

(budget authority in millions of dollars)

Department/Agencies	FY2002	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008
Department of Commerce	5,739	5,796	5,943	6,550	6,426	6,625	6,857
Department of Justice	23,707	19,648	19,850	21,000	21,404	23,210	23,592
Science Agencies	19,710	20,600	20,960	21,676	22,833	22,207	23,380
Related Agencies	739	753	778	781	782	801	909
Total	49,895	46,681	47,584	50,201	51,499	52,931	54,742

Sources: Funding totals for the Department of Commerce, Department of Justice, and Science Agencies provided by the U.S. House of Representatives, Committee on Appropriations. Funding totals for related agencies compiled by CRS from the *Appendixes to the Budgets for the United States Government for FY2003-FY2009*.

Note: Numbers may not add to totals due to rounding.

Funding for the Department of Justice decreased by 17.1% from FY2002 to FY2003. This decrease largely reflects the transfer of the former Immigration and Naturalization Service to the Department of Homeland Security. Justice funding has increased by 20.1% from FY2003 to FY2008.

Funding for the science agencies has gradually increased by 15.8% from FY2002 to FY2006, decreased by 2.7% for FY2007 and increased by 5.3% for FY2008. Funding for related agencies increased by 9.5% from FY2002 to FY2008. Funding for all departments and agencies currently under the CJS appropriations bill decreased by 6.4% from FY2002 to FY2003, but it has increased from FY2003 to FY2008 by 17.3%.

Survey of Selected Issues

Department of Commerce

For the Department of Commerce (DOC), the Administration's original budget did not anticipate some problems which later emerged with the equipment for the 2010 Decennial Census. Consequently, on June 8, 2008, the Administration submitted a revised Department of Commerce budget that addressed the Census Bureau's equipment problems and adjusted funding in other DOC accounts. Another key issue included export promotion and funding for Commerce trade and technology programs, as the deficit in the U.S. current account has nearly doubled from \$98.8 billion in January 2000 to \$183.1 billion in second quarter 2007.⁴ In addition, the anniversary of hurricanes Katrina and Rita also drew attention to the Department's weather and ocean-stewardship programs.

⁴ Second quarter 2008 data was released by the Bureau of Economic Analysis on September 17, 2008. A current account deficit is a measure of the U.S. position in international financial flows. It includes the combined balances on trade in goods and services, income, and net unilateral current transfers. A current account deficit means that the United States is a net borrower.

Other issues could have included the following:

- implementation of the American Competitiveness Initiative, announced in February 2006, that called for the provision of \$50 billion for research and another \$86 billion in tax incentives over 10 years across several Commerce and related agencies accounts, to increase U.S. leadership in technological research, development, and education;
- the ability of U.S. trade agencies and the U.S. Patent and Trademark Office to fight intellectual property infringement abroad;
- proposed increases in funds for Economic and Statistics Administration to revise the measure of the health sector in gross domestic product (GDP);
- the efficacy of U.S. trade agency enforcement of U.S. trade remedy laws against unfair foreign competition;
- proposed consolidation of activities currently funded under the Economic Development Administration's Public Works, Technical Assistance, Research and Evaluation, Economic Adjustment Assistance and Defense Economic Adjustment Assistance programs under a Regional Development Administration (RDA);
- implementation of the Technology Innovation Program at the National Institute of Standards and Technology, which replaced the Advanced Technology Program, given the Administration's budget request included no funding for the effort;
- continuation of federal funding for the Manufacturing Extension Partnership at the National Institute of Standards and Technology given the Administration's budget proposal that recommended termination of federal support for this program;
- addressing aging equipment serving the National Oceanic and Atmospheric Administration's (NOAA) technical missions; and
- funding levels for NOAA's satellite programs, ocean and coastal research-related projects, and tsunami research systems.

Department of Justice

During consideration of the Administration's FY2009 budget request, several issues have been brought to Congress' attention that have had implications for the appropriations process. Those issues included the following:

- continuing oversight of the FBI's transformation and the redirection of a larger share of its resources towards combating domestic and international terrorism, and away from traditional crime;
- rising crime rates in medium-size and smaller cities (in 2006 as compared to 2005, cities with populations of 100,000 to 249,999 reported a 2.3% increase in the reported number of violent crime; and cities with populations of 50,000 to 99,999, 25,000 to 49,999, and 10,000 to 24,999 reported violent crime increases of 3.5%, 3.8%, and 2.8%, respectively);

- proposed consolidation of the existing 38 federal law enforcement assistance programs into four “competitive” grant programs and a reduction in such assistance to \$589.0 million for FY2009 (\$1.422 billion less than the amount appropriated by Congress for FY2008, or a 70.7% decrease);
- proposed consolidation of Office on Violence Against Women programs into a single “competitive” grant program, and a reduction in that Office’s budget to \$280.0 million for FY2009 (30% decrease as compared to the FY2008 appropriation);
- proposed \$100.0 million Southwest Border Enforcement Initiative that would increase resources to bolster DOJ’s efforts to combat illegal immigration, drug trafficking, and firearms smuggling across the Southwest border between the United States and Mexico in the Administration’s FY2009 budget request;
- FY2008 budget shortfall for the Bureau of Prisons (BOP) in light of projections that its facilities could have been 39% over capacity in 2008 and could be 42% over capacity in 2009;⁵ and
- proposed elimination of a prisoner reentry initiative under the Administration’s FY2009 grant consolidation plan, when an estimated 650,000 offenders are being released from prison annually.⁶

Science Agencies

As the United States works to remain competitive in the global world economy, key science issues are likely to revolve around

- providing funding for the America COMPETES Act (P.L. 110-69), a law that authorizes increases in the nation’s investment in science and engineering research at the NSF, National Institute of Standards Technology laboratories, and Department of Energy (DOE) Office of Science and science, technology, engineering, and mathematics (STEM) education programs at NSF, DOE, and the Department of Education,⁷ and the American Competitiveness Initiative (ACI), which responds to similar concerns (the White House’s Office of Science and Technology Policy reports that the FY2009 budget request includes funding for America COMPETES Act initiatives at 88% of the FY2009 authorization level);⁸

⁵ U.S. Department of Justice, Bureau of Prisons, *Quick Facts About the Bureau of Prisons*, available online at <http://www.bop.gov/news/quick.jsp>.

⁶ U.S. Department of Justice, Office of Justice Programs, “Learn About Reentry,” available at <http://www.reentry.gov/learn.html>.

⁷ For more information, see CRS Report RL34396, *The America COMPETES Act and the FY2009 Budget*, by Deborah D. Stine, and CRS Report RL34328, *America COMPETES Act: Programs, Funding, and Selected Issues*, by Deborah D. Stine.

⁸ Testimony of Dr. John Marburger, III, Director, White House Office of Science and Technology Policy, House Committee on Science and Technology, Funding for the America COMPETES Act in the FY2009 Administration Budget Request, hearing, 110th Congress, 2nd session, February 14, 2008, available at http://democrats.science.house.gov/Media/File/Commdocs/hearings/2008/Full/14feb/Marburger_Testimony.pdf.

- funding NASA budget priorities that are driven by the President's Vision for Space Exploration, which were endorsed by Congress in the NASA Authorization Act of 2005 (P.L. 109-155), and include goals like returning the space shuttle to flight status (already accomplished), then retiring it by 2010; completing the International Space Station (ISS), but discontinuing U.S. use of it by 2017; returning humans to the moon by 2020; and sending humans to Mars and "worlds beyond;" and
- funding for the NSF's work under the National Nanotechnology Initiative directed at understanding and exploiting the unique properties of matter that can emerge at the nanoscale, including fabrication of new materials and devices as well as related environmental, health, and safety concerns (\$396.8 million in the FY2009 request).⁹

Related Agencies

For related agencies, a key issue for Congress was whether to fund the Legal Services Corporation's FY2009 budget at \$311.0 million as requested by the Administration, a reduction of \$39.5 million as compared to the FY2008 enacted level of funding.

Department of Commerce¹⁰

The origin of the Department of Commerce dates to 1903 with the establishment of the Department of Commerce and Labor (32 Stat. 825). The separate Department of Commerce was established on March 4, 1913 (37 Stat. 7365; 15 U.S.C. 1501). The department's responsibilities are numerous and quite varied, but its activities center on five basic missions: (1) promoting the development of U.S. business and increasing foreign trade; (2) improving the nation's technological competitiveness; (3) encouraging economic development; (4) fostering environmental stewardship and assessment; and (5) compiling, analyzing, and disseminating statistical information on the U.S. economy and population.

The following agencies within the Commerce Department carry out these missions:

- *International Trade Administration (ITA)* seeks to develop the export potential of U.S. firms and to improve the trade performance of U.S. industry;
- *Bureau of Industry and Security (BIS)*, formerly the Bureau of Export Administration, enforces U.S. export laws consistent with national security, foreign policy, and short-supply objectives;
- *Economic Development Administration (EDA)* provides grants for economic development projects in economically distressed communities and regions;

⁹ For further information, see CRS Report RL34511, *Nanotechnology: A Policy Primer*, by John F. Sargent Jr.

¹⁰ This section was coordinated by Oscar Gonzales and Edward Murphy, CRS Government and Finance Division.

- *Minority Business Development Agency (MBDA)* seeks to promote private and public sector investment in minority businesses;
- *Economic and Statistics Administration (ESA)*, excluding the Census Bureau, provides (1) timely information on the state of the economy through preparation, development, and interpretation of economic data; and (2) analytical support to department officials in meeting their policy responsibilities. Much of this analysis is conducted by the Bureau of Economic Analysis (BEA);
- *United States Census Bureau (Census)*, a component of ESA, collects, compiles, and publishes a broad range of economic, demographic, and social data;
- *National Telecommunications and Information Administration (NTIA)* advises the President on domestic and international communications policy, manages the federal government's use of the radio frequency spectrum, and performs research in telecommunications sciences;
- *United States Patent and Trademark Office (USPTO)* examines and approves applications for patents for claimed inventions and registration of trademarks;
- *National Institute of Standards and Technology (NIST)* assists industry in developing technology to improve product quality, modernize manufacturing processes, ensure product reliability, and facilitate rapid commercialization of products on the basis of new scientific discoveries; and
- *National Oceanic and Atmospheric Administration (NOAA)* provides scientific, technical, and management expertise to (1) promote safe and efficient marine and air navigation; (2) assess the health of coastal and marine resources; (3) monitor and predict the coastal, ocean, and global environments (including weather forecasting); and (4) protect and manage the nation's coastal resources.

As **Table 4** shows, the original FY2009 requested appropriation amount of \$8.217 billion is \$1.360 billion more than the FY2008 enacted amount of \$6.857 billion (P.L. 110-161) for the Department of Commerce, a 19.8% increase. The largest percentage increase for a single agency is for the Census Bureau, which requests a 111.7% increase. The Census Bureau request was increased on June 9, 2008, at the expense of other programs as part of a revised budget request for the entire Department of Commerce.¹¹ The House Committee did not consider the June 9 revision timely and proceeded on the basis of the original budget submission. The House Committee provides the Department of Commerce \$8.707 billion, which is a 27.0% increase above the FY2008 enacted amount and a 6.0% increase above the original FY2009 requested amount. The Senate Committee provides \$9.402 billion, which is a 37.1% increase above the FY2008 enacted amount and a 14.4% increase above the original FY2009 requested amount.

The June 9, 2008, revised request recommended canceling funding in several Department of Commerce programs in order to provide additional funds for the 2010 census. The total requested increase for the 2010 Census is almost \$546.0 million, although other Census Bureau funding would be decreased. Although both the House Committee and the Senate Committee considered

¹¹ Letter from the Executive Office of the President to Congress, June 9, 2008. OMB Estimate No. 5, 110th Congress, 2nd Session, at http://www.whitehouse.gov/omb/budget/amendments/amendment2_6_9_08.pdf.

the revised request untimely, the Senate Committee's increase for the 2010 Census was also nearly \$546.0 million. In order to fund this increase, the Administration requested cancellation of \$70.0 million in unobligated balances associated with the Food, Conservation, and Energy Act of 2008 (P.L. 110-234).

Table 4. Funding for the Department of Commerce
(budget authority in millions of dollars)

Bureau or Agency	FY2008 Enacted	FY2009 Request ^a	FY2009 Revised ^b	House Draft Bill	Senate- Reported	FY2009 Enacted
International Trade Administration ^c	405.2	420.4	417.3	425.4	420.4	
Bureau of Industry and Security	72.9	83.7	83.2	83.7	83.7	
Economic Development Administration	279.9	132.8	123.6	282.8	232.8	
Minority Business Development Agency	28.6	29.0	28.6	31.5	29.0	
Economic and Statistics Administration (excluding Census)	81.1	90.6	90.1	89.1	90.6	
Census Bureau	1,230.2	2,604.6	3,139.9	2,604.6	3,151.0	
National Telecommunications and Information Administration ^d	36.3	19.2	18.4	40.9	59.2	
Patent and Trademark Office ^e	(1,915.5)	(2,075.0)	(2,075.0)	(2,087.0)	(2,075.0)	
National Institute of Standards and Technology	755.8	638.0	636.0	816.9	813.5	
National Oceanic and Atmospheric Administration	3,896.5	4,103.9	4,090.7	4,252.6	4,445.9	
Departmental Management	70.0	94.2	93.7	79.3	76.2	
Total: Department of Commerce	6,856.5	8,216.5	8,721.5	8,706.9	9,402.4	

Sources: House Appropriations Committee Print on the Consolidated Appropriations Act, 2008 (H.R. 2764/P.L. 110-161); U.S. Department of Commerce Budget Justifications, available at <http://www.osec.doc.gov/bmi/budget/FY09CBJ.html>; House Appropriations Committee- approved draft bill and report; and S. 3182 (S.Rept. 110-397).

Note: Numbers may not add to totals due to rounding.

- Original FY2009 Administration request.
- June 9, 2008 revised Administration request. The June 9 FY2009 announcement for the budget request revision presented individual program account changes. Figures reflect estimated net changes for agencies as a whole.
- Total funding for ITA may be higher than these amounts due to retained fees.
- Does not include \$45 million in mandatory spending from the Digital Television Transition and Public Safety Fund.

- e. The Patent and Trademark Office (PTO) is fully funded by user fees. The fees collected, but not obligated during the current year are available for obligation in the following fiscal year and do not count toward the appropriation totals. Only newly appropriated funds count toward the annual appropriation totals.

In addition, funding would be reduced in the following Department of Commerce accounts: International Trade Administration, reduced \$3.2 million; Bureau of Industry and Security, reduced \$0.5 million; Economic Development Administration, reduced \$9.2 million; Minority Business Development Administration, reduced \$0.4 million; Economics and Statistics Administration, reduced \$0.5 million; other programs in Census, reduced \$10.8 million;¹² National Telecommunications and Information Administration, reduced \$0.8 million; National Institute of Standards and Technology, reduced \$2.0 million; National Oceanic and Atmospheric Administration, reduced \$13.2 million; and Departmental Management, reduced \$0.5 million. The discussions of each agency below reflect the original budget request, except when otherwise noted.

Also, for the Census Bureau, both the House- and Senate-passed versions of the Supplemental Appropriations Act, 2008 (P.L. 110-252) include \$210.0 million to address issues related to the 2010 Census.

International Trade Administration (ITA)¹³

The ITA provides export promotion services, works to assure compliance with trade agreements, administers trade remedies such as antidumping and countervailing duties, and provides analytical support for ongoing trade negotiations. ITA's mission is to improve U.S. prosperity by strengthening the competitiveness of U.S. industry, promoting trade and investment, and ensuring fair trade and compliance with trade laws and agreements. ITA strives to accomplish this through the following four policy units and the Executive and Administrative Directorate: 1) Manufacturing and Services Unit, responsible for certain industry analysis functions and promoting the competitiveness and expansion of the U.S. manufacturing sector; 2) Market Access and Compliance Unit, responsible for monitoring foreign country compliance with trade agreements, identifying compliance problems and market access obstacles, and informing U.S. firms of foreign business practices and opportunities; 3) Import Administration Unit, responsible for administering the trade remedy laws of the United States; 4) Trade Promotion/U.S. Foreign Commercial Service program, responsible for conducting trade promotion programs, providing U.S. companies with export assistance services, and leading interagency advocacy efforts for major overseas projects; and 5) the Executive and Administrative Directorate, responsible for providing policy leadership, information technology support, and administration services for all of ITA.

The President's FY2009 request for ITA was \$420.4 million, a \$15.2 million (3.8%) increase over the FY2008 funding level of \$405.2 million.¹⁴ The request anticipated the collection of \$9.4

¹² This \$10.8 million reduction within Census includes reductions to other periodic census programs and a \$5.2 million reduction in salaries and expenses.

¹³ The sections on ITA, USTR, and ITC were written by M. Angeles Villarreal, Analyst in International Trade and Finance, CRS Foreign Affairs, Defense, and Trade Division.

¹⁴ Figures do not reflect the \$3.2 million reduction in the revised budget request. See above.

million in fees, raising available funds to \$429.9 million. The ITA *Budget Estimates* for FY2009 presented a priority list of new programmatic and base-level changes from the FY2008 budget.¹⁵ These included budget increases for an Adjustments to Base (ATB) and for a China Countervailing Duty Group Initiative; budget decreases due to the closure of a Trade Compliance Office in Seoul, Korea; and streamlining of the Domestic Office Structure. The House Appropriations Committee-approved bill would have provided \$425.4 million, 5.0% over the FY2008 enacted level and 1.2% over the FY2009 request. The Senate-reported bill would have provided \$420.4 million, 3.8% over the FY2008 enacted level and the same amount as the FY2009 request.

Bureau of Industry and Security (BIS)¹⁶

The BIS administers export controls on dual-use goods and technology through its licensing and enforcement functions. It cooperates with other nations on export control policy and provides assistance to the U.S. business community to comply with U.S. and multilateral export controls. BIS also administers U.S. anti-boycott statutes and is charged with monitoring the U.S. defense industrial base. Authorization for the activities of BIS, the Export Administration Act (50 U.S.C. 2401, *et seq.*), last expired in August 2001. On August 17, 2001, President Bush invoked the authorities granted by the International Economic Emergency Powers Act (50 U.S.C. 1703(b)) to continue in effect the system of controls contained in the act and by the Export Administration Regulations (15 C.F.R., Parts 730-799) and has renewed that authority yearly.

The President's FY2009 request for BIS was \$83.7 million, a \$10.8 million (14.8%) increase from the FY2008 enacted funding level of \$72.9 million.¹⁷ The FY2009 funding request for BIS was divided between licensing activity (\$41.0 million), enforcement activity (\$36.8 million), and management and policy coordination (\$5.9 million). Of these amounts, \$14.8 million was requested for Chemical Weapons Convention (CWC) enforcement. Slightly more than half of the requested increase (\$5.8 million) was for restoration of FY2008 base reductions; \$2.6 million was for cost-of-living adjustments; and \$2.4 million was for new programmatic initiatives. These included enhancing counter-proliferation efforts through the addition of BIS criminal investigators, placing an export control officer in Singapore to prevent the illegal transshipments of controlled items, and adding export compliance specialists for the Validated End-User program. In FY2008, BIS had budget authority for 365 positions. With the restorations to base and new initiatives, BIS sought budget authority for 396 positions for FY2009. Both the House and Senate Appropriations Committee recommended the amount of the President's request (\$83.7 million). The Administration's June 9 budget amendment sought to reduce the amount of the BIS budget by \$500,000 to be taken from the proposed inflation adjustment for the agency's account. (For more information on this amendment, please refer to the section on the "U.S. Census Bureau (Census)").

¹⁵ International Trade Administration, *Budget Estimates: Fiscal Year 2009*, Congressional Submission.

¹⁶ This section was written by Ian F. Fergusson, Specialist in International Trade and Finance, Foreign Affairs, Defense, and Trade Division.

¹⁷ Figures do not reflect the \$0.5 million reduction in the revised budget request. See above.

Economic Development Administration (EDA)¹⁸

The EDA was established under the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. § 3121). The EDA's mission is to help communities and regions generate new jobs and retain existing jobs by stimulating industrial and commercial growth in economically distressed areas. EDA assistance emphasizes the needs of urban areas with high unemployment, low income, or other severe conditions of economic distress.

In the past three budget requests, the Bush Administration sought to replace EDA assistance with new initiatives. In FY2006, the Administration budget proposed terminating EDA and 16 other federal community and economic programs and replacing them with a new, but lower-funded, program known as Strengthening America's Community Initiative. In its FY2007 and FY2008 budget requests, the Bush Administration proposed consolidating EDA assistance programs under a new Regional Development Account (RDA). As proposed by the Administration, the past initiatives would have been funded at a level below EDA's current year appropriations. During the past three years, Congress has consistently rejected the Administration's proposals to reduce and restructure EDA assistance programs.

For the fourth consecutive year, the Administration budget proposed a reduction in EDA assistance programs. For FY2009, the Administration's original budget request included \$132.8 million for EDA assistance, which was significantly less than the FY2008 enacted amount of \$279.9 million.¹⁹ Specifically, the Administration's FY2009 budget request included the following:

- \$32.8 million for salaries and expenses, \$2.0 million more than appropriated in FY2008;
- \$7.0 million for public works grants, \$141.0 million less than FY2008 funding level;
- \$40.0 million for economic adjustment assistance, \$2.3 million less than appropriated in FY2008;
- \$27.0 million for planning assistance, \$1.6 million more than the FY2008 appropriation;
- \$14.0 million for trade adjustment assistance, unchanged from the FY2008 appropriation;
- \$9.0 million for technical assistance, \$400,000 less than the FY2008 appropriation;
- \$1.0 million for research, \$530,000 less than the FY2008 appropriation; and
- \$2.0 million for Global Climate Change Mitigation Incentive Fund, \$7.5 million less than appropriated in FY2008.

¹⁸ This section was written by Eugene Boyd, Analyst in Federalism and Economic Development Policy, CRS Government and Finance Division.

¹⁹ Figures do not reflect the \$9.2 million reduction in the revised request. See above.

The budget would reduce funding for EDA assistance programs, not including salaries and expenses, by 60%, from \$249.1 million appropriated for FY2008 to \$100.0 million. The most significant reduction would be borne by EDA's public works grants, a 95% reduction. The proposed reduction in funding for public works projects would shift the agency's focus from assisting in financing infrastructure development to providing assistance in support of economic development-related planning, technical assistance, and research and evaluation activities. In testimony before the House Appropriations Subcommittee on Commerce, Justice, State, the Department of Commerce's Assistant Secretary for Economic Development, Sandy Baruah, stated that the reduction in public works funds was a result of making difficult choices among competing priorities in a tight budget environment.²⁰ Opponents of the proposed cuts, such as the National Association of Development Organizations, have contended that the \$147.0 million in proposed cuts "could potentially result in the loss or delay of nearly \$4.12 billion in new private sector investments and the setback of saving or generating more than 52,000 jobs in distressed areas across the nation."²¹

On June 9, 2008, the Administration forwarded to Congress a revised budget request for the Department of Commerce programs. The revised budget request was sought in order to offset an increase in funding for decennial census activities. It proposed eliminating \$7.2 million initially requested for EDA's public works grants. If approved, the reduction would have terminated the program. The Administration also sought a reduction in funding for the EDA salaries and expenses by \$1.968 million.²² The requested revisions were considered untimely and were not acted upon by Congress. For a summary discussion of this proposed revision, see the "U.S. Census Bureau (Census)" section of this report.

On June 23, 2008, the Senate Appropriations Committee recommended \$232.8 million in funding for EDA activities (\$200.0 million) and salaries and expenses (\$32.8 million). This was \$100.0 million more than requested by the Administration, but \$47.1 million less than appropriated in FY2008. The Committee's recommendation of \$200.0 million for assistance programs includes the following:

- \$105.8 million for public works, an activity the Administration wanted to eliminated;
- \$42.3 million for economic adjustment grants;
- \$27.0 million for planning assistance;
- \$15.0 million for trade adjustment assistance;

²⁰ U.S. Congress, House Committee on Appropriations, Subcommittee on Commerce, Justice, State, Testimony of Sandy K. Baruah Assistant Secretary of Commerce for Economic Development, U.S. Department of Commerce, March 5, 2008, available at http://www.eda.gov/ImageCache/EDAPublic/documents/pdfdocs2008/skbwrittentestimony030508_2epdf/v1/skbwrittentestimony030508.pdf.

²¹ National Association of Development Organizations, Legislative Action Alert, *Economic Development Administration: Urge Lawmakers to Restore Public Works Funding, Reject 53 Percent Overall Budget Reduction*, p. 2, available at http://www.nado.org/uploaded_files/eda2009.pdf.

²² A copy of the transmittal to the Speaker of the House from the Executive Office of the President, Office of Management and Budget is available at http://www.whitehouse.gov/omb/budget/amendments/amendment2_6_9_08.pdf.

- \$9.4 million for technical assistance, \$400,000 more than requested by the Administration; and
- \$500,000 for research and evaluation activities.

On June 2008, the House Appropriations Committee also took action on the appropriations measure. The House Appropriations Committee-approved draft bill recommended an appropriation of \$282.8 million for EDA. This included \$250.0 million for economic development assistance and \$32.8 million for salaries and expenses. This was \$2.9 million more than appropriated in FY2008, \$150.0 million more than requested by the Administration, and \$50.0 million more than recommended by the Senate. The \$250.0 million for EDA assistance programs includes the following:

- \$138.2 million for public works grants;
- \$40.3 million for economic adjustment assistance;
- \$31.0 million for planning grants;
- \$15.8 million for trade adjustment assistance;
- \$9.4 million for technical assistance; and
- \$490,000 for research and evaluation activities.

In addition, the House bill recommended \$14.7 million in grant assistance for the Global Climate Change Mitigation Fund, which was first funded under the FY2008 appropriations act. The recommended funding level was \$12.7 million more than requested by the Administration and \$5.0 million more than appropriated in FY2008.

Despite the Administration's request that the public works programs be terminated, the House and Senate bills recommend continued support for and funding of the program. The report accompanying the draft bill encourages EDA to give greater consideration when evaluating applications for assistance to projects that

- diversify the regional economy;
- support the development of emerging industry clusters;
- advance innovation and technology transfers; and
- encourage the commercialization of university-based research and development.

The Continuing Resolution signed into law by the President on September 30, 2008 (P.L. 110-329), allocates \$400.0 million in EDA funds for necessary expenses. These expenses include disaster relief, long-term recovery, and restoration of infrastructure related to the consequences of hurricanes, floods, and other natural disaster occurring during 2008 for which the President declared a major disaster under Title IV of the Stafford Act.

Minority Business Development Agency (MBDA)²³

The MBDA, established by Executive Order 11625 on October 13, 1971 (36 FR 19967, 3 C.F.R., 1971-1975 Comp., p. 616) is charged with the lead role in coordinating all the federal government's minority business programs. As part of its strategic plan, the MBDA seeks to develop a more industry-focused, data-driven, technical assistance approach to give minority business owners the tools essential for becoming first or second tier suppliers to private corporations and the federal government in the new procurement environment. Progress will be measured in relation to entrepreneurial parity and strategic growth through increased gross receipts, number of employees, and size and scale of firms associated with minority business enterprise.

The FY2009 requested amount for MBDA was \$29.0 million. This was \$0.4 million more than the FY2008 enacted amount of \$28.6 million, a 1.4% increase.²⁴ MBDA programs are primarily delivered through National and Regional Enterprise Centers (NECs and RECs), which service strategic growth firms, identify new opportunities, and provide project management of grantees. The amount requested for grants, subsidies, and contributions in FY2009 remains the same as FY2008, \$11.2 million.

The Senate Committee recommendation provided \$29.0 million. The recommendation was \$377,000 above the FY2008 enacted level and the same as the budget request. The increase provided for inflationary adjustments and ensured that funds will be available for the existing Native American Business Development Centers. The House Appropriations Committee-approved draft bill recommended \$31.5 million for MBDA. The recommendation was \$2.9 million above the FY2008 enacted level.

Economic and Statistics Administration (ESA)²⁵

The ESA provides economic data, analysis, and forecasts to government agencies and, where appropriate, to the public. The ESA includes the Census Bureau (discussed separately), the Bureau of Economic Analysis (BEA), and STAT-USA. The ESA has three core missions: to compile a system of economic data, to interpret and communicate the forces at work in the economy, and to support the information and analytical needs of the executive branch. Census is excluded from the following discussion of ESA because its budget is submitted separately. The regional input-output modeling system (RIMS) is also excluded because it is funded entirely through user fees instead of annual appropriations.

²³ This section was written by Oscar Gonzales, Analyst in Economic Development Policy, CRS Government and Finance Division.

²⁴ Figures do not reflect the \$0.4 million revised request. See discussion at the beginning of Commerce section of this report.

²⁵ This section was written by Edward V. Murphy, Analyst in Financial Institutions, CRS Government and Finance Division.

The FY2009 requested amount for ESA was \$90.6 million.²⁶ This represented a 10.5% increase over the comparable FY2008 enacted amount of \$81.1 million. BEA represented 96% of the FY2009 ESA budget request. The most prominent ESA programs are BEA's four statistical accounts: (1) National Income and Product Accounts, (2) Regional Economic Accounts, (3) Industry Input-Output Tables, and (4) International Balance of Payments. BEA's four core programs support other agencies and policymakers. The National Economic Accounts support federal budget projections and macroeconomic policy. Regional data are used to allocate federal funds and for state budget forecasts. Industry accounts are used to compile the other datasets and also by the Bureau of Labor Statistics for the Producer Price Index. Balance of payments data are required by international agreements on exchange rates.

ESA has an initiative to revise the measure of the health sector in gross domestic product (GDP). The initiative requested \$3.2 million in additional FY2009 funds to address the question, "do the large increases in U.S. health expenditures represent increases in costs or increases in the delivery of real medical services to an aging population?" In putting forth the initiative, the Administration argued that health care spending will continue to be the most important long-term issue confronting the federal budget. Improper measurement of productivity in health services might cause significant errors in Medicare spending projections. Erroneous productivity measures could also affect the formula used to compensate service providers participating in federal programs.

The Senate Committee recommendation provided \$90.6 million. The recommendation was 11.8% more than the FY2008 enacted level and the same as the original FY2009 budget request. The House committee-approved draft bill recommended \$89.1 million for ESA, which was 9.9% more than the FY2008 enacted amount and 1.7% less than the original FY2009 requested amount.

U.S. Census Bureau (Census)²⁷

A census of the U.S. population, conducted every 10 years, is authorized by the Constitution (Article I, Section 2, clause 3, as modified by Section 2 of the 14th Amendment). The Bureau of the Census, established as a permanent office on March 6, 1902 (32 Stat. 51), conducts this decennial census under Title 13 of the *U.S. Code*, which also authorizes the Census Bureau to collect and compile a wide variety of other demographic, economic, housing, and governmental data.

To fund the bureau in FY2009, the Administration initially requested \$2.605 billion, including \$238.7 million for salaries and expenses and \$2.366 billion for periodic censuses and programs. By comparison, the FY2008 enacted amounts were \$1.230 billion for the bureau as a whole, with \$202.8 million for salaries and expenses and \$1.027 billion for periodic censuses and programs. The large difference (+\$1.375 billion) between the FY2009 request and FY2008 enacted amount for the bureau primarily reflected heightened preparations, known as the "ramp up," for the 2010 census. About 91%, or \$2.143 billion, of the initial periodic censuses and programs request was for these activities.

²⁶ Figures do not reflect the \$0.5 million reduction in the revised request. See above.

²⁷ This section was written by Royce Crocker, Specialist in American National Government, CRS Government and Finance Division.

In preparation for 2010, the bureau planned three new initiatives, the first of which involved reengineering the census to prepare for a short-form only enumeration. The short-form questionnaire is designed to gather data from all households for, among other purposes, the constitutionally mandated reapportionment of the U.S. House of Representatives and within-state redistricting. The census long-form questionnaire, which since 1940 had collected detailed data from a sample of households, will be replaced by the American Community Survey (ACS). The ACS is an ongoing survey of about 250,000 households per month. By 2010, it will provide the equivalent of long-form data yearly, instead of once a decade, to states and sub-state jurisdictions. Data already are available for states and localities with at least 65,000 persons.

Second, the bureau is making improvements to its Master Address File (MAF) and Topologically Integrated Geographic Encoding and Referencing mapping system (TIGER). As described by the bureau director, “the MAF/TIGER Enhancement Program is a multi-year effort to collect and correct the locations of streets and other geographic information.”²⁸ Because the census involves mailing out questionnaires and having them mailed back to the bureau, the accuracy of MAF/TIGER is essential for sending questionnaires to the right housing units.

Third, the bureau intended to automate fully the pre-census address verification and post-census non-response followup (NRFU) processes. Address verification will be conducted to improve MAF accuracy. In the NRFU process, enumerators will try to obtain correct data from those who have not completed and returned their census forms. Due to contract delays, significant cost overruns, and scheduling and performance problems, however, the handheld computers on which the bureau was relying for both address verification and NRFU will be used only for the former process. The bureau will resort to the traditional paper-based NRFU, and thus will require additional funds for, among other purposes, hiring more temporary census workers than originally anticipated.

The altered non-response follow-up plan could increase the overall cost of the 2010 census from a projected \$11.5 billion to between \$13.7 and \$14.5 billion.²⁹ The Supplemental Appropriations Act, 2008 (P.L. 110-252; 122 Stat. 2323) included an extra \$210.0 million for the 2010 census in FY2008, and after the bureau’s initial FY2009 budget request, it sought additional FY2009 funds. On June 9, 2008, the Administration submitted an FY2009 budget amendment requesting almost \$546.0 million more for the 2010 census, to be offset by reductions in other accounts and cancellations of unobligated balances in the Department of Commerce and other entities. House and Senate appropriators deemed the amended request submission untimely, although the Senate Appropriations Committee recommended an amount for the bureau that exceeded the original FY2009 request of \$2.605 billion by \$546.4 million. House appropriators recommended the amount originally requested. The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, H.R. 2638, Division A, Section 120 (P.L. 110-329; 122 Stat. 3574), funded the bureau’s salaries and expenses account at the FY2008 level of \$202.8 million until March 6, 2009, but gave periodic censuses and programs \$2.906 billion—almost equal to the

²⁸ Testimony of U.S. Census Bureau Director Steve H. Murdock in U.S. Congress, House Committee on Appropriations, Subcommittee on Commerce, Justice, Science, and Related Agencies, *The Fiscal Year 2009 Budget*, April 3, 2008, p. 3, at [<http://www.census.gov/Press-Release/www/2008/murdock4-3-08.htm>].

²⁹ U.S. Government Accountability Office, *2010 Census: Plans for Decennial Census Operations and Technology Have Progressed, but Much Uncertainty Remains*, GAO-08-886T, June 11, 2008, p. 1.

FY2009 amended request. “From such amounts,” according to Section 120, “funds may be used for additional promotion, outreach, and marketing activities.”

National Telecommunications and Information Administration (NTIA)³⁰

The NTIA is the executive branch’s principal advisory office on domestic and international telecommunications and information technology policies. Its mandate is to provide greater access for all Americans to telecommunications services, support U.S. attempts to open foreign markets, advise on international telecommunications negotiations, fund research grants for new technologies and their applications, and assist nonprofit organizations converting to digital transmission in the 21st century. The NTIA also manages federal use of radio frequency spectrum domestically and internationally.

For FY2009, the Bush Administration requested \$19.2 million for NTIA, with only the administrative functions of NTIA receiving direct funding. The House Appropriations Committee approved \$40.9 million for FY2009. The Senate Appropriations Committee has approved \$36.2 million for FY2009. There are two major components to the NTIA appropriated budget (a third program, which is a revolving fund based on spectrum auctions, is discussed below). The first is Salaries and Expenses. For FY2009, the Bush Administration requested \$19.2 million; both the House and Senate appropriators approved \$19.2 million for FY2009. Traditionally, a large part of this function has been for the management of various information and telecommunications policies, both domestically and internationally. The second NTIA component is Public Telecommunications and Facilities Planning and Construction (PTFPC). The Bush Administration requested (as it did in previous years) that this program’s funding be eliminated, arguing that most of the construction and refurbishing of public telecommunications facilities has already been done and that any remaining support that is needed should come from local public broadcasting entities. For FY2009, however, both the congressional appropriations committees disagreed with the Administration’s position, citing the ongoing need for upgrading of public broadcasting facilities, particularly as the deadline of converting all analog broadcasts to digital in 2009 approaches. For FY2009, the House Appropriations Committee approved \$21.7 million; the Senate Appropriations Committee approved \$20.0 million. In addition, Senate appropriators have called for reinstating the Technology Opportunity Program (TOP), which was discontinued after FY2005, at \$20.0 million for FY2009. This program would provide funding for broadband deployment in those areas of the United States that do not have access to this technology.

The third program that is administered by NTIA, but to date not directly funded by appropriated money, was established through the Deficit Reduction Act of 2005. That law (P.L. 109-171) called for the creation of a Digital Television Transition and Public Safety Fund, which would offset receipts from the auction of spectrum licenses made available when analog signals are concluded in February 2009. The initial auction began on January 24, 2008 and concluded on March 17, 2008. The receipts of the auction are intended to fund the following programmatic functions at NTIA: a digital-analog converter box program to assist consumers in meeting the

³⁰ This section was written by Glenn McLoughlin, Specialist in Technology and Telecommunications Policy, CRS Resources, Science, and Industry Division.

2009 deadline for receiving television broadcasts in digital format; public safety interoperable communications grants (which would be granted to ensure that public safety agencies have a standardized format for sharing voice and data signals on the radio spectrum); New York's 9/11 digital transition funding (until the Freedom Tower is completed); assistance to low-power television stations for converting from analog to digital transmission; a national alert and tsunami warning program; and funding to enhance a national alert system as stated in the ENHANCE 911 Act of 2004 (P.L. 108-494).

U.S. Patent and Trademark Office (USPTO)³¹

The USPTO examines and approves applications for patents on claimed inventions and administers the registration of trademarks. It also assists other federal departments and agencies to protect American intellectual property in the international marketplace. The USPTO is funded by user fees paid by customers that are designated as "offsetting collections" and subject to spending limits established by the Committee on Appropriations.

The Administration's FY2009 budget request recommended providing the U.S. Patent and Trademark Office with \$2.075 billion in budget authority, an increase of 8.3% over the previous fiscal year. The budget proposal also stated that the USPTO should have "full access" to all fees collected and that fee increases enacted in 2005 and 2006, and extended through 2008, be continued.

The draft bill approved by the House Committee on Appropriations would have given the USPTO the budget authority to spend \$2.087 billion in FY2009, 8.9% above FY2008. S. 3182, as reported from the Senate Committee on Appropriations, provided the USPTO with \$2.075 billion in budget authority, an increase of 8.3% over the previous fiscal year. Both bills would continue earlier enacted fee increases. The Senate bill also included language "to allow the USPTO to have fuller access to fees" collected.

P.L. 110-161, the Consolidated Appropriations Act, FY2008, gave the USPTO the budget authority to spend \$1.916 billion in fees collected (8.2% above FY2007) and mandated the continuation of existing fee increases.

Beginning in 1990, appropriation measures have at times limited the ability of the USPTO to use the full amount of fees collected in each fiscal year. Although over the past several years the USPTO has been given the budget authority to use all collected fees, this issue remains an area of controversy. Opponents of this approach argue that agency operations are supported by payments for services that must be financed in the year the expenses are incurred. Proponents of methods to limit USPTO fee usage maintain that the fees are necessary to help balance the budget and that the budget authority given to the USPTO is sufficient to cover operating costs.

³¹ This section was written by Wendy H. Schacht, Specialist in Science and Technology Policy, CRS Resources, Science, and Industry Division.

National Institute of Standards and Technology (NIST)³²

NIST is a laboratory of the Department of Commerce. The organization's mandate is to increase the competitiveness of U.S. companies through appropriate support for industrial development of pre-competitive generic technologies and the diffusion of government-developed technological advances to users in all segments of the American economy. NIST research also provides the measurement, calibration, and quality assurance techniques that underpin U.S. commerce, technological progress, improved product reliability, manufacturing processes, and public safety.

For FY2009, the Administration's original budget proposed \$638.0 million in funding for NIST. On June 6, 2008, the President submitted a series of amendments to his budget, including a reduction of \$2.0 million in the amount requested for NIST (from the Manufacturing Extension Partnership (MEP) program). The new request of \$636.0 million was 15.9% below FY2008 due to an absence of support for the Technology Innovation Program (TIP)³³ and a significant decrease in financing MEP. Funding for in-house research and development under the Scientific and Technical Research and Services (STRS) account (including the Baldrige National Quality Program) was to increase 21.5% to \$535.0 million; MEP would have been provided \$2.0 million to close out the federally financed portion of the program such that "MEP centers will become independent, as intended in the program's original authorization." Construction support would have declined 38.3% to \$99.0 million.

The draft bill approved by the House Committee on Appropriations funded NIST at \$816.9 million, 8.1% above FY2008. The STRS account would have increased 13.7% to \$500.7 million; support for TIP at \$65.2 million would remain constant, and MEP funding increased 36.2% to \$122.0 million. Construction would decrease 19.6% to \$129.0 million. S. 3182, as reported by the Senate Committee on Appropriations, provided \$813.5 million for the program, an increase of 7.6% over FY2008. Included was \$489.5 million for the STRS account (an 11.1% increase), \$65.0 million for TIP, and \$110.0 million for MEP (a 22.8% increase). The construction budget would have decreased 7.2% to \$149.0 million.

The Consolidated Appropriations Act, FY2008, P.L. 110-161, funded NIST at \$755.8 million, 11.7% above the FY2007 figure. Support for the STRS account increased 1.4% to \$440.5 million (including the Baldrige National Quality Program). The Technology Innovation Program (formerly the Advanced Technology Program (ATP)) was appropriated \$65.2 million (with an additional \$5.0 million from FY2007 unobligated balances under ATP), 17.6% below FY2007. Funding for the MEP program decreased 14.4% to \$89.6 million. Support for construction almost tripled to \$160.5 million.

Continued support for the Advanced Technology Program was a major funding issue. ATP was created to provide "seed financing," matched by private sector investment, to businesses or consortia (including universities and government laboratories) for development of generic technologies that have broad applications across industries. Opponents of the program cited it as a prime example of "corporate welfare," whereby the federal government invests in applied

³² This section was written by Wendy H. Schacht, Specialist in Science and Technology Policy, CRS Resources, Science, and Industry Division.

³³ The Technology Innovation Program replaced the Advanced Technology Program as mandated by P.L. 110-69.

research activities that, they emphasize, should be conducted by the private sector. Others defended ATP, arguing that it assisted businesses in developing technologies that, while crucial to industrial competitiveness, would not or could not be developed by the private sector alone. Although Congress maintained (often decreasing) funding for ATP, the initial appropriation bills passed by the House since FY2002 failed to include financing for the program. In FY2006, support for the program was cut 41.0% and in 2007, P.L. 110-69 replaced ATP with the Technology Innovation Program, which focuses on small and medium sized firms. The Consolidated Appropriations Act, FY2008 provided funding for this new initiative. The Administration's FY2009 budget request did not include financing for TIP, whereas both House and Senate bills would have provided support similar to that appropriated in FY2008.

The budget for the Manufacturing Extension Partnership, another extramural program administered by NIST, has been debated since the FY2004 appropriations deliberations. Although congressional support for MEP remained constant in the recent past, the Administration's FY2004 budget request, the initial House-passed bill, and the FY2004 Consolidated Appropriations Act substantially decreased federal funding for this initiative, reflecting the President's recommendation that manufacturing extension centers "with more than six years experience operate without federal contribution." P.L. 108-447, however, restored financing for MEP in FY2005 to the level that existed prior to the 63.0% reduction taken in FY2004. While support decreased in FY2006, it remained significantly above the FY2004 figure; FY2007 funding remained similar to the previous fiscal year. For FY2008, funding for MEP was reduced. The President's FY2009 budget proposal recommended curtailing the federally financed portion of the program and provided \$2.0 million to accomplish this objective. The House and Senate FY2009 appropriations bills included large increases in funding for MEP.

As part of the American Competitiveness Initiative,³⁴ announced by the President in his 2006 State of the Union message, the Administration indicated intentions to double funding over 10 years for "innovation-enabling research" performed at NIST. This was to be accomplished through increased support of NIST's "core" programs, defined as internal research in the STRS account and the construction budget. To this end, the President's FY2007 budget requested an 18.3% increase in funding for intramural R&D at the laboratory; support for research performed within the NIST facilities under P.L. 110-5 increased 9.6% over FY2006. For FY2008, the omnibus appropriations legislation provided for a small increase in the STRS account. The President's FY2009 budget proposed an additional 21.5% in funding for this in-house research and development. Increases in the STRS account were included in the House and Senate bills, but at amounts less than in the budget request.

National Oceanic and Atmospheric Administration (NOAA)³⁵

The mission of NOAA is to understand and predict changes in the Earth's environment and conserve and manage coastal and marine resources to meet the nation's economic, social, and environmental needs.³⁶

³⁴ For further information, see The White House, Office of Science and Technology Policy, Domestic Policy Counsel, *American Competitiveness Initiative: Leading the World in Innovation*, February 2006, 23 pp.

³⁵ This section was prepared by Wayne A. Morrissey, Information Research Specialist, Knowledge Services Group.

The Bush Administration's FY2009 revised budget request³⁷ recommended \$4.104 billion for NOAA (see **Table 5**). This amount was slightly over 5.3%, or \$208.0 million more than FY2008 enacted appropriations of \$3.896 billion. The President requested Congress to restore funding for NOAA programs cut in FY2008 in favor of "congressionally directed programs," an estimate of which is around \$150.0 million.³⁸ Funding for these programs was not requested by the Administration for FY2009. Also, reflected in **Table 5** is an Administration budget amendment that reduced the original FY2009 request for NOAA by \$13.2 million.

Table 5 is organized by the FY2009 NOAA budget structure and includes the Operations, Research, and Facilities (ORF) discretionary account; the Procurement, Acquisition, and Construction (PAC) discretionary account; and "Other Accounts," composed of discretionary funding for the Pacific Coastal Salmon Recovery Fund (PCSRF), the Coastal Zone Management Fund (CZMF), and NOAA fisheries financing. Offsetting budget authority for NOAA may also be transferred to or from another agency, such as with the Promote and Develop American Fishery Products Fund (PDAF) from USDA; or transferred internally, as with the CZMF. Congress has also approved additional budget authority from previous fiscal year(s) unobligated appropriations in some years. From time to time, the agency has also received emergency appropriations or has been subject to congressionally mandated rescissions as noted in **Table 5**.

The President's FY2009 Budget Request

Of the \$4.104 billion requested for NOAA for FY2009, \$2.834 billion was for ORF; \$1.239 billion for PAC; and a net total of \$30.9 million for NOAA's Other Accounts, which include PCSRF, CZMF, and fishery financing (**Table 5**).³⁹ Additional budget authority (BA) requested by the President for NOAA would have offset the amount of discretionary funding the agency would have require otherwise. For FY2009, \$79.0 million would have been transferred from the PDAF to the ORF account. The PDAF contains collections transferred from the U.S. Department of Agriculture. Additional offsetting BA for ORF of \$11.0 million would have be derived, with Congress's approval, from FY2008 unobligated appropriations. Another \$3.0 million would have been be transferred internally from CZMF collections to ORF to administer the Coastal Zone Management Program. In addition to NOAA's five ORF budget line offices, funding was requested for NOAA Program Support (PS), a cross-cutting budget activity that funds agency administration, facilities maintenance, education, and the Office of Marine and Aviation Operations (OMAO). The OMAO funds marine services (hydrographic data collection) and

(...continued)

³⁶ Mission statement, Department of Commerce, *NOAA FY2009 Budget Summary*, February 4, 2008, at http://www.corporateservices.noaa.gov/~nbo/FY08%20Rollout%20Materials/1_31_07_ROLLOUT/Blue_Book/Ch.0_TOC_and_INTRO_08_Final.pdf.

³⁷ See introductory section in this report for the Department of Commerce.

³⁸ CRS estimated this amount according to funding reported by conferees in the Joint Explanatory Statement to accompany H.R. 2764 (amended), House Appropriation Committee Print, *Consolidated Appropriations Act, 2008, Division B-Commerce, Justice, Science, and Related Agencies Appropriations Act, 2008*, pp. 618-791, January 30, 2008. Available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_house_committee_prints&docid=f:39564b.pdf.

³⁹ The request for PCSF was \$35.0 million. However, NOAA's accounting is sensitive to offsetting budget authority and, therefore, the amount of \$30.9 million is a net total for Other Accounts.

manages the fleet of marine vessels and aircraft, including the NOAA Corps commissioned officers who pilot them.

The Bush Administration's overarching budget priorities for NOAA for FY2009 included (1) Congress's authorizing the agency to use unobligated appropriations and reprogramming budget authority for programs it did not request in FY2008, that is, "congressionally directed programs"; (2) "recapitalizing" NOAA by infusing funding into aging facilities, equipment, technology, vessels, buildings, and other agency infrastructure; (3) assuring that NOAA satellite programs are able to meet mission requirements and keep to schedule; (4) managing and maintaining meteorological, climate, and environmental data; and (5) implementing the President's Ocean Initiative.⁴⁰

Table 5. NOAA Appropriations For FY2008, the FY2009 Request, and Congressional Action
(budget authority in millions of dollars)

NOAA Accounts		FY2008 Enacted	FY2009 Request	House Draft Bill	Senate- Reported
Operations, Research, and Facilities (ORF)					
NOS	National Ocean Service	467.9	449.3	472.2	516.8
NMFS	NOAA Fisheries	708.6	726.2	744.4	777.3
OAR	NOAA Research	387.9	372.3	396.3	403.4
NWS	National Weather Service	805.3	818.8	825.8	847.9
NESDIS	NOAA Satellites	179.2	165.3	179.2	177.9
PS	Program Support	392.4	392.4	410.0	426.5
Total ORF Budget Authority		2,941.3	2,924.3	3,027.9	3,149.8
Budget Authority Offsets (PDAF/CZMF and transfers/deobligations)		(82.0)	(90.0)	(45.6)	(97.9)
Subtotal ORF Discretionary		2,859.3	2,834.3	2,982.3	3,051.9
Procurement, Acquisition, & Construction (PAC)^a		979.2	1,238.7	1,212.3	1,258.0
Other Accounts (net total)					
PCSRF/CZMF/Finance		58.0	30.9	58.0	86.0
Total: NOAA^b		3,896.5	4,103.9	4,252.6	4,445.9

Sources: House Committee on Appropriations, Subcommittee on Commerce, Justice, Science, and related Agencies, Comparative Statement of New Budget (Obligational) Authority for 2008 and Budget Requests and Amounts Recommended in the Bill for 2009, June 2008; House Committee on Appropriations, draft bill and report; and Senate Committee on Appropriations, Departments of Commerce and Justice, Science, and Related Agencies Appropriations Bill, 2009 (S. 3182; S.Rept. 110-397), June 23, 2008.

Note: Numbers may not add to totals due to rounding.

⁴⁰ See Department of Commerce, NOAA, FY2009 Budget Highlights, "President's Ocean Initiative," at http://www.corporateservices.noaa.gov/~nbo/FY09_Rollout_Materials/POI_One_Pager_FINAL.pdf.

- a. The FY2009 PAC request was divided as follows: \$24.4 million for NOS; \$10.4 million for OAR; \$111.9 million for NWS; \$992.6 million for NESDIS; and \$92.5 million for Program Support. (PS) The House bill as reported provided PAC funding as follows: NOS \$48.1 million; NMFS \$0; OAR \$10.4 million; NESDIS \$992.6 million; and PS \$49.4 million. The Senate report on S. 3182 (S.Rept. 110-397) recommended PAC funding as follows: NOS \$39.4 million; NMFS \$4.6 million; OAR \$15.6 million; NWS \$106.4 million; \$992.6 million; and PS \$102.4 million. In each case, the PAC totals are offset by \$2 million in deobligations. The Manager's Amendment to the draft House bill as reported transfers \$32,360,000 to NIST. That amount was derived from reducing PAC funding for PS for construction of the Pacific Regional Center reduced from \$60,250,000 to \$22,890,000 and adding \$5,000,000 to the Marine Sanctuaries Construction/Acquisition (PAC/NOS), which leaves a balance of \$32,360,000 for transfer to NIST.
- b. The FY2008 enacted total reflects a rescission of \$11.3 million required by P.L. 110-161. In the President's revised FY2009 budget, about \$4.0 million from ORF and \$9.0 million from PAC were reprogrammed internally to cover various inflationary cost increases at NOAA.

House Appropriations Committee Recommendations

The House CJS Subcommittee on Appropriations amendment recommends a total of \$4.212 billion for NOAA for FY2009 (**Table 5**). This amount was about 7.5%, or \$316.0 million, more than FY2008 enacted level of \$3.896 billion. It was 2.6%, or \$108.0 million more than the FY2009 request of \$4.104 billion. Further, it was 5.2%, or \$235.0 million less than the Senate Appropriation Committee recommendation of \$4.446 billion. The House committee recommended funding for NOAA discretionary accounts as follows: ORF \$2.982 billion; PAC \$1.212 billion; and Other Accounts, a net \$58.0 million (i.e., PCSRF \$65.0 million, CZMF \$3 million; and fisheries financing an offsetting \$4.0 million).

Senate Appropriations Committee Recommendations

The Senate CJS Subcommittee on Appropriations recommended a total of \$4.446 billion for NOAA for FY2009 (**Table 5**). This amount was 14.2 %, or \$550.0 million more than the \$3.896 billion enacted for FY2008 and 8.3%, or \$342.0 million, more than the \$4.104 billion requested for FY2009. The Senate committee recommended funding for NOAA discretionary accounts as follows: ORF \$3.052 billion; PAC \$1.258 billion; and a net \$86.0 million for NOAA's Other Accounts (i.e., PCSRF \$90.0 million, CZMF \$3.0 million, and fisheries financing an offset of \$4 million). The Senate also proposed a \$50.0 million Disaster Mitigation Fund (DMF) that would have primarily supported victims of economic hardship in communities whose livelihood depends on fisheries and living marine natural resources.

Comparison of Provisions

In all circumstances, total funding for NOAA would have been increased, as compared with total appropriations of \$3.896 billion that NOAA received for FY2008. Discretionary funding requested by the President for ORF for FY2009 was less than FY2008 appropriations, however. The President requested about a third of the funding for the PCSRF recommended by the Senate Appropriations Committee. The House recommended about two-thirds of the Senate committee recommendation for PCSRF. It appeared that discretionary funding for ORF, and in particular, NOS, OAR, and NESDIS would have been most affected by cuts proposed by the Administration for FY2009. Although the House committee recommendation for PAC was less than the Administration's request, this was because \$32.4 million of PS funding for construction would have been transferred to the National Institute of Standards and Technology (NIST). The Senate committee had no similar proposal. In general, the Senate committee recommendation showed substantial increases for NOAA across the board. The Senate bill report indicated that this

recommendation would have strengthened national response to the U.S. Joint Ocean Commission finding on U.S. ocean policy.⁴¹ For the NOAA Geostationary Earth-orbiting Observation Satellite (GOES) funding, the House and Senate committees recommended about \$520.3 million. Also, both recommended \$65.4 million for the management of the last of NOAA's current Polar-orbiting Earth Observations Satellites (POES) and \$288.0 million would have been for the NOAA/DOD/NASA National Polar-orbiting Earth Observation Satellite System (NPOESS), which combined with supporting ground control systems totaled \$992.6 million, the same amount requested by the Bush Administration for FY2009.

Where House and Senate committee funding proposals appeared to have diverge significantly was in the Senate's recommendation for the PCSRF and the Senate committee's \$50.0 million Disaster Mitigation Fund. The Senate committee also proposed more funding than the House for increased fuel costs and encouraged the Administration to more aggressively seek opportunities for commercial satellite data acquisition to support federal programs. Further, the Senate committee cited "more than \$425,000,000 worth of open competitive funding ... not at the expense of basic science operations and research requested by the Administration," which was in addition to ocean-related programs funded under the NOAA Sea Grant Program, Ocean Explorations, Marine Sanctuaries, Response and Restoration, Navigation Services, Integrated Ocean Observation Systems, and the Coral Reef program.

The FY2009 Consolidated Security, Disaster Assistance, and Continuing Appropriations Act (P.L. 110-329), Division B, provided \$75.0 million for fisheries disaster assistance and \$17.0 million in supplemental appropriations for NOAA to improve its hurricane track and intensity forecasts for the protection of life and property. These amounts are not reflected in **Table 5**.

Department of Justice⁴²

Background

Established by an act of 1870 (28 U.S.C. 501) with the Attorney General at its head, the Department of Justice provides counsel for citizens in federal cases and protects them through law enforcement. It represents the federal government in all proceedings, civil and criminal, before the Supreme Court. In legal matters, generally, the department provides legal advice and opinions, upon request, to the President and executive branch department heads. The major functions of DOJ agencies and offices are described below.

⁴¹ U.S. Congress, Senate Committee on Appropriations, Subcommittee on the Departments of Commerce, Justice, Science, and Related Agencies, *Departments of Commerce, Justice, Science, and Related Agencies Appropriations Bill, 2009, Report to Accompany S. 3182* (S.Rept. 110-397), June 23, 2008, p. 29, "Joint Ocean Commission Initiative."

⁴² This section was written by Celinda Franco, CRS Specialist in Crime and Drug Policy; Nathan James, CRS Analyst in Crime Policy; and William J. Krouse, CRS Specialist in Domestic Security and Crime Policy; CRS Domestic Social Policy Division. For further information, see CRS Report RL34530, *Department of Justice (DOJ) Appropriations for FY2008 and FY2009*, by William J. Krouse, Celinda Franco, and Nathan James.

- *United States Attorneys* prosecute criminal offenses against the United States, represent the federal government in civil actions, and initiate proceedings for the collection of fines, penalties, and forfeitures owed to the United States.
- *United States Marshals Service* provides security for the federal judiciary, protects witnesses, executes warrants and court orders, manages seized assets, detains and transports unsentenced prisoners, and apprehends fugitives.
- *Federal Bureau of Investigation (FBI)* investigates violations of federal criminal law; helps protect the United States against terrorism and hostile intelligence efforts; provides assistance to other federal, state, and local law enforcement agencies; and shares jurisdiction with Drug Enforcement Administration over federal drug violations.
- *Drug Enforcement Administration (DEA)* investigates federal drug law violations; coordinates its efforts with state, local, and other federal law enforcement agencies; develops and maintains drug intelligence systems; regulates legitimate controlled substances activities; and conducts joint intelligence-gathering activities with foreign governments.
- *Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)* enforces federal law related to the manufacture, importation, and distribution of alcohol, tobacco, firearms, and explosives. It was transferred from the Department of the Treasury to the Department of Justice by the Homeland Security Act of 2002 (P.L. 107-296).
- *Federal Prison System* (Bureau of Prisons) provides for the custody and care of the federal prison population, the maintenance of prison-related facilities, and the boarding of sentenced federal prisoners incarcerated in state and local institutions.
- *Office on Violence Against Women* coordinates legislative and other initiatives relating to violence against women and administers grant programs to help prevent, detect, and stop violence against women, including domestic violence, sexual assault, and stalking.
- *Office of Justice Programs (OJP)* manages and coordinates the activities of the Bureau of Justice Assistance, Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and the Office of Victims of Crime.
- *Community Oriented Policing Services (COPS)* advances the practice of community policing by awarding grants to law enforcement agencies to hire and train community policing professionals, acquire and deploy crime-fighting technologies, and develop and test innovative policing strategies.

Most crime control has traditionally been a state and local responsibility. With the passage of the Crime Control Act of 1968 (P.L. 90-351), however, the federal role in the administration of criminal justice has increased incrementally. Since 1984, Congress has approved five major omnibus crime control bills, designating new federal crimes, penalties, and additional law enforcement assistance programs for state and local governments.

FY2009 Budget Request and Congressional Action

The President's FY2009 DOJ budget request included \$23.089 billion as shown in **Table 6**, or a \$503.0 million reduction, as compared to the FY2008 enacted appropriation of \$23.592 billion. This proposed reduction of 2.1% was largely reflected in cuts to grant programs administered by the Office of Justice (OJP), Community Oriented Policing Services (COPS) program, and Office of Violence Against Women (OVW).

Table 6. Funding for the Department of Justice

(budget authority in millions of dollars)

Accounts	FY2008 Enacted ^a	FY2009 Request	House Draft Bill	Senate- Reported	FY2009 Enacted
General Administration	1,794.8	1,952.1	2,014.2	1,928.4	
General Administration	257.6	321.3	384.7	292.7	
Administrative Review & Appeals	240.6	259.8	264.8	264.8	
Detention Trustee	1,225.9	1,295.3	1,289.1	1,295.3	
Office of the Inspector General	70.6	75.7	75.7	75.7	
U.S. Parole Commission	11.5	12.6	12.6	12.6	
Legal Activities	3,584.0	3,829.7	3,841.9	3,864.7	
General legal activities	745.5	804.0	804.0	804.0	
United States Attorneys	1,754.8	1,831.3	1,836.3	1,831.3	
United States Marshals Service	866.5	933.1	940.3	968.1	
Other ^b	217.1	261.2	261.2	261.2	
National Security Division	73.4	83.8	83.8	83.8	
Interagency Law Enforcement	497.9	531.6	521.9	511.7	
Federal Bureau of Investigation	6,657.7	7,108.1	7,108.1	7,270.1	
Salaries and expenses	4,184.9	4,339.6	3,310.1	4,359.7	
Counterintelligence and National Security	2,308.6	2,725.5	3,755.0	2,725.5	
Construction	164.2	43.0	43.0	185.0	
Drug Enforcement Administration	1,857.6	1,936.6	1,939.1	1,954.4	
Bureau of Alcohol, Tobacco, Firearms and Explosives	1,007.6	1,027.8	1,054.2	1,042.8	
Federal Prison System	5,425.5	5,533.9	5,733.9	5,973.9	
Office of Violence Against Women	400.0	280.0	435.0	415.0	
Office of Justice Programs	2,282.0	792.7	2,694.1	2,721.1	
Justice assistance	196.2	134.6	95.0	240.0	
State and local law enforcement assistance	1,008.1 ^c	404.0	1,277.0	1,387.0	
Weed and seed program fund	32.1	—	—	25.0	
Community oriented policing services	587.2	—	627.0	600.0	

Accounts	FY2008 Enacted ^a	FY2009 Request	House Draft Bill	Senate- Reported	FY2009 Enacted
Salaries and Expenses ^c	—	—	195.0 ^d	—	
Juvenile justice programs	383.5	185.0	431.0	400.0	
Public safety officers benefits	74.8	69.1	69.1	69.1	
Total: Department of Justice	23,591.9	23,088.9	25,438.7	25,778.6	

Sources: House Appropriations Committee Print on the Consolidated Appropriations Act, 2008 (H.R. 2764/P.L. 110-161); Budget of the United States Government, Fiscal Year 2009—Appendix; House Appropriations Committee-approved draft bill and report; and S. 3182 (S.Rept. 110-397).

Note: Numbers may not add to totals due to rounding.

- The FY2008 Enacted column does not reflect a DOJ budget reprogramming request for \$240.0 million that has been submitted by the Administration to the House and Senate Committees on Appropriations, and partially approved by the committees for \$109.0 million. Nor does it reflect additional FY2008 funding that was provided to some DOJ agencies as part of the Supplemental Appropriations Act, 2008 (P.L. 110-252).
- Other includes Antitrust Division, Vaccine Injury Compensation Trust Fund, U.S. Trustee System Fund, Foreign Claims Settlement Commission, Fees and Expenses of Witnesses, Community Relations Service, and the Asset Forfeiture Fund.
- Includes \$100.0 million in emergency funding that was appropriated for security at the Presidential Nominating Conventions.
- The House committee-approved draft bill included an account that provided \$195.0 million for salaries and expenses of OJP, OVW, and COPS.

The House Appropriations Committee approved a draft bill that would have provided DOJ with \$25.439 billion for FY2009. This amount would have included \$7.108 billion for the FBI, \$1.939 billion for the DEA, \$1.054 billion for the ATF, and \$5.734 billion for the Bureau of Prisons. The House draft bill also would have included \$3.129 billion in state and local law enforcement assistance (OJP and OVW), instead of cutting such funding by \$1.62 billion, as proposed by the Administration.

The Senate Appropriations Committee reported a bill (S. 3182; S.Rept. 110-252) that would have provided DOJ with \$25.779 billion for FY2009. This amount included \$7.27 billion for the FBI, \$1.954 billion for the DEA, \$1.043 billion for the ATF, and \$5.974 billion for the Bureau of Prisons. The Senate-reported bill also included \$3.136 billion in state and local law enforcement assistance (OJP and OVW).

FY2008 Supplemental Funding Request and Congressional Action

For FY2008, the Administration requested \$185.8 million in supplemental funding for DOJ as shown in **Table 7**. The House-passed bill (H.R. 2642) would have provided DOJ with \$407.3 million in supplemental funding, and the Senate-passed bill (also H.R. 2642) would have provided \$1.131 billion. In an exchange of amendments, the House and Senate resolved their differences, and the bill was cleared for the President on June 26, 2008. The Supplemental Appropriations Act, 2008 (P.L. 110-252) included an additional \$449.0 million for DOJ. Although the discussion below describes the amounts at the account and subaccount level provided for DOJ in P.L. 110-252, those amounts have not been incorporated into the FY2008 enacted funding levels given below.

FY2009 Continuing Resolution (CR)

On September 30, 2008, the President signed into law the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (P.L. 110-329). This law included a CR that funded most DOJ agencies at FY2008 levels through March 6, 2009; however, a few DOJ accounts received funding over those FY2008 levels. For example, the CR funded the Bureau of Prisons' salaries and expenses account at a rate that would have been equal to a full-year FY2009 appropriation of \$5.397 billion; the Detention Trustee at a rate that was equal to a full-year appropriation of \$1.246 billion; and departmental Legal Activities at a rate that would have equaled a full-year appropriation of \$3.390 billion. Of the amount provided for Legal Activities, the CR required that an amount corresponding to \$1.090 billion of a full-year appropriation be transferred to the Office of Personnel Management for costs associated with the federal observer program provided under Section 8 of the Voting Rights Act of 1965 (42 U.S.C. §1973f).

Furthermore, the CR funded the FBI at its FY2008 level of funding through March 6 and stipulated that \$144.0 million in FY2008 emergency supplemental funding that Congress appropriated for the FBI would be regarded as part of that calculation. In the discussions below of the DOJ budget accounts, the CR is not mentioned, unless it provided amounts that were different from those provided for FY2008.

In addition, Congress provided DOJ with an additional \$449.0 million in FY2008 funding as part of the Supplemental Appropriations Act, 2008 (P.L. 110-152). This FY2008 supplemental funding has not been incorporated into **Table 6**. Instead, that funding is broken out separately in **Table 7**.

Table 7. FY2008 Supplemental Funding for the Department of Justice
(budget authority in millions of dollars)

Accounts	Request	House- Passed May 15	Senate- Passed May 22	Enacted June 26, 2008
General Administration	—	4.0	4.0	4.0
Office of the Inspector General	—	4.0	4.0	4.0
Legal Activities	24.0	25.3	75.3	35.3
General Legal Activities	4.1	1.7	1.7	1.7
U.S. Attorneys	5.0	5.0	5.0	5.0
U.S. Marshals Service	14.9	18.6	68.6	28.6
Federal Bureau of Investigation	140.2	174.8	247.6	188.7
Counterterrorism	101.1	92.2	165.0	106.1
FY2009 Advanced Appropriation	39.1	82.6	82.6	82.6
Drug Enforcement Administration	8.5	12.2	22.7	29.9
Bureau of Alcohol, Tobacco, Firearms and Explosives	4.0	4.0	4.0	4.0
Federal Prison System	9.1	187.1	187.1	187.1
State and Local Law Enforcement Assistance	—	—	590.0	—
Total: FY2008 DOJ Supplemental	185.8	407.3	1,130.6	449.0

Sources: For House amounts, see *Congressional Record*, Daily Edition, vol. 154 (May 15, 2008), p. H4012. For Senate amounts, see *Congressional Record*, Daily Edition, vol. 154 (May 19, 2008), p. S4302. For enacted amounts, see the Supplemental Appropriations Act, 2008 (P.L. 110-252).

Note: Numbers may not add to totals due to rounding.

General Administration

The General Administration account provides funds for salaries and expenses for the Attorney General's office, the Inspector General's office, as well as other programs designed to ensure that the collaborative efforts of DOJ agencies are coordinated to help fight crime as efficiently as possible. The General Administration budget request was \$1.952 billion for FY2009. This amount was \$157.3 million more than the enacted FY2008 appropriation of almost \$1.795 billion, an increase of 8.8%. The House committee-approved draft bill would have provided \$2.014 billion for General Administration, 12.2% more than the FY2008 enacted level and 3.2% more than the FY2009 request. The Senate-reported bill would have provided \$1.928 billion for General Administration, 7.4% more than the FY2008 level and 1.2% less than the FY2009 request.

Also, in Supplemental Appropriations Act, 2008 (P.L. 110-252), Congress provided the Office of the Inspector General (OIG) with an additional \$4.0 million. Described below are several General Administration subaccounts, such as the OIG.

General Administration

For General Administration, the FY2009 budget request included \$321.3 million dollars, an increase of \$63.7 million over the \$257.6 million appropriation for FY2008 (an increase of 24.7%). Examples of programs funded under this subaccount include the Joint Automated Booking System and the Automated Biometric Identification System. The latter is designed to integrate fingerprint identification systems maintained by DOJ and Department of Homeland Security (DHS). Under this subaccount, DOJ also continues to enhance its counterterrorism and intelligence capabilities through the Law Enforcement Wireless Communications program (LEWC, formerly known as Narrowband Communications), through which nationwide integrated wireless networks are being developed and implemented to support the federal law enforcement and homeland security missions of DOJ. In addition, funding for the Justice Information Sharing Technology (JIST) program provides for investments in information technology to further support the Department's strategic goals.

The House draft bill would have provided \$384.7 million, 49.3% more than FY2008 level and 19.7% more than the President's request. The Senate-reported bill would have provided \$292.7 million, 13.6% more than FY2008 enacted level, but 8.9% less than the President's request.

Administrative Review and Appeals (ARA)

ARA includes the Executive Office of Immigration Review (EOIR) and the Office of the Pardon Attorney (OPA). The Attorney General is responsible for the review and adjudication of immigration cases in coordination with the DHS's efforts to secure the nation's borders. The EOIR handles these matters. The OPA receives and reviews petitions for executive clemency. For FY2008, Congress appropriated \$240.6 million for ARA. The President's budget request included \$259.8 million for ARA funding in FY2009. The requested amount exceeded the FY2008 funding level by \$19.1 million, representing an increase of 8.0%. The House draft bill would have

provided \$264.8 million, 10% more than the FY2008 enacted level and 1.9% more than the President's request. The Senate-reported bill would have provided the same amount as the House draft bill.

Federal Office of Detention Trustee (OFDT)

The OFDT provides overall management and oversight for federal detention services relating to federal prisoners in non-federal institutions or otherwise in the custody of the U.S. Marshals Service. The FY2009 budget request for OFDT was almost \$1.295 billion. This amount was 5.7% more than the FY2008 appropriation of almost \$1.226 billion. The House draft bill would have provided \$1.289 billion for OFDT, 5.1% more than FY2008 enacted level and 0.5% less than the President's request. The Senate-reported bill would have provided the same amount as the President's request.

The CR (P.L. 110-329) funded the Detention Trustee through March 6, 2009, at a rate equal to the amount that would have been available if Congress had appropriated \$1.246 billion in full-year funding, or until a full-year appropriation is enacted.

Office of the Inspector General (OIG)

The OIG is responsible for detecting and deterring waste, fraud, and abuse involving DOJ programs and personnel; promoting economy and efficiency in DOJ operations; and investigating allegations of departmental misconduct. The President's FY2009 budget request included nearly \$75.7 million for the OIG. This amount was \$5.1 million greater than the amount appropriated by Congress for FY2008 and would have represented a 7.2% increase in funding for FY2009. Both the House draft and Senate-reported bills would have provided the same amount as the President's FY2009 request.

As noted above, the Supplemental Appropriations Act, 2008 (P.L. 110-252) included an additional \$4.0 million for the OIG.

U.S. Parole Commission

The U.S. Parole Commission adjudicates parole requests for prisoners who are serving felony sentences under federal and District of Columbia code violations. For FY2009, the President's budget request for the Parole Commission was just under \$12.6 million, or a 9.7% increase as compared to the FY2008 appropriation of almost \$11.5 million. Both the House committee-approved draft bill and the Senate-reported bill would have provided the same amount as in the President's FY2009 request.

Legal Activities

The Legal Activities account includes several subaccounts: general legal activities, U.S. Attorneys, U.S. Marshals Service, and other legal activities. For FY2009, the President's budget request for legal activities included almost \$3.830 billion, an increase of 6.9% and nearly \$245.7 million more than the FY2008 enacted funding level of \$3.584 billion for these activities. The House committee-approved draft bill would have provided almost \$3.842 billion for legal activities, 7.2% more than the FY2008 enacted level and 0.3% more than the President's request.

The Senate-reported bill would have provided almost \$3.865 billion, 7.8% more than the FY2008 enacted level and 0.9% more than the President's request.

In the Supplemental Appropriations Act, 2008 (P.L. 110-252), Congress provided an additional \$35.3 million in FY2008 funding for certain Legal Activities program accounts, including General Legal Activities, U.S. Attorneys, and the U.S. Marshals Service.

The CR (P.L. 110-329) funded the Legal Activities account through March 6, 2009, as if Congress had appropriated \$3.390 billion in full-year funding for those activities, or until a full-year FY2009 appropriation is enacted. The CR also specified that an amount corresponding to \$1.090 billion of the \$3.390 billion in full-year funding was to be transferred to the Office of Personnel Management's salaries and expenses account for costs associated with the federal observer program provided under Section 8 of the Voting Rights Act of 1965 (42 U.S.C. §1973f).

General Legal Activities

The General Legal Activities account funds the Solicitor General's supervision of the department's conduct in proceedings before the Supreme Court. It also funds several departmental divisions (tax, criminal, civil, environment and natural resources, legal counsel, civil rights, and antitrust). The FY2009 budget request included \$804.0 million for general legal activities, \$58.5 million more than the FY2008 enacted appropriation, or a proposed 7.8% increase in funding. The House draft and Senate-reported bills would have included the same level of funding as the President's FY2009 budget request. In addition, as part of the Supplemental Appropriations Act, 2008 (P.L. 110-252), Congress provided an additional \$1.7 million for the General Legal Activities account.

Office of the U.S. Attorneys

The U.S. Attorneys enforce federal laws through prosecution of criminal cases and represent the federal government in civil actions in all of the 94 federal judicial districts. For FY2009, the President's budget request would have provided \$1.831 billion for the U.S. Attorneys Office, a 4.4% increase over the prior year. For FY2008, the U.S. Attorneys' appropriated budget was almost \$1.755 billion. The House draft bill would have included \$1.836 billion for the U.S. Attorneys Office, 4.6% more than enacted FY2008 appropriations, and 0.3% more than the President's FY2009 request. The Senate-reported bill would have included the same level of funding as requested by the President for FY2009.

In addition, the Supplemental Appropriations Act, 2008 (P.L. 110-252) included an additional \$5.0 million for the Office of the U.S. Attorneys.

U.S. Marshals Service (USMS)

The USMS is responsible for the protection of the federal judicial process, including protecting judges, attorneys, witnesses, and jurors. In addition, USMS provides physical security in courthouses, safeguards witnesses, transports prisoners from court proceedings, apprehends fugitives, executes warrants and court orders, and seizes forfeited property. For FY2008, the appropriation for the USMS was \$866.5 million. The President's request for FY2009 proposed USMS funding of \$933.1 million, an increase of \$66.6 million, or 7.7% over the FY2008 enacted level. The House draft bill would have provided \$940.3 million for USMS, 8.5% more than

FY2008 enacted levels and 0.8% more than the President's budget request. The Senate-reported bill would have provided \$968.1 million, 11.7% more than FY2008 enacted funding and 3.8% more than the President's budget request.

The Supplemental Appropriations Act, 2008 (P.L. 110-252) included an additional \$28.6 million for the USMS.

Other Legal Activities

For other legal activities—the Community Relations Service, the U.S. Trustee Fund (which is responsible for maintaining the integrity of the U.S. bankruptcy system by, among other things, prosecuting criminal bankruptcy violations), and the Asset Forfeiture program—the President's FY2009 budget request included \$261.2 million. This amount reflected an increase in funding of \$44.1 million, or a 20.3% increase over the FY2008 enacted level of \$217.1 million. The House draft and Senate-reported bills would have provided the same funding level as requested in the FY2009 President's budget.

National Security Division (NSD)

The NSD coordinates DOJ's national security and terrorism missions through law enforcement investigations and prosecutions. The NSD was established in DOJ in response to the recommendations of the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (WMD Commission), and authorized by Congress on March 9, 2006, in the USA PATRIOT Improvement and Reauthorization Act of 2005 (P.L. 109-177). Under the NSD, the DOJ resources of the Office of Intelligence Policy and Review and the Criminal Division's Counterterrorism and Counterespionage Sections were consolidated to coordinate all intelligence-related resources and ensure that criminal intelligence information is shared, as appropriate.

For FY2009, the President's budget request proposed NSD funding of \$83.8 million. In FY2008, Congress appropriated nearly \$73.4 million for NSD. The proposed funding level for FY2009 reflected a 14.2% increase over the FY2008 enacted appropriation. The House committee-approved draft and Senate-reported bills would have provided the same funding level as requested in the President's FY2009 budget.

Interagency Law Enforcement

The Interagency Law Enforcement account reimburses departmental agencies for their participation in the Organized Crime Drug Enforcement Task Force (OCDETF) program. Organized into nine regional task forces, this program combines the expertise of federal agencies with the efforts of state and local law enforcement to disrupt and dismantle major narcotics-trafficking and money-laundering organizations. From DOJ, the federal agencies that participate in OCDETF are the Drug Enforcement Administration; the Federal Bureau of Investigation; the Bureau of Alcohol, Tobacco, Firearms and Explosives; the U.S. Marshals Service; the Tax and Criminal Divisions of DOJ; and the U.S. Attorneys. From DHS, the U.S. Bureau of Immigration and Customs Enforcement and the U.S. Coast Guard participate in OCDETF. In addition, from the Department of the Treasury, the Internal Revenue Service and Treasury Office of Enforcement

also participate. State and local law enforcement agencies participate in approximately 90% of all OCDETF investigations.⁴³

For FY2009, the President's request would have provided almost \$531.6 million for OCDETF. The proposed FY2009 funding level would have exceeded the FY2008 OCDETF enacted funding level of \$497.9 million by 6.8%. The House draft bill would have provided \$521.9 million, 4.8% more than the FY2008 enacted level, but 1.8% less than the President's request. The Senate-reported bill would have provided \$511.7 million, 2.8% more than the FY2008 enacted level, but 3.7% less than the President's request.

Federal Bureau of Investigation (FBI)

The FBI is the lead federal investigative agency charged with defending the country against foreign terrorist and intelligence threats; enforcing federal laws; and providing leadership and criminal justice services to federal, state, municipal, tribal, and territorial law enforcement agencies and partners. Since the September 11, 2001 terrorist attacks, the FBI has reorganized and reprioritized to focus more sharply on preventing terrorism and related criminal activities.

For FY2009, the President's request would have provided \$7.108 billion for the FBI, including \$2.726 billion for counterterrorism investigations, foreign counterintelligence, and other national security activities, as well as construction funding of nearly \$43.0 million. The enacted FY2008 FBI budget included \$6.658 billion, of which \$2.309 billion was provided for national security activities, and \$164.2 million was provided for construction. Taken as a whole, the FY2009 budget request would have exceeded the FBI's FY2008 funding level by \$450.4 million, an overall funding increase of 6.8%.

The House committee-approved draft bill would have provided FY2009 FBI funding at the same levels as the President's budget request. The Senate-reported bill would have provided \$7.270 billion for the FBI, 9.2% more than the FY2008 funding level and 2.3% more than the President's request and the House amount.

In the Supplemental Appropriations Act, 2008 (P.L. 110-252), Congress provided the FBI with an additional \$188.7 million for counterterrorism purposes, of which \$106.1 million was a supplemental appropriation for FY2008 and \$82.6 million was an advanced FY2009 appropriation to ensure operational continuity in the event that the FY2009 appropriations were not enacted by the end of FY2008.

The CR (P.L. 110-329) funded the FBI at its FY2008 level of funding through March 6, 2009, and stipulated further that \$144.0 million in FY2008 emergency supplemental funding that Congress appropriated for the FBI would be regarded as part of that calculation. As a result, the FBI would be funded at a rate that would be equal to a full-year appropriation of \$6.802 billion.

⁴³ U.S. Department of Justice, Interagency Law Enforcement, *FY2009 Interagency Crime and Drug Enforcement Congressional Submission*, February 2008, p. 9.

Drug Enforcement Administration (DEA)

The DEA is the lead federal agency tasked with reducing the illicit supply and abuse of dangerous narcotics and drugs through drug interdiction and seizures of illicit revenues and assets from drug trafficking organizations. According to DEA, the agency's efforts to reduce the drug supply have contributed to a 23% drop in national drug use over the past five years.⁴⁴ By 2009, one of DEA's goals is to recover \$3.0 billion in illegal proceeds annually from international drug trafficking networks operating in the United States. In testimony delivered before a congressional committee on April 19, 2007, DEA noted that they continue to face evolving challenges in limiting the supply of illicit drugs such as the illicit use of pharmaceutical drugs available through the Internet; enforcement along the Southwest border with Mexico where DEA estimates that 85% of illicit drugs are smuggled into the United States.⁴⁵

For FY2009, the President's budget requested almost \$1.937 billion in funding for DEA. This amount would have exceeded the enacted FY2008 funding level of \$1.858 billion by \$79.0 million and would have reflected a 4.3% funding increase. The House committee-approved draft bill would have provided \$1.939 billion, 4.4% above the FY2008 enacted level and 0.1% over the FY2009 request. The Senate-reported bill would have provided \$1.954 billion, 5.2% above the FY2008 enacted level and 0.9% over the FY2009 request.

As part of the Supplemental Appropriations Act, 2008 (P.L. 110-252), DEA received an additional \$29.9 million.

Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)

The ATF enforces federal criminal law related to the manufacture, importation, and distribution of alcohol, tobacco, firearms, and explosives. ATF works both independently and through partnerships with industry groups, international, state and local governments, and other federal agencies to investigate and reduce crime involving firearms and explosives, acts of arson, and illegal trafficking of alcohol and tobacco products.

For FY2009, the President's request included nearly \$1.028 billion for ATF. The President's request would have provided a funding increase of \$20.2 million, or 2% more than FY2008 enacted level. The House committee-approved draft bill would have provided \$1.054 billion, 4.6% above the FY2008 enacted level and 2.6% over the FY2009 request. The Senate-reported bill would have provided \$1.043 billion, 3.5% above the FY2008 enacted level and 1.5% over the FY2009 request.

As part of the Supplemental Appropriations Act, 2008 (P.L. 110-252), ATF received a supplemental appropriation of \$4.0 million.

⁴⁴ Statement of Karen Tandy, Administrator, Drug Enforcement Agency, Hearing before the Senate Committee on Appropriations, Subcommittee on Commerce, Justice, Science, and Related Agencies, *Drug Threats and Enforcement Challenges*, April 19, 2007.

⁴⁵ Ibid.

Federal Prison System (Bureau of Prisons)

The Bureau of Prisons (BOP) maintains federal penal institutions nationwide and contracts with state, local, and private facilities for additional detention space. BOP projects that in 2008 there will be 207,020 inmates in the federal prison system population; the bureau further estimates that this population will grow to approximately 213,220 by the end of 2009.⁴⁶ Of the total number of federal inmates, nearly 167,000 are in facilities operated by BOP, while the remaining 17% are in contract care at privately operated secure facilities, residential reentry centers, or serving a sentence of home confinement. BOP estimates that its facilities were operating at 39% above capacity as of January 29, 2008, and they estimate that by 2009 the facilities will be operating at 42% above capacity.⁴⁷

The President's FY2009 budget request proposed BOP funding of almost \$5.534 billion, of which \$95.8 million would have been provided for the acquisition of sites and construction of facilities. This amount would have exceeded total enacted FY2008 appropriations of \$5.426 billion by over \$108.4 million, reflecting a 2% increase. The House committee-approved bill included \$5.734 billion for the BOP, a 5.7% increase over the FY2008 enacted level and a 3.6% increase over the FY2009 request. The Senate-reported bill included \$5.974 billion for BOP, a 10.1% increase over the FY2008 enacted level and an 8% increase over the FY2009 request.

The Supplemental Appropriations Act, 2008 (P.L. 110-252) included an additional \$187.1 million for the BOP. In addition, the CR (P.L. 110-329) funded the Federal Prison System's salaries and expenses account through March 6, 2009, at a rate that would have been equal to a full-year appropriation of \$5.397 billion.

Office on Violence Against Women

The Office on Violence Against Women (OVW) was created to administer programs created under the Violence Against Women Act (VAWA) of 1994 and subsequent legislation. These programs provide financial and technical assistance to communities around the country to facilitate the creation of programs, policies, and practices designed to improve criminal justice responses related to domestic violence, dating violence, sexual assault, and stalking.

The President's FY2009 budget request would have provided \$280.0 million for OVW, a reduction of \$120.0 million or a 30% decrease in funding compared to FY2008 funding of \$400.0 million. Under the President's FY2009 proposal, OVW's current formula and discretionary grant programs would have been consolidated into a single grant program, the *Prevention and Prosecution of Violence Against Women and Related Victim Services Program*. Grants under the proposed consolidated program would have been awarded on a competitive basis to state, local, and tribal governments. Funding would have supported efforts to develop and implement effective, coordinated prevention and prosecution of domestic violence, dating violence, sexual assault and stalking, and support related victims services. According to the President's FY2009 proposal, the consolidated grant awards would have been "designed to forge state, local and tribal

⁴⁶ U.S. Department of Justice, Federal Bureau of Prisons, *FY2009 Congressional Budget Submission*, p. 2.

⁴⁷ *Ibid.*, pp. 2-3.

partnerships among police, prosecutors, the judiciary, victim advocates, health care providers, faith leaders, and others to help provide victims with protection and needed services, while enabling communities to hold offenders accountable.”⁴⁸

Both the House committee-approved draft bill and the Senate-reported bill rejected the Administration’s consolidation proposal and would have maintained OVW’s current program structure. The House draft bill would have provided OVW with \$435.0 million, an increase of 8.8% over the FY2008 enacted level and 55.4% over the FY2009 request. The Senate-reported bill would have provided \$415.0 million, an increase of 3.8% over the FY2008 enacted level and 48.2% over the FY2009 request.

Office of Justice Programs

The Office of Justice Programs (OJP) manages and coordinates the National Institute of Justice, Bureau of Justice Statistics, Office of Juvenile Justice and Delinquency Prevention, Office of Victims of Crimes, Bureau of Justice Assistance, and related grant programs. For OJP, the Administration’s FY2009 budget request included \$792.7 million, or nearly \$1.489 billion less than the FY2008 appropriation of \$2.282 billion. The House committee-approved draft bill would have included \$2.694 billion, an increase of 18.1% over the FY2008 enacted level and an increase of 239.8% over the FY2009 request. The Senate-reported bill would have included \$2.721 billion, an increase of 19.2% over the FY2008 enacted level and an increase of 243.2% over the FY2009 request.

Justice Assistance

The Administration’s FY2009 request included \$134.6 million for this account, or 31.4% less than what was appropriated in FY2008. The FY2009 request included funding for the following programs:

- \$34.7 million for National Institute of Justice (NIJ);
- \$53.0 million for the Bureau of Justice Statistics (BJS);
- \$34.2 million for the Regional Information Sharing System (RISS); and
- \$12.7 million for support services and administrative expenses for the Office of Victims of Crime.

By comparison, the enacted FY2008 appropriation for Justice Assistance was \$196.2 million. The FY2008 appropriations for some of those programs included the following:

- \$37.0 million for NIJ;
- \$34.8 million for BJS;
- \$40.0 million for RISS;

⁴⁸ U.S. Executive Office of the President, Office of Management and Budget, *Budget for Fiscal Year 2009*, Appendix, p. 728.

- \$50.0 million for missing children programs; and
- \$11.3 million to support state and local law enforcement agencies in the prevention, investigation and prosecution of Internet, high-tech and economic crimes.⁴⁹

The House draft bill would have provided \$95.0 million for the Justice Assistance account, 51.6% less than the FY2008 enacted level and 29.4% less than the FY2009 request.⁵⁰ The Senate-reported bill would have provided \$240.0 million for the justice assistance account, 22.3% more than the FY2008 enacted level and 78.2% more than the FY2009 request.

State and Local Law Enforcement Assistance

The Administration requested \$404.0 million for the State and Local Law Enforcement Assistance account for FY2009. In addition, the Administration proposed collapsing 16 State and Local Law Enforcement Assistance grant programs, 14 COPS grant programs (described below), along with the Weed and Seed program (also described below), into three competitive grant programs. Under this proposal, the FY2009 request included:

- \$200.0 million for a *Violent Crime Reduction Partnership Initiative* to assist communities experiencing high rates of violent crime—with an emphasis on reducing drug trafficking and gang activity—by providing resources for forming and participating in multi-jurisdictional task forces that would include members of federal, state, and local law enforcement;
- \$200.0 million for a *Byrne Public Safety and Protection Program* to assist and allow state, municipal, local, tribal, and territorial governments with developing programs that address the particular needs of their jurisdiction; and
- \$4.0 million for community policing training and technical assistance for state, municipal, local, tribal and territorial governments and other public and private entities to advance community policing, expand cooperation between law enforcement agencies and community members, and enhance public safety.

By comparison, the FY2009 budget request of \$404.0 million for the State and Local Law Enforcement Assistance grants program was \$504.1 million less than the \$908.1 million⁵¹ Congress appropriated for this program for FY2008.

⁴⁹ *Congressional Record*, Daily Edition, vol. 153 (December 17, 2007), p. H15800.

⁵⁰ The House committee-approved draft bill included funding for several programs that received appropriations for FY2008 under the Justice Assistance account under different accounts for FY2009. For example, the House-recommended bill included \$63.0 million for missing children program under the Juvenile Justice Programs account, \$18.0 million for grants to support state and local law enforcement agencies in the prevention, investigation and prosecution of Internet, high-tech and economic crimes under the State and Local Law Enforcement Assistance account, and \$45.0 million for RISS under the Community Oriented Policing Services account.

⁵¹ Excluding the \$100.0 million in emergency funding that Congress appropriated for security at the Presidential Nominating Conventions under this program.

The House draft bill would have included \$1.277 billion for the State and Local Law Enforcement Assistance account, 40.6% more than the FY2008 enacted level and 216.1% more than the FY2009 request. The Senate-reported bill would have included \$1.387 billion for this account, 52.7% more than the FY2008 enacted level and 243.3% more than the FY2009 request.

Weed and Seed Program

The Weed and Seed program is designed to provide grants to help communities build stronger, safer neighborhoods by implementing local-level approaches to solve and prevent crimes. The program provides assistance for community-based strategies of “weeding and seeding” activities based on the premise that leaders from neighborhood and community organizations, including faith-based organizations, law enforcement and private enterprise, must be involved in leveraging resources to solve community problems at the local level. Site funding generally provides resources for “weeding” activities, which include joint law enforcement operations and community policing, and “seeding” activities, which range from prevention activities, including physically improving the neighborhood and economic development.

The enacted FY2008 level of funding for the Weed and Seed program was \$32.1 million. The Administration did not request any funding for the Weed and Seed program for FY2009. Instead, the Administration’s grant consolidation proposal would have incorporated the Weed and Seed program into the proposed Byrne Public Safety and Protection program (described above). The House committee-approved draft bill would have included \$15.0 million for the Weed and Seed program, 53.3% less than the FY2008 enacted level.⁵² The Senate-reported bill would have included \$25.0 million for Weed and Seed, 22.1% less than the FY2008 enacted level.

Community Oriented Policing Services

For FY2009, the Administration’s budget request did not include specific funding for a number of COPS programs and initiatives. Instead, the Administration proposed consolidating COPS grant programs under the proposed \$4.0 million “competitive” community policing training and technical assistance program (described above). By comparison, for FY2008 Congress enacted \$587.2 million in appropriations for COPS programs. For FY2009, the House draft bill would have included \$627.0 million for COPS, 6.8% more than the FY2008 enacted level. The Senate-reported bill would have included \$600.0 million for COPS, 2.2% more than the FY2008 enacted level.

Juvenile Justice Programs

The Administration FY2009 budget included \$185.0 million for Juvenile Justice programs in FY2009, or 51.8% less than what was appropriated in FY2008. The Administration’s grant consolidation proposal would have consolidated the seven existing juvenile justice programs into a single competitive *Child Safety and Juvenile Justice* grant program that would have been awarded to state and local governments. According to the Administration, the proposed grant

⁵² The House Committee-approved draft bill included funding for the Weed and Seed program under the Community Oriented Policing Services account instead of appropriating funding for the program under its own account.

program would have allowed state and local governments to develop juvenile justice or child safety programs that addressed local needs, including reducing incidents of child exploitation and abuse, improving juvenile justice outcomes, and addressing school safety needs.

Both the House and Senate Appropriations Committees rejected the Administration's consolidation proposal and approved funding along the lines of the FY2008 juvenile justice program account and subaccount structure. The House draft bill would have provided \$431.0 million for Juvenile Justice Programs, 12.4% more than the FY2008 enacted level and 133% more than the FY2009 request. The Senate-passed bill would have included \$400.0 million, 4.3% more than the FY2008 enacted level and 116.2% more than the FY2009 request.

Public Safety Officers Benefits Program

The Public Safety Officers' Benefits (PSOB) program provides three different types of benefits to public safety officers or their survivors: death, disability, and education. The PSOB program is intended to assist in the recruitment and retention of law enforcement officers, firefighters, and first responders and to offer peace of mind to men and women who choose careers in public safety. For FY2008, Congress appropriated \$74.8 million for the PSOB program.⁵³ For FY2009, the Administration requested \$69.1 million for the PSOB program, which was 7.6% less than what was appropriated for FY2008. Both the House draft bill and Senate-reported bill would have provided the same amount as requested by the Administration.

Salaries and Expenses

The House committee-approved draft bill included an account that would have provided \$195.0 million for salaries and expenses of OJP, OVW, and COPS. Of the \$195.0 million, up to \$14.0 million would have been provided for OVW, up to \$130.0 million for OJP, and up to \$30.0 million for COPS. In addition, up to \$21.0 million would have been provided for the Office of Audit, Assessment, and Management (OAAM) under OJP.

Science Agencies

The Administration's FY2009 budget included \$24.474 billion for science agencies, or about \$1.094 billion over the enacted FY2008 amount, or a 4.7% increase, as shown in **Table 8**. The FY2009 request included \$396.8 million for the National Science Foundation (NSF) and the National Nanotechnology Initiative. The House Appropriations Committee-approved draft bill included \$24.628 billion for science agencies, a proposed 5.3% increase over the FY2008 enacted level. The Senate-reported bill included \$24.673 billion for science agencies, a proposed 5.5% increase over the FY2008 enacted level.

⁵³ U.S. Department of Justice, *FY2009 Budget and Performance Summary*, Part III: Department of Justice Request Information by Appropriation, Office of Justice Programs (OJP) and Community Oriented Policing Services (COPS), available online at <http://www.usdoj.gov/jmd/2009summary/>.

In addition, the Supplemental Appropriations Act, 2008 (P.L. 110-252) provided NASA with \$62.5 million and NSF with \$62.5 million in additional FY2008 funding. This supplemental funding has not been incorporated into the **Table 8**, **Table 9**, or **Table 10**, however.

The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (P.L. 110-329; H.R. 2638) included a continuing resolution that funds science agencies at FY2008 levels through March 6, 2009, or until a full-year appropriations bill is enacted. For recovery from recent hurricanes and other natural disasters, P.L. 110-329 also included \$30.0 million for NASA. Additional language in the act allows NASA to maintain its current budget structure.

Table 8. Funding for Science Agencies

(budget authority in millions of dollars)

Accounts	FY2008 Enacted	FY2009 Request	House Draft Bill	Senate- Reported	FY2009 Final
Office of Science and Technology Policy (OSTP)	5.2	5.3	5.3	5.2	
National Aeronautics and Space Administration (NASA)	17,309.4	17,614.2	17,769.0	17,814.0	
National Science Foundation (NSF)	6,065.0	6,854.1	6,854.1	6,854.1	
Total: Science Agencies	23,379.6	24,473.6	24,628.4	24,673.3	

Sources: House Appropriations Committee Print on the Consolidated Appropriations Act, 2008 (H.R. 2764/P.L. 110-161); Budget of the United States Government, Fiscal Year 2009—Appendix; House Appropriations Committee-approved draft bill and report; and S. 3182 (S.Rept. 110-397).

Note: Numbers may not add to totals due to rounding.

Office of Science and Technology Policy (OSTP)⁵⁴

The Office of Science and Technology Policy (OSTP) is one of two offices in the Executive Office of the President (EOP) funded in the CJS appropriations bill.⁵⁵ Established in 1976 by The National Science and Technology Policy and Organization Act,⁵⁶ OSTP provides advice within the EOP on scientific and technical aspects of policy issues, assists in the development of the federal R&D budget, coordinates and evaluates federal R&D programs, and consults with non-federal entities on science and technology matters.

For FY2009, the President's budget requested \$5.3 million for OSTP, \$119,000 more than the FY2008 enacted funding level. The FY2008 explanatory statement directed that funding appropriated to the National Science Foundation (NSF) for costs related to the Science and Technology Policy Institute (STPI), OSTP's federally funded research and development center, be transferred to OSTP. These funds are not reflected in the OSTP budget request. Instead, funding

⁵⁴ This section was prepared by Dana Shea, Specialist in Science and Technology Policy, Resources, Science, and Industry Division.

⁵⁵ The other is the Office of the United States Trade Representative.

⁵⁶ P.L. 94-282, codified at 42 U.S.C. 6611-18.

for STPI continues to be requested through the NSF. Policy issues related to OSTP include its oversight and coordination of interagency R&D activities, such as the National Nanotechnology Initiative and the American Competitiveness Initiative, its role in maintaining the nation's international scientific stature, and its leadership in federal support of science and mathematics education.

The House committee recommended the requested amount. The Senate committee recommended \$5.2 million for OSTP, \$119,000 less than the President's request. The Senate committee report directed OSTP to convene a series of federal meetings over the next six months to coordinate the research and development of ground-based radar. The Senate committee report also required OSTP to provide a report to the committee containing the results of these meetings and a plan for future year budget requests.

National Aeronautics and Space Administration (NASA)⁵⁷

NASA was created by the 1958 National Aeronautics and Space Act (P.L. 85-568) to conduct civilian space and aeronautics activities. The agency is managed from headquarters in Washington, DC. It has nine major field centers around the country, plus the Jet Propulsion Laboratory, which is operated under contract by the California Institute of Technology.

NASA requested \$17.614 billion for FY2009, a 1.8% increase over its FY2008 appropriation. The House Committee recommended \$17.769 billion. The Senate Committee recommended \$17.814 billion. See **Table 9** for a breakdown by appropriations account. As directed by Congress, there are now seven appropriations accounts rather than the previous three. In addition, a change in how NASA accounts for overhead expenses complicates comparisons between FY2009 and previous years. In the new system, overhead costs formerly included in program budgets are instead budgeted in the Cross-Agency Support account. This change reduces the stated cost of most programs without affecting actual program content. As a result, amounts expressed in the new system are not directly comparable with amounts expressed in the previous system. In **Table 9** and in the discussion of specific NASA programs that follows, all FY2008 amounts have been adjusted for the accounting change to make them comparable with FY2009.

Budget priorities throughout NASA are being driven by the Vision for Space Exploration, announced by President Bush in January 2004 and endorsed by Congress in the NASA Authorization Act of 2005 (P.L. 109-155). The Vision includes returning the space shuttle to flight status (already accomplished) then retiring it by 2010; completing the International Space Station (ISS), but discontinuing U.S. use of it by 2017; returning humans to the moon by 2020; and then sending humans to Mars and "worlds beyond." The President did not propose significantly increased funding for NASA to accomplish the Vision. Instead, most of the funding was to come from redirecting funds from other NASA activities. Moreover, subsequent NASA funding overall has been less than was projected at the time of the Vision announcement. The funding requirements of the Vision thus constrain other NASA programs.

⁵⁷ This section was prepared by Daniel Morgan, Analyst in Science and Technology Policy, Resources, Science, and Industry Division.

Table 9. Funding for NASA
(budget authority in millions of dollars)

Accounts	FY2008 Enacted ^a	FY2009 Request	House Draft Bill	Senate- Reported	FY2009 Final
Science	4,706.2	4,441.5	4,518.0	4,522.9	
Aeronautics	511.7	446.5	515.0	500.0	
Exploration	3,143.1	3,500.5	3,505.7	3,530.5	
Space Operations	5,526.2	5,774.7	5,764.7	5,774.7	
Education	146.8	115.6	187.2	130.0	
Cross-Agency Support	3,242.9	3,299.9	3,244.8	3,320.4	
Inspector General	32.6	35.5	33.6	35.5	
Total: NASA	17,309.4	17,614.2	17,769.0	17,814.0	

Sources: NASA Fiscal Year 2009 Budget Estimates, available at <http://www.nasa.gov/news/budget/>; House Appropriations Committee-approved draft bill and report; and S. 3182 (S.Rept. 110-397).

Note: Numbers may not add to totals due to rounding.

- a. FY2008 amounts have been adjusted for the accounting change (see text) to make them comparable with FY2009.

The requested \$4.442 billion for Science in FY2009 was a 6% decrease. Within this total, increases for Earth Science and Planetary Science would be offset by decreases for Heliophysics and Astrophysics. The request for Earth Science would fund two new missions recommended by the National Research Council, while the request for Planetary Science would initiate a new program in lunar robotic science. The decrease for Heliophysics reflected a transfer of the Deep Space and Near Earth Networks to the Space Operations account and corresponded to almost the entire decrease in the Science account overall. In Astrophysics, two programs have been of particular congressional interest: the NASA/Department of Energy Joint Dark Energy Mission (JDEM) and the Space Interferometer mission (SIM). The request included funds for JDEM, as directed by Congress in the FY2008 explanatory statement,⁵⁸ but not for SIM. NASA explained that a new exoplanet exploration initiative could include a smaller, medium-class version of SIM, as recommended by the FY2008 Senate report (S.Rept. 110-124). The House committee recommended \$4.518 billion, including additions to the request to cover cost growth in the Glory, Mars Science Laboratory, and James Webb Space Telescope missions, as well as \$50.0 million additional for Earth Science decadal survey missions and \$20.0 million to initiate development of a thermal infrared sensor (TIRS) for the Landsat Data Continuity Mission. The Senate committee recommended \$4.523 billion, including similar additions to cover cost growth and fund decadal survey missions, but only “available funds” for TIRS.

The FY2009 request for Aeronautics was \$447.0 million, a 13% decrease. According to NASA, its aeronautics research portfolio is “closely aligned” with the national aeronautics R&D plan issued by the White House in December 2007 and addresses 47 of the 51 foundational technology

⁵⁸ *Congressional Record*, December 17, 2007, pp. H15820 and H15923.

challenges identified by the National Research Council in June 2006.⁵⁹ The House committee recommended \$515.0 million, with the additional funds to be devoted to R&D on “green” aircraft and support of the Next Generation Air Transportation System. The Senate committee recommended \$500.0 million.

The requested \$3.501 billion for Exploration in FY2009 was an 11% increase. Within this amount, Constellation Systems would receive \$3.048 billion, a 23% increase, while Advanced Capabilities would receive \$452.0 million, a 33% decrease. Constellation Systems is responsible for development of the Orion crew vehicle and Ares I launch vehicle, successors to the space shuttle. The proposed 23% increase was consistent with NASA’s previous projections as the program moves toward a planned initial operating capability for Orion and Ares I (i.e., a first crewed flight) in March 2015. NASA describes the current level of budget reserves within Constellation Systems as “minimal” and is seeking to compensate for it through “rigorous risk management.”⁶⁰ The FY2009 request for Constellation Systems also restored full funding for Commercial Orbital Transportation Services (COTS), which seeks to help private-sector companies develop space transportation systems that could service the ISS after the shuttle is retired. The House committee recommended \$3.506 billion, including an increase of \$25.0 million for research on the space station and a decrease of \$20.0 million for COTS. The Senate committee recommended \$3.530 billion, including an increase of \$30.0 million to accelerate development of the Ares V heavy lift rocket.

The FY2009 request for Space Operations, which funds the space shuttle, the ISS, and the Space and Flight Support program, was \$5.775 billion. A requested decrease of \$285.0 million for the space shuttle was largely offset by a requested increase of \$247.0 million for the ISS. Both changes were consistent with NASA’s previous projections: they reflected the trend toward the shuttle program’s completion in 2010 and the planned construction schedule of the ISS. A requested increase for Space and Flight Support resulted mostly from transferring the Deep Space and Near Earth Networks from the Science account. The gap between the end of shuttle flights in 2010 and the expected availability of Orion and Ares I in 2015 raises several issues. Some analysts are concerned that placing a fixed termination date on the shuttle may create schedule pressure similar to that identified as a contributing factor in the *Columbia* disaster. Some question whether the United States should be dependent on Russia to launch U.S. astronauts to the ISS during the gap period. A major concern is how NASA will retain its skilled workforce during the transition from shuttle to Orion, especially if Orion’s schedule slips and the gap lengthens. The House committee recommended \$5.765 billion for Space Operations, including \$10.0 million less than the request for Space and Flight Support, and directed NASA to consider two final shuttle logistics flights to the ISS, currently manifested as “contingency” flights, as baseline flights. A House administrative provision would direct NASA to provide a report on costs for shuttle retirement and transition activities for FY2006 through FY2015. The Senate committee recommended the requested amount, \$5.775 billion.

⁵⁹ Executive Office of the President, National Science and Technology Council, *National Plan for Aeronautics Research and Development and Related Infrastructure*, December 2007, at http://www.aeronautics.nasa.gov/releases/aero_rd_plan_final_21_dec_2007.pdf; and National Research Council, *Decadal Survey of Civil Aeronautics: Foundation for the Future*, 2006, at <http://www.nap.edu/catalog/11664.html>.

⁶⁰ Budget reserves are funds that have been allocated to a program but have not yet been assigned to a particular component of the program. Instead they are held in reserve, in the expectation that as development proceeds, some components will require additional resources to overcome unforeseen technical challenges.

The Supplemental Appropriations Act, 2008 (P.L. 110-252) provided \$62.5 million for NASA. In addition, the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (P.L. 110-329) provided \$30.0 million in FY2008 supplemental funding to remain available until expended for NASA's recovery from recent hurricanes and other natural disasters. For FY2009, additional language in P.L. 110-329 allows NASA to maintain its new seven-account budget structure rather than reverting to the old structure of three accounts.

National Science Foundation (NSF)⁶¹

The NSF was created by the National Science Foundation Act of 1950, as amended (64 Stat.149).⁶² The NSF has the broad mission of supporting science and engineering in general and funding basic research across many disciplines. The majority of the research supported by the NSF is conducted at U.S. colleges and universities. In addition to helping to ensure the nation's supply of scientific and engineering personnel, the NSF promotes academic basic research and science and engineering education across many disciplines. Other federal agencies, in contrast, support mission-specific research. The NSF provides support for investigator-initiated, merit-reviewed, competitively selected awards, state-of-the-art tools, and instrumentation and facilities. Also, NSF provides almost 30% of the total federal support for science and mathematics education. Support is provided to academic institutions, industrial laboratories, private research firms, and major research facilities and centers. Although the NSF does not operate any laboratories, it does support Antarctic research stations, selected oceanographic vessels, and national research centers. In addition, the NSF supports university-industry relationships and U.S. participation in international scientific ventures.

The FY2009 request for the National Science Foundation (NSF) was \$6.854 billion, a 13% increase (\$789.1 million) over the enacted FY2008 level of \$6.065 billion.⁶³ (See **Table 10**). President Bush's American Competitiveness Initiative has proposed to double the NSF budget over the next 10 years. The FY2009 was to be another installment toward that doubling. NSF identified several strategies in the FY2009 budget request: maintain a portfolio with "powerful momentum" across all disciplines; build a world-class science and engineering workforce; perform effectively with the highest standards of accountability; and support potentially transformative research. Transformative research is described as "cutting edge" and revolutionary, and several reports have recommended that funds be allocated specifically for this type of research. NSF contends that in the global environment of science and engineering, support for transformative, high-risk, high-reward research is critical to U.S. competitiveness. These strategies parallel some of the goals contained in the President's request, and are designed to promote research that will drive innovation and support the design and development of world-class facilities, instrumentation, and infrastructure.

⁶¹ This section was prepared by Christine M. Matthews, Specialist in Science and Technology Policy, Resources, Science, and Industry Division.

⁶² P.L. 81-507 (64 Stat.149), 42 U.S.C. §1861.

⁶³ The FY2008 estimate does not include a rescission of \$33.0 million from prior year unobligated balances as required by P.L. 110-161.

Included in the FY2009 request was \$5.594 billion for Research and Related Activities (R&RA), a 16.0% increase (\$772.0 million) above the enacted FY2008 level of \$4.822 billion. The R&RA funds research projects, research facilities, and education and training activities. The scientific and academic community have voiced concerns about the imbalance between support for the life sciences and the physical sciences. Research is multidisciplinary and transformational in nature, and very often, discoveries in the physical sciences lead to advances in other disciplines. The America COMPETES ACT authorized increased federal research support in the physical sciences, mathematics, and engineering. The FY2009 request provided a 20.2% increase for the Mathematical and Physical Sciences (MPS) directorate. The MPS portfolio supports investments in fundamental research, facilities, and instruments, and provides approximately 44.0% of the federal funding for basic research conducted at colleges and universities. The R&RA includes Integrative Activities (IA) and is a source of funding for the acquisition and development of research instrumentation at institutions. The FY2009 request provided \$276.0 million for IA. IA also funds Partnerships for Innovation, disaster research teams, the Science and Technology Policy Institute, and the Experimental Program to Stimulate Competitive Research (EPSCoR). The FY2009 budget provided \$113.5 million for three funding mechanisms in the EPSCoR jurisdictions—research infrastructure improvement grants, co-funding, and outreach. Approximately 67.0% of the funding for EPSCoR would be for a combination of new awards and research infrastructure improvement grants. The balance of funding would be in support of co-funding (31.7%) and outreach activities (1.3%).

Table 10. National Science Foundation

(budget authority in millions of dollars)

	FY2008 Enacted	FY2009 Request	House Draft Bill	Senate- Reported	FY2009 Final
Research & Related Activities					
Biological Sciences	612.0	675.1			
Computer & Inform. Sci. & Eng.	534.5	638.8			
Engineering	636.9	759.3			
Geosciences	752.7	848.7			
Math and Physical Sciences	1,167.3	1,402.7			
Social, Behav., & Econ. Sciences	215.1	233.5			
Office of Cyberinfrastructure	185.3	220.1			
Office of International Sci. & Eng.	41.3	47.4			
U.S. Polar Programs	442.5	491.0			
Integrative Activities	232.3	276.0			
U.S. Arctic Research Commission	1.5	1.5			
Subtotal Res. & Rel. Act	4,821.5	5,594.0	5,554.0^a	5,594.0^a	
Ed. & Hum. Resr.	725.6	790.4	840.3	790.4	
Major Res. Equip. & Facil. Constr.	220.7	147.5	147.5	152.0	
Agency Ops. & Award Mgmt.	281.8	305.1	305.1	300.6	
National Science Board	4.0	4.0	4.0	4.0	
Office of Inspector General	11.4	13.1	13.1	13.1	

	FY2008 Enacted	FY2009 Request	House Draft Bill	Senate- Reported	FY2009 Final
Total NSF^b	6,065.0	6,854.1	6,854.0	6,854.1	

Sources: NSF FY 2009 Budget Request to Congress, available at <http://www.nsf.gov/about/budget/fy2009/index.jsp#>; House Appropriations Committee-approved draft bill and report; and S. 3182 (S.Rept. 110-397).

Note: Numbers may not add to totals due to rounding.

- a. Specific allocations for each directorate or for individual programs and activities are not yet available.
- b. The totals do not include carry overs or retirement accruals. Totals may not add due to rounding

The Office of Polar Programs (OPP) is funded in the R&RA. The FY2009 request for addressing the challenges in polar research was \$491.0 million. NSF continues in its leadership role in planning U.S. participation in observance of the International Polar Year. The NSF also serves in a leadership capacity for several international research partnerships in the Arctic and Antarctic. Increases in OPP in FY2009 are directed at research programs for arctic and antarctic sciences—glacial and sea ice, terrestrial and marine ecosystems, the ocean and the atmosphere, and biology of life in the cold and dark. In FY2006, responsibility for funding the costs of three icebreakers that support scientific research in the polar regions was transferred from the U.S. Coast Guard to the NSF. While the NSF does not own the ships, it is responsible for the operation, maintenance, and staffing of the vessels. Since 2004, back-up icebreaking support has been needed because of maintenance problems with the polar icebreakers and with the heavy ice conditions in certain polar regions. It has been determined that there is still a need for back-up icebreaking services, and as a result, the FY2009 request included an additional \$9.0 million for contracting of back-up vessels.

The FY2009 request for the Education and Human Resources Directorate (EHR) was \$790.4 million, \$64.8 million (8.9%) above the FY2008 estimate. The EHR portfolio is focused on, among other things, increasing the technological literacy of all citizens, preparing the next generation of science, engineering, and mathematics professionals, and closing the achievement gap in all scientific fields. Support at the various educational levels in the FY2009 request was as follows: research on learning in formal and informal settings (includes precollege), \$226.5 million; undergraduate, \$219.8 million; and graduate, \$190.7 million. In addition, the EHR supports a portfolio of programs directed at expanding the participation of underrepresented groups and diverse institutions in the scientific and engineering enterprise. These programs totaled approximately \$82.6 million in the FY2009 request.

The Major Research Equipment and Facilities Construction (MREFC) account was funded at \$147.5 million in the FY2009 request, a decrease of 33.2% from the FY2008 estimate. The MREFC supports the acquisition and construction of major research facilities and equipment that extend the boundaries of science, engineering, and technology. NSF required that in order for a project to receive support, it must have “the potential to shift the paradigm in scientific understanding and/or infrastructure technology.” The FY2009 request supported three ongoing projects: Advanced Laser Interferometer Gravitational Wave Observatory (\$51.4 million), Atacama Large Millimeter Array (\$82.3 million), and the IceCube Neutrino Observatory (\$11.3 million). The request also provided \$2.5 million to support design activities for a new start—the Advanced Technology Solar Telescope.

The NSF states that all projects seeking funding in the MREFC move through a “progressive sequence of increasingly detailed development and assessment steps” in order to be considered

for construction support.⁶⁴ The FY2009 budget request imposed tighter standards and requirements for receiving funding in MREFC. Included in the more stringent procedures was the implementation of a “no cost overrun” policy for major projects. The cost estimates for projects developed at the preliminary design phase must include adequate contingencies. In the absence of such contingencies, any cost increases would result in reduction in scope for the project. Three projects that appeared in the FY2008 request (Alaskan Regional Research Vessel, Ocean Observatories Initiative, and the National Ecological Observatory Network) have to undergo revised baseline budgets and cost contingencies. These projects are still supported by NSF, and will be considered for inclusion in the next budget cycle following submission of final design reviews and risk management plans.

Improving proposal funding rates and increasing grant size and duration have been long-term priorities for NSF. A report on NSF’s grant applications found that the merit-review process had become increasingly strained, for both program managers and principal investigators.⁶⁵ Program managers have faced increased workloads in overseeing the review of grants, and principal investigators have found their chances of obtaining grants reduced. During the period FY2000 to FY2006, the number of grant applications increased by 47.0%. However, the funding rate for research grant applications decreased from 30.0% in FY2000, 27.0% in FY2002, and 21.0% in both FY2006 and FY2008 (even as the average award size increased). There has been concern in the scientific and education community that the decline in funding rates for grants may have a deleterious affect on academic research infrastructure. With the FY2009 budget request, NSF anticipated increasing the funding rate for grants to 23.0%.

The Senate-passed FY2008 Iraq war supplemental appropriations bill (H.R. 2642) would have provided, among other things, an additional \$150.0 million for R&RA in the NSF. The current FY2008 appropriation for R&RA is \$4.822 billion. Due primarily to rising fuel costs, the academic research fleet is experiencing a reduction in its research capacity. Report language stated that \$10.0 million of the supplemental for R&RA was to be directed, specifically, to the academic research fleet. The Senate bill also would have provided a \$50.0 million supplemental for the EHR. The current FY2008 appropriation is \$725.6 million. The additional funding was to be used to support the following science and mathematics programs: Robert Noyce Scholarship program (\$20.0 million); Graduate Research Fellowships (\$24.0 million); Graduate Teaching Fellowships (\$5.0 million); and Federal Scholarship for Service (\$1.0 million). The Supplemental Appropriations Act, 2008 (P.L. 110-252; H.R. 2642) includes \$22.5 million for NSF R&RA and \$40.0 million for EHR.

The House Committee approved draft bill would provide \$6.854 billion for the NSF in FY2009, \$789.1 million above the FY2008 enacted and the same as the President’s request. The R&RA would receive \$5.554 billion, a \$722.7 million increase above the FY2008 level and \$49.9 million below the request. Additional funding in the House bill includes \$840.3 million for the EHR and \$147.5 million for MREFC. The Senate-reported bill would provide \$6.854 billion for the NSF, the same as the House bill and the request. R&RA would be funded at \$5.594 billion, \$40.0

⁶⁴ National Science Foundation, *2008 Facility Plan*, NSF08-24, February 2008, Arlington, VA, p. 40.

⁶⁵ National Science Foundation, *Impact of Proposal and Award Management Mechanisms*, Final Report, NSF07-45, August 1, 2007, Arlington, VA, 58 pp.

million above the House bill and the same as the President's request. The Senate-reported bill would fund the EHR and the MREFC at \$790.4 million and \$152.0 million, respectively.

Related Agencies

For related agencies, the FY2009 request included \$784.0 million, or nearly \$24.8 million less than the enacted FY2008 level (a 3.1% decrease). As shown in **Table 11**, the Legal Services Corporation would have absorbed the bulk of this decrease, as the FY2009 request only included \$311.0 million for the corporation, a reduction of \$39.5 million (an 11.3% decrease), as compared to the corporation's enacted FY2008 level of funding.

The Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (P.L. 110-329; H.R. 2638) included an FY2009 continuing resolution that funds science agencies at FY2008 levels through March 6, 2009, or until a full-year appropriations bill is enacted.

Earlier in the year, the House Appropriations Committee-approved bill includes \$883.1 million for related agencies, an increase of 9.2% over the FY2008 enacted level. The Senate-reported bill includes \$869.4 million for related agencies, an increase of 7.5% over the enacted FY2008 level. Both the House and Senate bills include \$390.0 million for the Legal Services Corporation, an increase of 11.3% over the FY2008 enacted level.

Table 11. Funding for CJS Related Agencies
(budget authority in millions of dollars)

Commission, Office, or Corporation	FY2008 Enacted	FY2009 Request	House Draft Bill	Senate-Reported	FY2009 Final
U.S. Commission on Civil Rights	8.5	8.8	8.8	8.8	
Equal Employment Opportunity Commission	329.3	341.9	350.4	341.9	
International Trade Commission	68.4	73.6	75.1	75.0	
Legal Services Corporation	350.5	311.0	390.0	390.0	
Marine Mammal Commission	2.8	2.4	3.2	2.4	
National Veterans Business Development Corporation	1.4	—	3.2	—	
Office of the U.S. Trade Representative	44.1	46.3	48.3	46.3	
State Justice Institute	3.8	— ^a	4.1	5.0	
Total: Related Agencies	808.8	784.0	883.1	869.4	

Sources: House Appropriations Committee Print on the Consolidated Appropriations Act, 2008 (H.R. 2764/P.L. 110-161); Budget of the United States Government, Fiscal Year 2009—Appendix; House Appropriations Committee-approved draft bill and report; and S. 3182 and S.Rept. 110-397.

Note: Numbers may not add to totals due to rounding.

- a. Under the terms of its enabling legislation, the State Justice Institute is authorized to present its budget request directly to Congress. Although the Bush Administration has not requested any FY2009 funding for SJI, the institute has requested \$5.4 million.

Commission on Civil Rights⁶⁶

Established by the Civil Rights Act of 1957, the U.S. Commission on Civil Rights (the commission)

- investigates allegations of citizens who may have been denied the right to vote based on color, race, religion, or national origin;
- studies and gathers information on legal developments constituting a denial of the equal protection of the laws;
- assesses federal laws and policies in the area of civil rights; and
- submits reports on its findings to the President and Congress when the commission or the President deems it appropriate.

The political independence of the commission continued to be an issue. In report language, the House Appropriations Committee expressed concern that 36 of the 51 State Advisory Committees were inoperative because their authorizing charters had expired.⁶⁷ The House committee directed the commission to give priority to reconstituting the State Advisory Committees and to make appointments that reflect a balance of viewpoints and a diversity in membership, especially in terms of gender, disability, party affiliation, and civil rights experience with affected communities. Further, the committee stated that no one should be denied an opportunity to serve on a State Advisory Committee because of race, age, sex, sexual orientation, religion, national origin, disability, or political persuasion. The adequacy of funding for the agency was also a subject of debate, as appropriations for the commission have been less than \$10.0 million for more than 10 fiscal years.

For FY2009, the Bush Administration requested \$8.8 million for the U.S. Commission on Civil Rights, the same amount requested for FY2008 and \$300,000 above the FY2008 enacted level of \$8.5 million for the commission. For FY2009, both the House Appropriations Committee-approved draft bill and the Senate Appropriations Committee-reported bill would have provided \$8.8 million for the commission, a 4% increase over FY2008 appropriations for the agency.

Equal Employment Opportunity Commission (EEOC)⁶⁸

The EEOC enforces laws banning employment discrimination based on race, color, national origin, sex, age, or disability. In recent years, appropriators have been particularly concerned about the agency's implementation of a restructuring plan, beginning in 2005, that included the National Contact Center (NCC), field structure and staff realignment, and restructuring of headquarters operations. The EEOC Commissioners responded to the concerns by voting on December 20, 2007, to transfer receipt of customer calls from the NCC's contractor to in-house "information intake representatives" in its 53 field offices. At the same time, they voted favorably

⁶⁶ This section was written by Garrine P. Laney, Analyst in Social Legislation, Domestic Social Policy Division.

⁶⁷ H.Rept. 110-240, p. 130.

⁶⁸ This section was prepared by Abigail Rudman, Information Research Specialist, Knowledge Services Group, and Linda Levine, Specialist in Labor Economics, Domestic Social Policy Division.

on a one-year contract for an “interactive voice response system,” the digital telephone technology system that currently handles customer calls.

The President’s FY2009 budget requested \$341.9 million for the EEOC, which is an increase of \$12.6 million from the FY2008 enacted level of \$329.3 million. Some \$7.6 million of the increase would go toward hiring 175 full-time equivalent positions (FTEs), of which 66 would be allocated to the in-house customer service team.⁶⁹ The other 109 FTEs, including investigators and attorneys, would work at field offices and headquarters to help reduce the pending inventory of charges. The budget also included \$26.0 million for payments to state and local entities with which the agency has work-sharing agreements to address workplace discrimination within their jurisdictions (i.e., Fair Employment Practices Agencies, FEPAs, and Tribal Employment Rights Organizations, TEROs). This reflected a decrease of \$3.1 million from the FY2008 appropriation of \$29.1 million.

The House committee-approved draft bill would have provided \$350.4 million to the EEOC in FY2009, \$21.1 million more than in FY2008. This amount included \$28.0 million for FEPAs and TEROs. The House bill also would have provided \$3.6 million for call processing personnel and information technology to support ongoing efforts to transition from a contractor-operated to an in-house call center. The committee expressed concern about the accuracy of workload projections; it requested that the commission compare the projections with those published in the midyear annual review. The committee also directed the EEOC to report within 60 days after enactment on the backlog of charges and the agency’s restructuring efforts.

The Senate-reported bill would have funded the EEOC at \$341.9 million, an increase of \$12.6 million from FY2008. On the basis of findings of the General Accountability Office (GAO), the committee expressed concern that the EEOC’s mandate to promote equal opportunity in the workplace may be compromised if steps are not taken to address the growing workload.⁷⁰ The committee directed the EEOC to implement the GAO recommendations within 60 days after enactment (e.g., identify best practices for prioritizing and investigating charges).⁷¹

U.S. International Trade Commission (ITC)⁷²

The ITC is an independent, quasi-judicial agency that advises the President and Congress on the impact of U.S. foreign economic policies on U.S. industries and, along with the Import Administration Unit of ITA, is charged with administering various U.S. trade remedy laws. Its six commissioners are appointed by the President for nine-year terms. As a matter of policy, its budget request is submitted to Congress by the President without revision. For FY2009, ITC

⁶⁹ Relatedly, the budget request contains another \$580,000 to fund an in-house telephone technology system, which the EEOC plans to have fully operational by February 1, 2009.

⁷⁰ U.S. General Accountability Office, *Sharing Promising Practices and Fully Implementing Strategic Human Capital Planning Can Improve Management of Growing Workload*, GAO-08-589, June 23, 2008.

⁷¹ U.S. Congress, Senate Committee on Appropriations, *Commerce, Justice, Science, and Related Agencies Appropriations Bill, 2009*, report to accompany S. 3182, 110th Cong., 2nd sess., S.Rept. 110-397 (Washington: GPO, 2007), pp. 108-109.

⁷² This section was written by M. Angeles Villarreal, Analyst in International Trade and Finance, Foreign Affairs, Defense, and Trade Division.

requested \$73.6 million, a \$5.2 million increase (7.6%) over the FY2008 funding level of \$68.4 million, for existing mandated investigative activity and related operations; a mandatory pay increase; and information technology projects. The House committee-approved draft bill would have provided \$75.1 million, 9.8% over the FY2008 enacted level and 2.0% over the FY2009 request. The Senate-reported bill would have provided \$75.0 million, 9.6% over the FY2008 enacted level and 1.9% over the FY2009 request.

Legal Services Corporation (LSC)⁷³

The LSC is a private, non-profit, federally funded corporation that provides grants to local offices that, in turn, provide legal assistance to low-income people in civil (non-criminal) cases. The LSC has been controversial since its incorporation in the early 1970s and has been operating without authorizing legislation since 1980. There have been ongoing debates over the adequacy of funding for the agency and the extent to which certain types of activities are appropriate for federally funded legal aid attorneys to undertake. In annual appropriations bills, Congress traditionally has included legislative provisions restricting the activities of LSC-funded grantees, such as prohibiting any lobbying activities or prohibiting representation in certain types of cases. Current LSC funding remains below the LSC's highest funding level of \$400.0 million in FY1994 and FY1995.⁷⁴

The Consolidated Appropriations Act, 2008 (P.L. 110-161) included \$350.5 million for the LSC for FY2008. This amount is \$1.9 million above the FY2007 appropriation (\$348.6 million) for the LSC and \$39.6 million above the Administration's FY2008 budget request for the LSC. The FY2008 appropriation for the LSC included \$332.4 million for basic field programs and required independent audits; \$12.5 million for management and administration; \$2.1 million for client self-help and information technology; \$3.0 million for the Office of the Inspector General; and \$500,000 for loan repayment assistance (for legal aid lawyers).

For FY2009, the Bush Administration requested \$311.0 million for the LSC. The Administration's budget request included \$290.1 million for basic field programs and required independent audits; \$12.8 million for management and administration; \$5.0 million for client self-help and information technology; and \$3.0 million for the Office of the Inspector General.

For FY2009, the House Appropriations Committee approved \$390.0 million for the LSC. The House committee-approved draft bill provided 11% more than the FY2008 LSC appropriation and 25% more than the FY2009 request for the LSC. The House bill included \$367.0 million for basic field programs and required independent audits; \$16.0 million for management and administration; \$3.0 million for client self-help and information technology; \$3.0 million for the Office of the Inspector General; and \$1.0 million for loan repayment assistance.

For FY2009, the Senate Appropriations Committee also approved \$390.0 million for the LSC. The Senate committee-reported bill provided 11% more than the FY2008 LSC appropriation and

⁷³ This section was prepared by Carmen Solomon-Fears, Specialist in Social Policy, Domestic Social Policy Division.

⁷⁴ For additional information on the LSC, see CRS Report RL34016, *Legal Services Corporation: Background and Funding*, by Carmen Solomon-Fears.

25% more than the FY2009 request for the LSC. The Senate bill provided the same amount as the House draft bill. The Senate bill, however, included \$369.0 million for basic field programs and required independent audits; \$13.0 million for management and administration; \$3.8 million for client self-help and information technology; \$3.2 million for the Office of the Inspector General; and \$1.0 million for loan repayment assistance.

Marine Mammal Commission (MMC)⁷⁵

The Marine Mammal Commission (MMC) and its Committee of Scientific Advisors on Marine Mammals provide oversight and recommend actions on domestic and international topics to advance policies and provisions of the Marine Mammal Protection Act.

The Administration proposed \$2.4 million for FY2009 for necessary expenses of the Marine Mammal Commission, a decrease of \$420,000 (-14.9%) from the FY2008 appropriation of \$2.82 million for this independent agency. The House Committee on Appropriations recommended \$3.2 million, \$380,000 (13.5%) more than the FY2008 enacted level and \$800,000 (33.3%) more than the FY2009 request. The Senate Committee on Appropriations concurred with the Administration's request, recommending \$2.4 million (S.Rept. 110-397).

National Veterans Business Development Corporation (VBC)⁷⁶

The VBC was established under the Veterans Entrepreneurship and Small Business Development Act of 1999 (P.L. 106-50). The corporation's mission is to foster entrepreneurship and business opportunities for veterans, including service-disabled veterans. The VBC provides veterans with access to capital and business services, entrepreneurial education, surety bonding, insurance and prescription coverage, as well as a veterans business directory. Congress provided the corporation with \$1.5 million in funding for each year, FY2006 and FY2007. The enacted FY2008 VBC appropriation is \$1.4 million. The Administration's FY2009 budget request includes no funding for VBC; neither does the Senate-reported bill. The House draft bill, however, includes \$3.2 million, an increase of 127% over the FY2008 enacted level.

Office of the U.S. Trade Representative (USTR)⁷⁷

USTR, located in the Executive Office of the President (EOP), is responsible for developing and coordinating U.S. international trade and direct investment policies. The USTR is the President's chief negotiator for international trade agreements. In 2006 and 2007, the Bush Administration concluded FTAs with Peru, Colombia, Oman, Panama, and South Korea. In 2006 and 2007, USTR obtained congressional approval of FTAs with Peru, Bahrain, the Dominican Republic,

⁷⁵ This section was prepared by Eugene H. Buck, Specialist in Natural Resources Policy; Resources, Science, and Industry Division.

⁷⁶ This section was written by William J. Krouse, Specialist in Domestic Security.

⁷⁷ This section was written by M. Angeles Villarreal, Analyst in International Trade and Finance, Foreign Affairs, Defense, and Trade Division.

and Central American countries. In its FY2009 *Congressional Budget Submission*, the USTR stated the following as its priorities for FY2009:

- concluding several bilateral agreements,
- completing the Doha Round of the World Trade Organization (WTO) negotiations,
- pursuing China's compliance with its WTO obligations,
- litigating enforcement actions in the WTO,
- negotiating WTO accession agreements for key countries, and
- launching new negotiations as necessary to further the trade agenda.⁷⁸

The President's FY2009 request for USTR was \$46.3 million, an increase of \$2.2 million (4.9%) over the FY2008 funding level of \$44.1 million. The House committee-approved draft bill would have provided \$48.3 million, 9.4% over the FY2008 enacted level and 4.3% over the FY2009 request. The Senate-reported bill would have provided \$46.3 million, 4.9% over the FY2008 enacted level and the same amount as the FY2009 request.

State Justice Institute (SJI)⁷⁹

The State Justice Institute (SJI) is a nonprofit corporation that makes grants to state courts and funds research, technical assistance, and informational projects aimed at improving the quality of judicial administration in state courts across the United States. It is governed by an 11-member board of directors appointed by the President and confirmed by the Senate.⁸⁰ Under the terms of its enabling legislation, SJI is authorized to present its budget request directly to Congress, apart from the President's budget.

For FY2009, SJI requested an appropriation of \$5.39 million, a 43.4% increase over \$3.76 million appropriated for FY2008.⁸¹ The funding requested for FY2009, SJI said in its budget request, would enable it "to continue identifying issues that impact all courts, fostering innovative solutions, and sharing information on successful approaches nationwide."⁸² The Bush Administration, however, as in its budgets for the previous six years, did not request any appropriated funds for the institute for FY2009.⁸³ The House committee-approved draft bill

⁷⁸ Office of United States Trade Representative, *Congressional Budget Submission*, Fiscal Year 2009.

⁷⁹ This section was written by Denis Steven Rutkus, Specialist in American National Government, Government and Finance Division.

⁸⁰ By law, the President must appoint six state court judges, one state court administrator, and four members of the public, no more than two of whom may be of the same political party.

⁸¹ See *State Justice Institute Fiscal Year 2009 Budget Request*, January 2008, at http://www.statejustice.org/PDF/FY2009_Budget_Request.pdf, 22 p. (Hereafter cited as *SJI 2009 Budget Request*.) The amount requested for FY2009, SJI has noted, is \$1,629,000 above the level provided in the FY2008 Consolidated Appropriations Act (P.L. 110-161), but \$1,611,000 below the \$7.0 million level as authorized by the State Justice Reauthorization Act of 2004 (P.L. 108-372). *Ibid.*, p. 3.

⁸² *Ibid.*, p. 17.

⁸³ In the *Appendix of the Budget of the United States Government* for each fiscal year from FY2003 through FY2009, a funding table for the State Justice Institute, and brief accompanying text, indicated that the proposed budget for each year entailed no appropriated funds for SJI but did not provide an explanation for why no funding was requested.

provided \$4.1 million, 9% above the FY2008 enacted level but 23.9% below SJI's FY2009 request. The Senate reported bill provided \$5.0 million, 33% above the FY2008 enacted level but 7.2% less than SJI's FY2009 request.

For the past several fiscal years, SJI has been encouraged by congressional appropriators to obtain funds, at least in part, from sources other than Congress. In the FY2008 appropriations process, for instance, the House Appropriations Committee endorsed an approach of providing some directly appropriated funds to SJI, but with the institute also seeking additional funding from Department of Justice (DOJ) grant programs.⁸⁴ The committee at the same time commended SJI for its "recent successes in obtaining dollar-for-dollar matching funds for grants awarded."⁸⁵

**Table 12. CJS Appropriations by Account,
FY2008 Enacted and FY2009 Proposed**
(budget authority in millions of dollars)

Bureau or Agency	FY2008 Enacted ^a	FY2009 Request ^b	House Draft Bill	Senate- Reported	FY2009 Final
Department of Commerce (DOC)					
International Trade Administration	405.2	420.4 ^b	425.4	420.4	
Bureau of Industry and Security	72.9	83.7 ^b	83.7	83.7	
Economic Development Administration	279.9	132.8 ^b	282.8	232.8	
Minority Business Development Agency	28.6	29.0 ^b	31.5	29.0	
Economic and Statistical Analysis	81.1	90.6 ^b	89.1	90.6	
Bureau of the Census	1,230.2	2,604.6 ^b	2,604.6	3,151.0	
National Telecommunications and Information Administration	36.3	19.2 ^b	40.9	59.2	
Patent and Trademark Office ^c	(1,915.5)	(2,075.0)	(2,087.0)	(2,075.0)	
Technology Administration	—	—	—	—	
National Institute of Standards and Technology	755.8	638.0 ^b	816.9	813.5	
National Oceanic and Atmospheric Administration	3,896.5	4,103.9 ^b	4,252.6	4,445.9	

⁸⁴ Specifically, the committee commended SJI for "continuing to work with the [Justice Department's] Office of Justice Programs (OJP) on issues involving State courts," and it encouraged SJI "to continue to seek funds from OJP grant programs." U.S. Congress, House Committee on Appropriations, *Commerce, Justice, Science, and Related Agencies Appropriations Bill, 2008*, report to accompany H.R. 3093, 110th Cong., 1st sess., H.Rept. 110-240 (Washington: GPO, 2007), p. 137.

⁸⁵ Ibid. In response to a directive from House-Senate conferees for the FY2006 appropriations act, SJI, in its FY2007 budget request, noted that it had adopted a 50% "cash match requirement" from its grantees. In its FY2009 budget request, SJI said that prior to the implementation of its cash match requirement, state courts were unable to compete for SJI grants. Despite having the money available for the requirement, SJI said, the courts "had neither the time nor the personnel available who could apply for and execute grant projects." With the cash match requirement in place, however, SJI said, it now receives numerous grant applications from state courts, which are assisted by "court-support organizations" which have the "expertise to apply for and execute court grants." *SJI 2009 Budget Request*, p. 16.

Bureau or Agency	FY2008 Enacted ^a	FY2009 Request ^b	House Draft Bill	Senate- Reported	FY2009 Final
Departmental Management	70.0	94.2 ^b	79.3	76.2	
DOC Subtotal	6,856.5	8,216.5^b	8,706.9	9,402.4	
Department of Justice (DOJ)					
General Administration	1,794.8	1,952.1	2,014.2	1,928.4	
U.S. Parole Commission	11.5	12.6	12.6	12.6	
Legal Activities	3,584.0	3,829.7	3,841.9	3,864.7	
National Security Division	73.4	83.8	83.8	83.8	
Interagency Law Enforcement	497.9	531.6	521.9	511.7	
Federal Bureau of Investigation	6,657.7	7,108.1	7,108.1	7,270.1	
Drug Enforcement Administration	1,857.6	1,936.6	1,939.1	1,954.4	
Bureau of Alcohol, Tobacco, Firearms & Explosives	1,007.6	1,027.8	1,054.2	1,042.8	
Federal Prison System	5,425.5	5,533.9	5,733.9	5,973.9	
Office of Violence Against Women	400.0	280.0	435.0	415.0	
Office of Justice Programs	2,282.0	792.7	2,694.1	2,721.1	
DOJ Subtotal	23,591.9	23,088.9	25,438.8	25,778.6	
Science Agencies					
Office of Science and Technology	5.2	5.3	5.3	5.2	
NASA	17,309.4	17,614.2	17,769.0	17,814.0	
National Science Foundation	6,065.0	6,854.1	6,854.1	6,854.1	
Science Agencies Subtotal:	23,379.6	24,473.6	24,628.4	24,673.3	
Related Agencies					
Commission on Civil Rights	8.5	8.8	8.8	8.8	
Equal Employment Opportunity Commission (EEOC)	329.3	341.9	350.4	341.9	
International Trade Commission	68.4	73.6	75.1	75.0	
Legal Services Corporation	350.5	311.0	390.0	390.0	
Marine Mammal Commission	2.8	2.4	3.2	2.4	
National Veterans Business Development Corporation	1.4	—	3.2	—	
U.S. Trade Representative	44.1	46.3	48.3	46.3	
State Justice Institute	3.8	— ^d	4.1	5.0	
Related Agencies Subtotal	808.8	784.0	883.1	869.4	
Total Appropriations	54,636.8	56,563.0	59,657.1	60,723.6	

Sources: House Appropriations Committee Print on the Consolidated Appropriations Act, 2008 (H.R. 2764/P.L. 110-161); Budget of the United States Government, Fiscal Year 2009—Appendix; House Appropriations Committee-approved draft bill and report; and S. 3182 (S.Rept. 110-397).

Note: Numbers may not add to totals due to rounding.

- a. The amounts in the FY2008 enacted column will change as Congress has passed a Supplemental Appropriations Act, 2008 (P.L. 110-252; H.R. 2642) that provides additional FY2008 funding for some of the departments and agencies funded under the jurisdiction of the House and Senate CJS Appropriations subcommittees. In addition, the Administration has submitted FY2008 budget reprogrammings for Department of Justice to the House and Senate Appropriations Committees that addresses funding shortfalls for the Bureau of Prisons and other DOJ entities.
- b. The amounts in the FY2009 request column reflect the original Administration submission. For a comparison with the June 9, 2008 Department of Commerce revised request to account for the 2010 decennial census, see **Table 4** above.
- c. The Patent and Trademark Office (PTO) is fully funded by user fees. The fees collected, but not obligated during the current year, are available for obligation in the following fiscal year and *do not* count toward the appropriation totals. Only newly appropriated funds count toward the annual appropriation totals.
- d. Under the terms of its enabling legislation, the State Justice Institute is authorized to present its budget request directly to Congress. Although the Bush Administration has not requested any FY2009 funding for SJI, the institute has requested \$5.4 million.

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