



Homeland Security Department: FY2011 Appropriations

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Summary

This report describes the FY2011 appropriations for the Department of Homeland Security (DHS). The Administration requested a net appropriation of \$45.0 billion in budget authority for FY2011. This amounts to a \$1.1 billion, or a 2.4% increase from the \$43.9 billion enacted for FY2010. Total budget authority requested by the Administration for DHS for FY2011 amounts to \$52.6 billion as compared to \$51.7 billion enacted for FY2010.

Net requested appropriations for major agencies within DHS were as follows: Customs and Border Protection (CBP), \$9,809 million; Immigration and Customs Enforcement (ICE), \$5,524 million; Transportation Security Administration (TSA), \$5,729 million; Coast Guard, \$9,867 million; Secret Service, \$1,570 million; National Protection & Programs Directorate, \$2,362 million; Federal Emergency Management Administration (FEMA), \$7,294 million; Science and Technology, \$1,018 million; and the Domestic Nuclear Detection Office, \$306 million.

The Senate Committee on Appropriations reported its version of the FY2010 DHS Appropriations bill on July 15, 2010. This report uses Senate-reported S. 3607 and the committee report (S.Rept. 111-222) accompanying S. 3607 as the source for the Senate-reported numbers. The Senate-reported S. 3607 recommends a net appropriation of \$45.2 billion for DHS for FY2011. This amounts to a \$195 million increase as compared to the Administration's request, and a nearly \$1.3 billion increase as compared to the \$43.9 billion enacted for FY2010 (not including FY2010 supplemental funding).

The House did not mark up its bill in the full Appropriations Committee, and therefore did not make public its official position on funding levels and direction for DHS.

Congress did not enact the 12 regular appropriations bills for FY2011 before the start of the fiscal year. As a result, seven interim continuing resolutions for FY2011 became law: P.L. 111-242 (124 Stat. 2607), P.L. 111-290 (124 Stat. 3063), P.L. 111-317 (124 Stat. 3454), and P.L. 111-322 (124 Stat. 3518) in the 111th Congress, and P.L. 112-4 (125 Stat. 6), P.L. 112-6 (125 Stat. 23), and P.L. 112-8 (125 Stat. 34). P.L. 112-4 and P.L. 112-6 rescinded unobligated funds from several specific DHS programs as they continued to fund the department.

On April 15, 2011, the President signed H.R. 1473 into law as P.L. 112-10. This public law represents the final appropriations act for FY2011. P.L. 112-10 includes roughly \$41.6 billion in non-emergency discretionary spending for the Department of Homeland Security, while mandating a 0.2% across-the-board rescission for all departmental appropriations except for narrowly delineated funding for Coast Guard "overseas contingency operations directly related to the global war on terrorism." As is often the case with continuing resolutions, P.L. 112-10 provides more limited direction than is given through a traditional bill and conference report as to how appropriations should be divided among individual programs, projects, and activities, but instead requires the department to provide spending plans to outline how DHS chooses to allocate those funds.

This report will not be updated further.

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Most Recent Developments

P.L. 112-10, 112th Congress

On April 15, 2011, the President signed H.R. 1473 into law as P.L. 112-10. This public law represents the final appropriations act for FY2011. P.L. 112-10 includes roughly \$41.6 billion in non-emergency discretionary spending for the Department of Homeland Security, while mandating a 0.2% across-the-board rescission for all departmental appropriations except for narrowly delineated funding for Coast Guard “overseas contingency operations directly related to the global war on terrorism.” As is often the case with continuing resolutions, P.L. 112-10 provides more limited direction than is given through a traditional bill and conference report as to how appropriations should be divided among individual programs, projects and activities, but instead requires the department to provide spending plans to outline how DHS chooses to allocate those funds.

Summary of DHS-Related provisions in the Several CRs for FY2011¹

Congress did not enact the 12 regular appropriations bills for FY2011 before the end of FY2010. As a result, until P.L. 112-10 was signed into law, funding levels for government activities were set by a series of FY2011 interim continuing resolutions:

- P.L. 111-242 (124 Stat. 2607), covering October 1, 2010—December 3, 2010;
- P.L. 111-290 (124 Stat. 3063), covering December 4, 2010—December 18, 2010;
- P.L. 111-317, (124 Stat. 3454), covering December 19, 2010—December 21, 2010;
- P.L. 111-322 (124 Stat. 3518), covering December 22, 2010—March 4, 2011;
- P.L. 112-4 (125 Stat. 6), covering March 5, 2011—March 18, 2011;
- P.L. 112-6 (125 Stat. 23), covering March 19, 2011—April 8, 2011; and
- P.L. 112-8 (125 Stat. 34), covering April 9, 2011—April 15, 2011.

The initial CR, P.L. 111-242, extended funding for the 12 outstanding regular bills generally at FY2010-enacted spending levels from October 1, 2010, through December 3, 2010. The second CR, P.L. 111-290, extended this expiration date through December 18, 2010.

On December 8, 2010, the House passed the FY2011 full-year CR, H.R. 3082 (111th Congress), covering the 12 regular bills. To provide more time to resolve differences within Congress and between Congress and the President, the House adopted another interim CR, H.J.Res. 105 (111th Congress), on December 17, 2010. This measure extended the December 18, 2010, expiration date three days, through December 21, 2010.

¹ For a more detailed discussion of the CRs for the FY2011 appropriations cycle, see CRS Report RL30343, *Continuing Resolutions: Latest Action and Brief Overview of Recent Practices*, by (name redacted).

On December 21, 2010, the Senate amended House-passed H.R. 3082, to extend funding for the outstanding appropriations bills at the FY2010-enacted spending level. The House passed the Senate-amended version of H.R. 3082, which was signed by the President on December 22, 2010. P.L. 111-322 extended funding through March 4, 2011.

After the new Congress was sworn in, the House adopted the Full-Year Continuing Appropriations Act, 2011 (H.R. 1, 112th Congress) on February 19, 2011. On February 28, 2011, Further Continuing Appropriations Amendments, 2011 (H.J.Res. 44, 112th Congress) was introduced to continue funding for two weeks, from March 5, 2011, through March 18, 2011. Both pieces of legislation included provisions that would reduce funding available for specific DHS accounts and programs.

On March 1, 2011, the House passed H.J.Res. 44. The Senate passed H.J.Res. 44 on March 2, 2011, and the measure was signed by the President on March 3, 2011 (P.L. 112-4). H.J.Res. 44 provided a spending rate for all 12 regular bills at FY2010 levels through March 18, 2011 with certain reductions in spending compared with P.L. 111-322 (the fourth CR in effect from December 21), and compared with FY2010 enacted levels. These reductions included the following for DHS:

- \$1 million from DHS Undersecretary for Management—for logistics training;
- \$1 million from Customs and Border Protection Salaries and Expenses—for a solar powered batteries program;
- \$43 million from Customs and Border Protection Construction—for facility construction projects;
- \$1 million from the Transportation Security Administration—for the National “Safe Skies” Alliance;
- \$4 million from the Coast Guard’s Operations and Expenses account—for the Operations System Center;
- \$17 million from the Coast Guard’s Acquisition, Construction, and Improvements account—for shore construction accounts;
- \$4 million from the Coast Guard’s Alteration of Bridges account;
- \$20 million from the National Programs and Protection Directorate—for cyber-security and infrastructure projects;
- \$5 million from the Office of Health Affairs for bio-preparedness;
- \$103 million from FEMA’s State and Local programs account for university and emergency operations center grants;
- \$25 million from FEMA’s Pre-Disaster Mitigation grants; and
- \$41 million from Science and Technology Directorate research projects.²

² House Appropriations Committee, “Continuing Resolution Unveiled Today Will Continue Government Operations, Cut Spending,” accessed at http://appropriations.house.gov/index.cfm?FuseAction=PressReleases.Detail&PressRelease_id=266&Month=2&Year=2011.

On March 15, 2011, the House passed H.J.Res. 48. The Senate passed H.J.Res. 48 on March 17, 2011, and the President signed the measure into law on March 18, 2011 (P.L. 112-6). P.L. 112-6 provided a spending rate for all 12 regular bills through April 8, 2011, at the level of the previous short-term CR with additional modifications. The only further reduction to the Department of Homeland Security in P.L. 112-6 was a \$106.6 million rescission from Customs and Border Protection Construction.

On April 7, the House passed H.R. 1363. The Senate passed H.R. 1363 with an amendment on April 8, 2011. The House passed the amended bill on April 9, 2011, and the President signed the measure into law the same day (P.L. 112-8). P.L. 112-8 provided a spending rate for all 12 regular bills through April 15, 2011, at the level of the previous short-term CR with additional modifications, allowing time for the final year-long CR to be completed. None of those modifications directly affected the Department of Homeland Security's budget.

Committee Action

Senate-Reported S. 3607, 111th Congress, 2nd Session

The Senate Committee on Appropriations reported its version of the FY2010 DHS Appropriations bill on July 15, 2010. This report uses Senate-reported S. 3607 and the committee report (S.Rept. 111-222) accompanying S. 3607 as the source for the Senate-reported numbers. The Senate-reported S. 3607 recommends a net appropriation of \$45.2 billion for DHS for FY2011. This amounts to a \$195 million increase as compared to the Administration's request, and a nearly \$1.3 billion increase as compared to the \$43.9 billion enacted for FY2010 (not including FY2010 supplemental funding).

House Action, 111th Congress, 2nd Session

The House Appropriations Subcommittee on Homeland Security marked up its draft bill in subcommittee on June 24, 2010. However, the day the bill was scheduled for full committee markup, the bill was withdrawn and the legislation was never brought before the full committee or made public.

President's FY2011 Budget Request Submitted

The Administration requested a net appropriation of \$45.0 billion in budget authority for FY2011. This amounts to a \$1.1 billion, or a 2.4% increase from the \$43.9 billion enacted for FY2010. Total budget authority requested by the Administration for DHS for FY2011 amounts to \$52.6 billion as compared to \$51.7 billion enacted for FY2010.

Net requested appropriations for major agencies within DHS were as follows: Customs and Border Protection (CBP), \$9,809 million; Immigration and Customs Enforcement (ICE), \$5,524 million; Transportation Security Administration (TSA), \$5,729 million; Coast Guard, \$9,867 million; Secret Service, \$1,570 million; National Protection & Programs Directorate, \$2,362 million; Federal Emergency Management Administration (FEMA), \$7,294 million; Science and Technology, \$1,018 million; and the Domestic Nuclear Detection Office, \$306 million.

Table I. Legislative Status of Homeland Security Appropriations

Subcommittee Markup 111 th Congress		House Committee Report	Senate Committee Report S.Rept. 111-222	House Passage H.R. 1473 112 th Congress	Senate Passage H.R. 1473 112 th Congress	Conference Report Approval		P.L. 112-10
House	Senate					House	Senate	
6/24/10 (VV)	7/14/10 (VV)	N/A	7/15/10 (17-12)	4/14/11 (260-167)	4/14/11 (81-19)	N/A	N/A	4/15/11

Note: (VV) = voice vote, (UC) = unanimous consent.

Note on Most Recent Data

Data used in this report for FY2010 enacted and FY2011 are from the President's Budget Documents, the FY2011 *DHS Congressional Budget Justifications*, the FY2011 *DHS Budget in Brief*, the Senate-reported version of S. 3607, and P.L. 112-10. Data used in **Appendix B** are taken from the *Analytical Perspectives* volume of the FY2006-FY2011 President's Budget. Except when discussing total amounts for the bill as a whole, all amounts contained in this report are generally rounded to the nearest million.

Background

This report describes the final direction given to the Department of Homeland Security through P.L. 112-10 by title, then goes into more detail by component, outlining President's FY2011 request for funding for DHS programs and activities, as submitted to Congress on February 1, 2010. It compares the enacted FY2010 amounts to the request for FY2011, tracks the Senate's recommendations as included in Senate's Committee Report, and notes congressional issues related to the FY2011 DHS appropriations bills with particular attention paid to discretionary funding amounts. No House recommendations are available for comparison as no full committee markup was held for the House draft in the second session of the 111th Congress. The report does not follow specific funding issues related to mandatory funding—such as retirement pay—nor does the report systematically follow any legislation related to the authorization or amendment of DHS programs. This report will not be updated further.

Department of Homeland Security

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

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

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

Through the FY2007 appropriation, Title III contained appropriations for the Preparedness Directorate, Infrastructure Protection and Information Security (IPIS) and the Federal Emergency Management Administration (FEMA). The President’s FY2008 request included a proposal to shift a number of programs and offices to eliminate the Preparedness Directorate, create the NPPD, and move several programs to FEMA. These changes were largely agreed to by Congress in the FY2008 appropriation, reflected by Title III in Division E of P.L. 110-161.

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

302(a) and 302(b) Allocations

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

The annual concurrent resolution on the budget sets forth the congressional budget. **Table 2** shows DHS’s 302(b) allocations for FY2010 and the current appropriations cycle.

Table 2. FY2011 302(b) Discretionary Allocations for DHS

(budget authority in billions of dollars)

FY2010 Comparable	FY2011 Request Comparable	FY2011 House Allocation	FY2011 Senate Allocation	FY2011 Enacted Comparable
42.8	43.6	43.6	43.5	42.6

Sources: CRS analysis of the *FY2011 DHS Congressional Budget Justifications*, S.Rept. 111-222, and *DHS Expenditure Plan for Fiscal Year 2011*.

Note: Amounts may not strictly accord with budgetary documents due to rounding.

Budget Authority, Obligations, and Outlays

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

Budget authority is established through appropriations acts or direct spending legislation and determines the amounts that are available for federal agencies to spend. The Antideficiency Act³ prohibits federal agencies from obligating more funds than the budget authority that was enacted by Congress. Budget authority may also be indefinite, as when Congress enacts language providing “such sums as may be necessary” to complete a project or purpose. Budget authority may be available on a one-year, multi-year, or no-year basis. One-year budget authority is only available for obligation during a specific fiscal year; any unobligated funds at the end of that year are no longer available for spending. Multi-year budget authority specifies a range of time during which funds can be obligated for spending; no-year budget authority is available for obligation for an indefinite period of time.

Obligations are incurred when federal agencies employ personnel, enter into contracts, receive services, and engage in similar transactions in a given fiscal year. Outlays are the funds that are actually spent during the fiscal year.⁴ Because multi-year and no-year budget authorities may be obligated over a number of years, outlays do not always match the budget authority enacted in a given year. Additionally, budget authority may be obligated in one fiscal year but spent in a future fiscal year, especially with certain contracts.

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

Discretionary and Mandatory Spending

Gross budget authority, or the total funds available for spending by a federal agency, may be composed of discretionary and mandatory spending. Discretionary spending is not mandated by existing law and is thus appropriated yearly by Congress through appropriations acts. The Budget Enforcement Act of 1990⁵ defines discretionary appropriations as budget authority provided in annual appropriation acts and the outlays derived from that authority, but it excludes appropriations for entitlements. Mandatory spending, also known as direct spending, consists of budget authority and resulting outlays provided in laws other than appropriation acts and is typically not appropriated each year. However, some mandatory entitlement programs must be appropriated each year and are included in the appropriations acts. Within DHS, the Coast Guard retirement pay is an example of appropriated mandatory spending.

³ U.S.C. §§1341, 1342, 1344, 1511-1517.

⁴ Appropriations, outlays, and account balances for government treasury accounts can be viewed in the end of year reports published by the U.S. Treasury titled *Combined Statement of Receipts, Outlays, and Balances of the United States Government*. The DHS portion of the report can be accessed through <http://fms.treas.gov/annualreport/index>.

⁵ P.L. 101-508, Title XIII.

Offsetting Collections⁶

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

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

Appropriations for the Department of Homeland Security

DHS Appropriations Trends

Table 3 presents DHS Appropriations, as enacted, for FY2003 through FY2011. The appropriation amounts are presented in current dollars and are not adjusted. The amounts shown in **Table 3** represent enacted amounts at the time of the start of the next fiscal year's appropriation cycle (with the exception of FY2009 and FY2011).

Table 3. DHS Appropriations, FY2003-FY2011

(budget authority in millions of dollars)

FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011
29,069 ^a	30,175 ^b	30,554 ^c	31,679	35,311 ^d	38,817 ^e	41,205	42,776	42,477 ^f

Sources: FY2003 and FY2004 enacted taken from H.Rept. 108-169; FY2005 enacted taken from H.Rept. 109-79; FY2006 enacted taken from H.Rept. 109-476; FY2007 appropriation amounts are from the H.Rept. 110-181; and FY2008 enacted amounts are from Division E of P.L. 110-161, and tables in the Joint Explanatory Statement for Division E, published in the Congressional Record, December 17, 2007, pp. H16107-H16121 (incorporating amendments to the budget request). FY2009 enacted taken from the DHS Joint Explanatory Statement as submitted in the Congressional Record, and in the House- and Senate-enrolled version of H.R. 2638; FY2010 enacted amounts is from the S.Rept. 111-222; and FY2011 is from Department of Homeland Security Expenditure Plan for Fiscal Year 2011.

⁶ Prepared with assistance from (name redacted), Analyst in American National Government.

Notes: Amounts may not strictly accord with budgetary documents due to rounding. Amounts do not include supplemental appropriations or rescissions that were enacted subsequent to the enactment of each appropriations bill.

- a. S.Rept. 108-86 reported the FY2003 enacted amount as \$29,287 million. CRS was unable to identify the reason for this discrepancy. For the purposes of this table the House number was used to maintain consistency with other fiscal years.
- b. Amount does not include \$4,703 million in advance appropriations for Project Bioshield.
- c. Amount does not include \$2,508 million in advance appropriations for Project Bioshield.
- d. Amount includes \$1,829 million in emergency budget authority that was enacted as a part of the FY2007 DHS Appropriations Act (P.L. 109-295).
- e. Amount includes \$2,710 million in emergency funding for DHS enacted by Division E of P.L. 110-161.
- f. Amount includes 0.2% across the board rescission and \$254 million in emergency budget authority for Coast Guard Operating Expenses.

Summary of DHS Appropriations

Table 4 is a summary table comparing the enacted total for FY2010 to the request for, and congressional action on the FY2011 appropriations. Due to the lack of a comparative statement of budget authority that encompasses FY2011 accompanying P.L. 112-10 or H.R. 2017, the Department of Homeland Security Appropriations Bill, 2012, FY2011 enacted numbers are drawn directly from P.L. 112-10 and P.L. 111-83. Gross numbers are estimates due to the resulting lack of reliable data on fees and mandatory spending.

Table 4. DHS: Summary of Appropriations
(budget authority in millions of dollars)

Operational Component	FY2010 Appropriation				FY2011 Appropriation			
	FY2010 Enacted	FY2010 Supplemental	FY2010 Rescission	FY2010 Total	FY2011 Request	FY2011 House ^a	FY2011 Senate-Reported S. 3607	FY2011 Enacted P.L. 112-10
Title I: Departmental Operations								
Departmental Operations	803		-2	801	1,271		837	840
Analysis and Operations	335		-0	335	348		340	335
Office of the Inspector General	114			115	130		133	114
Subtotal: Title I	1,252		-3^b	1,249	1,749		1,310	1,290
Title II: Security, Enforcement, and Investigations								
Customs and Border Protection	10,127	306	-100	10,333	9,909		10,016	9,833
Immigration and Customs Enforcement	5,437	80		5,517	5,524		5,551	5,511
Transportation Security Administration	5,258			5,259	5,729		5,674	5,259
U.S. Coast Guard	10,410	66	-8	9,956	9,867		10,401	10,265
U.S. Secret Service	1,483			1,483	1,570		1,576	1,518
Gross subtotal: Title II	36,339	452	-108	36,691	36,611		37,186	36,521
Net subtotal: Title II	32,445	452	-108	32,789	32,499		33,119	32,116
Title III: Protection, Preparedness, Response and Recovery								
National Protection & Programs Directorate	1,318			1,318	2,362		2,375	1,219
Office of Health Affairs	139			139	213		155	140

Operational Component	FY2010 Appropriation				FY2011 Appropriation			
	FY2010 Enacted	FY2010 Supplemental	FY2010 Rescission	FY2010 Total	FY2011 Request	FY2011 House ^a	FY2011 Senate-Reported S. 3607	FY2011 Enacted P.L. 112-10
Federal Emergency Management Administration	7,129	5,100		12,229	7,294		7,562	7,215
Gross subtotal: Title III	9,701	5,100		14,801	9,869		10,092	9,689
Net subtotal: Title III	8,586	5,100		13,686	8,754		8,977	8,574
Title IV: Research and Development, Training, Assessments, and Services								
Citizenship and Immigration Services	224	11		235	386		172	147
Federal Law Enforcement Training Center	283	8		291	278		274	271
Science and Technology	1,006			1,006	1,018		1,010	829
Domestic Nuclear Detection Office	384			384	306		323	342
Gross subtotal: Title IV	4,400	19		4,419	4,415		4,206	4,093
Net subtotal: Title IV	1,897	19		1,916	1,988		1,779	1,590
Rescissions	41			41	100		240	-557
Gross DHS budget authority	51,692	5,571	-111	57,163	52,644		52,794	51,661
Net DHS budget authority	43,939	5,571	-111	49,410	44,990		45,185	43,908

Source: CRS Analysis of the *FY2011 DHS Congressional Budget Justifications*; the *FY2011 DHS Budget in Brief*; S.Rept. 111-222 to accompany S. 3607, 111th Congress; FY 2010 Homeland Security Appropriations Act P.L. 111-83; FY2010 Supplemental Appropriations Acts P.L. 111-230 and P.L. 111-242; H.R. 1, 112th Congress, and P.L. 112-10.

Notes: Amounts may not strictly accord with budgetary documents due to rounding.

- a. No official numbers are available for the House position as the bill and report were never published by the House Appropriations Committee.
- b. Includes an \$800,000 rescission of unexpended funds from the Office of the Federal Coordinator for Gulf Coast Rebuilding, a terminated office no longer reflected in the table.

Title I: Departmental Management and Operations⁷

Title I covers the general administrative expenses of DHS. It includes the Office of the Secretary and Executive Management (OSEM), which is comprised of the immediate Office of the Secretary and 12 entities that report directly to the Secretary; the Under Secretary for Management (USM) and its components, such as the offices of the Chief Administrative Officer, Chief Human Capital Officer, and Chief Procurement Officer; the Office of the Chief Financial Officer (OCFO); the Office of the Chief Information Officer (OCIO); the Analysis and Operations Office (AOO); the Office of the Federal Coordinator for Gulf Coast Rebuilding (OFCGCR); and the Office of the Inspector General (OIG). New Title I accounts proposed for FY2011 were DHS Headquarters Consolidation and the National Special Security Event (NSSE) State and Local Reimbursement Fund. **Table 5**, below, shows Title I appropriations for FY2010, the President's request for FY2011, the Senate-reported amounts for FY2011, and the appropriations for FY2011.

Table 5. Title I: Departmental Management and Operations
(budget authority in millions of dollars)

Operational Component	FY2010 Appropriation				FY2011 Appropriation			
	FY2010 Enacted	FY2010 Supp.	FY2010 Resc.	FY2010 Total	FY2011 Request	FY2011 House ^a	FY2011 Senate-Reported	FY2011 Enacted P.L. 112-10
Office of the Secretary and Executive Management	148		-2	146	157		151	137
Office of the Under Secretary for Management	254		-0	254	267		240	240
Office of the Chief Financial Officer	61			61	66		64	53
Office of the Chief Information Officer	338			338	398		382	333
Analysis and Operations	335			335	348		340	335
Office of the Federal Coordinator for Gulf Coast Rebuilding	2		-1	1	0		0	0

⁷ Prepared by (name redacted), Analyst in American National Government, Government and Finance Division.

Operational Component	FY2010 Appropriation				FY2011 Appropriation			
	FY2010 Enacted	FY2010 Supp.	FY2010 Resc.	FY2010 Total	FY2011 Request	FY2011 House ^a	FY2011 Senate-Reported	FY2011 Enacted P.L. 112-10
DHS Headquarters Consolidation	-			-	363		(342) ^b	77
National Special Security Event State and Local Reimbursement Fund	-			-	20		(20) ^b	(8)
Office of the Inspector General ^c	114			114	130		133	114
Net Budget Authority: Title I	1,252		-3	1,249	1,749		1,310	1,290

Source: CRS Analysis of the FY2011 DHS Congressional Budget Justifications; the FY2011 DHS Budget in Brief; S.Rept. 111-222 to accompany S. 3607, 111th Congress; FY2010 Supplemental Appropriations Acts P.L. 111-230 and P.L. 111-242; H.R. 1, 112th Congress, and P.L. 112-10.

Notes: Amounts may not strictly accord with budgetary documents due to rounding. The FY2010 supplemental appropriations column and the FY2010 rescission column are placeholders. Thus, while no such funding has yet been put forth for FY2010, these columns are included in anticipation that such actions may occur as the bill moves forward. Supplemental appropriations and rescissions have occurred on numerous occasions for past DHS appropriations.

- No official numbers are available for the House position as the bill and report were never published by the House Appropriations Committee.
- Funding for this initiative was moved to Title V of the bill in the Senate draft and funds provided under P.L. 112-10 are under FEMA's control, therefore this amount is not reflected in the Senate Title I total.
- Does not include a \$16 million transfer of funds from FEMA's Disaster Relief account.

After discussing the impact of P.L. 112-10 on DHS components under this title, this report will outline the Administration's request, Senate action on the request in the 2nd session of the 111th Congress, and possible issues for Congress. As the House position on the Administration's full request was never officially ratified by the Appropriations Committee in 2010, there is no data available from the House for direct comparison.

P.L. 112-10 and Title I

H.R. 1473, the final FY2011 CR (P.L. 112-10), explicitly established funding levels for all existing Title I accounts, with the exception of the OIG. Funds were provided as follows, compared to the President's request: OSEM, \$137 million (\$20 million or 13% less); USM, \$240 million (\$27 million, or 10.1% less) plus \$77 million for headquarters consolidation (\$285 million, or 79% less); CFO, \$53 million (\$13 million, or 19% less), with \$4 million explicitly for consolidation of the department's financial systems; and CIO, \$333.4 million (\$65 million, or 16% less). The OIG would continue to receive \$114 million, plus \$16 million transferred from

FEMA's disaster relief fund, as outlined in P.L. 111-83, providing them with funding roughly equal to the President's request.

Under Section 1604 of P.L. 112-10, the \$77 million appropriated for DHS Headquarters Consolidation is to be used to "plan, acquire, construct, renovate, remediate, equip, furnish, and occupy buildings and facilities for the consolidation." Section 1605 of the law provides that of the \$53 million appropriated for the OCFO, \$4 million is to "remain available until September 30, 2014, for financial systems consolidation efforts."⁸

These funding levels overall reflected a \$154 million, or 11.3% reduction from the Administration's request under Title I, not including the initiatives for headquarters consolidation activities and NSSE reimbursement. When those are added to the calculation, Title I of the final legislation is \$452 million, or 25.8%, below the President's request for FY2011.

Rescissions

In addition to the specifically directed reductions in funding levels, all of these accounts are subject to a 0.2% across-the-board rescission of budget authority for FY2011 in P.L. 112-10, which amounts to a further \$3 million reduction in Title I, to be applied proportionately across the accounts in the title, and to the subaccounts within those accounts.

Section 1656 of P.L. 112-10 rescinds \$3 million in FY2010 unobligated balances from Title I components. The major elements of those rescissions include \$1.4 million from OSEM and \$0.8 million from USM.⁹

President's FY2011 Request

The total FY2011 request for Title I accounts that were funded in FY2010 was \$1,366 million. This represents an increase of \$114 million (+9.1%) over the FY2010 total. FY2011 request compared to the FY2010 enacted appropriations was as follows: OSEM, \$157 million, an increase of \$9 million (+6.1%); USM, \$267 million, an increase of \$13 million (+5.1%); OCFO, \$66 million, an increase of \$5 million (+8.2%); OCIO, \$398 million, an increase of \$60 million (+17.7%); AOO, \$348 million, an increase of \$13 million (+3.9%); OFCGCR, no funding, a decrease of \$2 million; and OIG, \$130 million, an increase of \$16 million (+14%).

As for the two new accounts for FY2011, the DHS Headquarters Consolidation request was \$363 million and the National Special Security Event State and Local Reimbursement Fund request was \$20 million. Therefore, the total FY2011 request for all Title I accounts was \$1,749 million. This represents an increase of \$497 million (+39.7%) over the FY2010 total.¹⁰

Of the amounts requested for accounts that were funded in FY2010, the largest increase would occur in the OCIO (requesting \$398 million and 309 full-time equivalent (FTE) employees, up from \$338 million and 203 FTEs in FY2010). Within OCIO, program increases are requested for Information Technology Services (requesting \$56 million), Infrastructure and Security Activities

⁸ Ibid.

⁹ P.L. 112-10, April 15, 2011, 125 Stat. 38, at 147.

¹⁰ FY2011 DHS Justifications, Departmental Management and Operations, pp. DMO-2–DMO-3.

(requesting \$186 million), and National Security Systems (requesting \$74 million).¹¹ The next largest increase would have occurred in the OIG (requesting \$130 million and 665 FTEs, up from \$114 million and 632 FTEs in FY2010). Within OIG, a program increase of \$4 million and 9 FTEs was requested for Audit, Inspections, and Investigations to fund planned audits on TSA international in-bound flight initiatives, best practices with international partners, and the Secure Flight Program. Reviews and evaluations of TSA's in-line baggage screening system, the paperless boarding pass, TSA Worker Identification Credentials, and the procurement and deployment of new screening technology are also planned.¹² An FY2011 funding request for the OFCGCR was not requested because the office closed on March 31, 2010.

The new DHS Headquarters Consolidation account is expected to provide DHS, the Office of Management and Budget (OMB), and Congress "with improved visibility of the ongoing efforts for establishing a central DHS facility" and "facilitate better reporting and overall management of the program" by DHS. The \$363 million requested for FY2011 was to support both the consolidation of mission support elements that are not relocating to the St. Elizabeths Campus and the consolidation of the department's headquarters to that Campus. There are no FTEs attached to this account.¹³

Another new account, the NSSE State and Local Reimbursement Fund, would be administered by the Office of Operations Coordination and Planning. Among events that have been designated as NSSEs in the past have been presidential inaugurations, presidential nominating conventions, major sports events, major international meetings, presidential funerals, and world economic summits. The requested \$20 million appropriation for the fund will be used to reimburse state and local governments for the actual costs associated with increased security measures for unplanned NSSEs.¹⁴ There are no FTEs attached to this account.

Senate-Reported S. 3607, 111th Congress

The Senate Committee on Appropriations recommended these appropriations, as compared with the President's request: OSEM, \$151 million (\$6 million or 3.8% less); USM, \$240 million (\$27 million or 10.1% less); OCFO, \$64 million (\$2 million or 3% less); OCIO, \$382 million (\$16 million or 4% less); AOO, \$340 million (\$8 million or 2.3% less); OFCGCR, \$0 (the same as the budget request); National Security Event, \$0 (20 million less); and OIG, \$133 million (\$3 million or 2.3% more). The total funding recommended by the Senate committee for Title I was \$1,310 million. This represents a decrease of \$439 million, or 25.1%, from the President's request.

A general provision at Section 556 of S. 3607, as reported, included funding of \$288 million (rounded) to continue development of the DHS Consolidated Headquarters at St. Elizabeths and \$54 million (rounded) to consolidate leases across the National Capital Region. The Chief Administrative Officer is directed to continue regular briefings on the consolidation plan,

¹¹ FY2011 DHS Justifications, Office of the Chief Information Officer, p.OCIO-8.

¹² FY2011 DHS Justifications, Office of Inspector General, pp. OIG-5 and OIG-11.

¹³ FY2011 DHS Justifications, DHS HQ Consolidation, pp. HQ-3–HQ-4.

¹⁴ FY2011 DHS Justifications, National Special Security Event State and Local Reimbursement Fund, pp. NSSE-1-NSSE-2.

including the status of National Capital Planning Commission approvals, the project schedule, and any deviation from the plans described in the FY2011 budget justification.¹⁵

For the OSEM appropriation, \$50 million would not be obligated until the Secretary submits a comprehensive risk assessment and national security strategy for the railroad sector, a detailed timeline for meeting all remaining congressional requirements for the security of surface transportation, and a comprehensive plan for meeting the recommendations in the Surface Transportation Security Priority Assessment of the National Security Council. In addition, \$25 million would not be obligated until the Secretary submits a comprehensive plan to implement a biometric air exit capability in FY2011 to the Senate and House Committees on Appropriations. Of the OS&EM total, \$20 million would be made available to the Office of Policy to host Visa Waiver Program negotiations in Washington, DC.

For the USM appropriation, \$5 million would fund the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate DHS headquarters operations at the Nebraska Avenue Complex.

Among the directives included in the committee report for the departmental management and operations accounts are the following:

- The Secretary is strongly encouraged to negotiate with the relevant foreign governments to permit rapid deployment of Federal Air Marshals to and from such countries.
- The Secretary, in consultation with the Secretary of State, is encouraged to negotiate with the relevant governments on an expansion of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement personnel associated with the Immigration Advisory Program and the Visa Security Program.
- The OCFO is directed to ensure that annual appropriations justifications are prepared for each DHS component in support of the President's budget and submitted on the day the budget is delivered to Congress. The OCFO also is directed to include detailed information by appropriations account, program, project, and activity on all reimbursable agreements, and significant uses of the Economy Act for each fiscal year. Additionally, the OCFO must ensure that the DHS justifications accompanying the President's FY2012 budget request include a status report of overdue committee reports, plans, and other directives. One standard format must be used by all offices and agencies and inserted in the justifications reflecting the status of congressional directives for each of fiscal years 2009, 2010, and 2011.
- The OCIO is required to submit an expenditure plan for certain information technology acquisition projects to the House and Senate committees on Appropriations within 60 days after the act's enactment. Of the OCIO funding, \$75 million would not be obligated until the plan has been submitted.
- The DHS Chief Intelligence Officer must submit an expenditure plan for FY2011 within 60 days after the act's enactment. The plan must include the following: (1)

¹⁵ S.Rept. 111-222, p. 148.

FY2011 expenditures and staffing allotted for each program as compared to fiscal years 2010 and 2009; (2) all funded versus on-board positions, including federal FTE, contractors, and reimbursable and nonreimbursable detailees; (3) an explanation for maintaining contract staff in lieu of federal FTE; (4) a plan, including dates or timeframes for achieving key milestones, to reduce the office's reliance on contract staff in lieu of federal FTE; (5) funding, by object classification, including a comparison fiscal years 2009 and 2008; and (6) the number of I&A-funded employees supporting organizations outside I&A and within DHS. The expenditure plan must focus the activities of the office on areas where DHS can provide unique expertise or serve intelligence customers who are not supported by other components of the intelligence community.

- The committee believes that “to avoid corruption and misconduct it is imperative that all agents, especially new hires, receive comprehensive training in ethics and public integrity.” The committee provides the OIG with additional funding of \$3 million to conduct integrity investigations and directs the IG to submit a plan, developed in coordination with CBP and ICE, for the expenditure of these funds within 90 days after the act's enactment.¹⁶

A general provision at Section 516 of S. 3607, as reported, requires the CFO “to submit monthly budget execution and staffing reports within 45 days after the close of each month.”¹⁷

Personnel Issues

The Office of the Chief Human Capital Officer (OCHCO) manages and administers human resources at DHS and includes the Office of Human Capital (OHC). The OCHCO “establishes policy and procedures” and provides “oversight, guidance, and leadership within the Department” for the various functions under human capital management. These functions are policy and programs, learning and development, executive resources, human capital business systems, headquarters human resources management services, and business support and operations. The OCHCO reports to the Under Secretary for Management. The OHC implements the Human Capital Operational Plan and is organized around the initiatives of talent management, performance culture, learning and development, and service excellence.¹⁸ The Human Resources Information Technology (HRIT) program “is to merge and modernize the DHS HRIT infrastructure to provide flexibility and the management information that will allow DHS to continuously evolve in response to changing business, legislative and economic” circumstances.¹⁹

Table 6, below, shows the funding for the OCHCO for FY2010 and the President's request for FY2011. The OCHCO appropriation is included in the total for the Office of the Under Secretary of Management, as shown in **Table 5**.

¹⁶Ibid., pp. 9, 21-22, 24, 26, and 28.

¹⁷ Ibid., p. 145.

¹⁸ FY2011 DHS Justifications, Departmental Management and Operations, Under Secretary for Management, pp. USM-4 and USM-49.

¹⁹ Ibid., p. USM-15.

Table 6. Office of the Chief Human Capital Officer Appropriations
(budget authority in millions of dollars)

Account	FY2010 Enacted	FY2011 Request	FY2011 House ^a	FY2011 Senate- Reported	FY2011 Enacted ^b
Salaries and Expenses CHCO	25	25		25	
Human Resources Information Technology	17	17		14	17
Total	42	42		39	

Source: FY2011 DHS Justifications, Departmental Management and Operations, Under Secretary for Management, pp. USM-49–USM-53, S.Rept. 111-222, P.L. 111-83 and P.L. 112-10.

Notes: Amounts may not strictly accord with budgetary documents due to rounding. No report was issued to accompany P.L. 112-10 and therefore subaccount-level details for FY2011 are not available.

- a. No official numbers are available for the House position as the bill and report were never published by the House Appropriations Committee.
- b. While specific guidance for most subaccounts is not provided in P.L. 112-10, the CR leaves in place direction in P.L. 111-83 not explicitly countermanded in the CR. The table reflects that direction.

Personnel and the President's FY2011 Request

According to the DHS Justifications, the FY2011 budget requested \$25 million (rounded)²⁰ and 108 full-time equivalent (FTE) employees for the OCHCO.²¹ The requested funding is \$474,000 less than the \$25 million (rounded) provided for FY2010. The number of FTEs would increase by 19, from 89 to 108, for FY2011. The appropriation requested for HRIT for FY2011 was \$17 million (rounded), the same amount as the funding authorized for FY2010. The FTEs for this account for FY2011 would be 25.²²

The OCHCO funding for FY2011 would be used for, among other initiatives, continued efforts to improve diversity across DHS and particularly in the executive ranks, to develop and implement a comprehensive leader development program across the department, to enhance the Candidate Development Program for the Senior Executive Service, and to aggressively expand outreach to former military personnel to meet the Secretary's goal of having 50,000 veterans employed by DHS. Human capital policies, programs, practices, and staffing will be consolidated to make them more efficient.²³

For FY2011, the HRIT program was to fund and deploy TALENTLink to the U.S. Coast Guard and U.S. Customs and Immigration Service. TALENTLink is an automated system for recruiting

²⁰ Salaries and benefits (\$18 million, rounded) and purchases from government accounts (\$4 million, rounded) make-up 88% of the total of \$25 million. Purchases from government accounts include costs for purchases from other federal government agencies or accounts that are not otherwise classified.

²¹ FY2011 DHS Justifications, Departmental Management and Operations, Under Secretary for Management, p. USM-11.

²² Ibid., p. USM-15.

²³ Ibid., pp. USM-14-USM-15.

and staffing across DHS that was intended to streamline the department's hiring process.²⁴ However, DHS decommissioned TALENTLink effective June 26, 2010.²⁵

Personnel and the Senate-Reported S. 3607, 111th Congress

The Senate committee recommended an appropriation of \$39 million (rounded amount) for the OCHCO, that is \$3 million less than the President's request. Of the total, \$14 million (rounded) is allocated to the Human Resources Information Technology Program, and accounts for the decrease from the President's request. The OCHCO terminated TALENTLink, a department-wide automated recruiting and staffing system, because it did not meet federal standards and the reduction in funding reflects this action. The committee report states that the OCHCO must use TALENTLink funds appropriated in FY2010 if a follow-on system is developed. According to the committee report, the OCHCO appropriation will maintain current services; provide for 133 FTEs, as requested; and result in savings of more than \$1 million by converting 15 contractor positions to FTEs, as requested.

The report also states the committee's expectation that the OCHCO will provide briefings to the committee on the department's progress in developing a strategic plan to overhaul the DHS hiring process and how the plan aligns with the Administration's plans to overhaul the federal hiring process. The OCHCO is also required to provide quarterly briefings summarizing vacancy data at DHS that will include the number of new hires for each headquarters office in the previous month; the ratio of applications received to positions closed; data from the Office of Security on progress made to reduce the security clearance backlog, including whether the 15-day standard for suitability reviews is being met; and an end-of-the-month hiring "snapshot" for each headquarters office. Included in the "snapshot" will be the number of new hires pending security or suitability clearance, the number of open vacancies, and the number of selection referral lists pending with management. The briefings will explain hiring delays, steps being taken or planned to correct the delays, and Office of Security information on progress made to reduce the security clearance backlog and compliance with the time requirement for suitability reviews. The results of the FY2010 performance metrics for the OCHCO will be presented at the first quarterly meeting.

A general provision at Section 519 of S. 3607, as reported, prohibits "funds for the development, testing, deployment, or operation of any portion of a human resources management system authorized by 5 U.S.C. §9701(a), or by regulations prescribed pursuant to" that statute "for an employee as defined in 5 U.S.C. §7103(a)(2)." In addition, general provisions prohibit the obligation of funds for the Office of the Secretary and Executive Management for new hires not verified through the E-Verify Program (Section 533) and for adverse personnel actions for employees who use protective equipment or measures, including surgical masks, N95 respirators, gloves, or hand-sanitizers, in the conduct of their official duties (Section 547).

²⁴ Ibid., pp. USM-16 and USM-18.

²⁵ Office of the Inspector General, Department of Homeland Security, *Management Oversight and Component Participation Are Necessary to Complete DHS' Human Resource Systems Consolidation Effort*, OIG 10-99, Washington, DC, August 2010, p. 27, <http://www.dhs.gov>.

Analysis and Operations²⁶

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

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

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

In 2008, former Secretary Chertoff established the Office of Operations Coordination and Planning (OPS), built on the foundation of the former Office of Operations Coordination. OPS supports departmental and interagency crisis and contingency planning and operations to support the Secretary of Homeland Security in his/her role as the principal Federal official for domestic incident management.²⁷

²⁶ Prepared by (name redacted), Specialist in Organized Crime and Terrorism, Domestic Social Policy Division.

²⁷ According to Homeland Security Presidential Directive (HSPD)-5, *Management of Domestic Incidents*, (2003): "To prevent, prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies, the United States Government shall establish a single, comprehensive approach to domestic incident management.... The Secretary (continued...)"

President's FY2011 Request

The FY2011 request for the Analysis and Operations (AOO) account was \$348 million, an increase of nearly \$13 million (+3.9 %) over the enacted FY2010 amount.

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

Senate-Reported S. 3607

Prior to the passage of P.L. 112-10, Senate-reported S. 3607 included \$340 million for AOO. This was an increase of nearly \$5 million (1.5%) above the FY2010-enacted level but a decrease of nearly \$8 million (2.3%) from the Administration's request for FY2011. S. 3607 stipulated that none of the funds provided in this or any other Act shall be available to commence operations of the National Immigration Information Sharing Operation or any follow-on entity until the Secretary certifies that such program complies with all existing laws, including all applicable privacy and civil liberties standards, the Comptroller General of the United States notifies the Committees on Appropriations of the Senate and the House of Representatives and the Secretary that the Comptroller has reviewed such certification, and the Secretary notifies the Committees on Appropriations of the Senate and the House of Representatives of all funds to be expended on operations of the National Immigration Information Sharing Operation or any follow-on entity pursuant to section 503 of this act. In S.Rept. 111-222, the committee required the department's Chief Intelligence Officer to submit an expenditure plan for FY2011 no later than 60 days after the date of enactment of the act and outlined what information should be included in that expenditure plan. Also in S.Rept. 111-222, the committee directed I&A to brief the committee quarterly on progress in placing DHS intelligence professionals in state and local fusion centers (SLFC) and outlined what information should be included in those briefings.

Title II: Security, Enforcement, and Investigations

Title II contains the appropriations for the Bureau of Customs and Border Protection (CBP), the Bureau of Immigration and Customs Enforcement (ICE), the Transportation Security Administration (TSA), the U.S. Coast Guard, and the U.S. Secret Service. **Table 7** shows the FY2010 enacted and FY2011 appropriation action for Title II.

(...continued)

of Homeland Security is the principal Federal official for domestic incident management.”

Table 7. Title II: Security, Enforcement, and Investigations
(budget authority in millions of dollars)

Operational Component	FY2010 Appropriation			FY2011 Appropriation				
	FY2010 Enacted	FY2010 Supp.	FY2010 Resc.	FY2010 Total	FY2011 Request	FY2011 House ^a	FY2011 Senate-Reported S. 3607	FY2011 Enacted P.L. 112-10 ^b
Customs & Border Protection								
Salaries and expenses	8,065	254		8,319	8,208		8,291	8,213
Automation modernization	422			422	348		348	337
Air and Marine Interdictions	520	32		552	503		524	516
Border Security Fencing, Infrastructure, and Technology	800	14	-100	714	574		574	574
Facilities Management (Construction) ^c	320	6		326	176		180	260
Fee accounts ^d	1,432			1,432	1,365		1,365	1,365
Gross total	11,559	306	-100	11,765	11,174		11,282	11,265
Offsetting collections	-1,432			-1,432	-1,365		-1,365	-1,432
Net total	10,127	306	-100	10,333	9,909		10,016	9,833
Immigration & Customs Enforcement								
Salaries and expenses	5,342	80		5,422	5,439		5,466	5,438
Automation & infrastructure modernization	90			90	85		85	74
Construction	5			5	0		0	0
Fee account ^e	305			305	311		311	305
Gross total	5,742	80		5,822	5,835		5,863	5,817
Offsetting collections	-305			-305	-311		-311	-305
Net total	5,437	80		5,517	5,524		5,551	5,511
Transportation Security Administration								
Aviation security (gross funding)	5,214			5,214	5,560		5,491	5,220

Operational Component	FY2010 Appropriation			FY2011 Appropriation				
	FY2010 Enacted	FY2010 Supp.	FY2010 Resc.	FY2010 Total	FY2011 Request	FY2011 House ^a	FY2011 Senate-Reported S. 3607	FY2011 Enacted P.L. 112-10 ^b
Surface Transportation Security	111			111	138		138	106
Transportation Threat Assessment and Credentialing (gross funding)	220			220	215		188	163
Transportation Security Support	1,002			1,002	1,052		1,048	989
Federal Air Marshals	860			860	950		950	930
Aviation security capital fund (mandatory)f	250			250	250		250	250
Gross total	7,656			7,656	8,165		8,064	7,657
Offsetting collections	-2,100			-2,100	-2,100		-2,100	-2,100
Credentialing/Fee accountsg	-48			-48	-41		-41	-48
Aviation security capital fund (mandatory spending)	-250			-250	-250		-250	-250
Net total	5,258			5,258	5,774		5,673	5,259
U.S. Coast Guard								
Operating expensesh	6,805	50	-2	6,853	6,651		6,971	6,907
Environmental compliance & restoration	13			13	13		13	13
Reserve training	134			134	136		136	134
Acquisition, construction, & improvements	1,537	16		1,553	1,381		1,583	1,520
Alteration of bridges	4		-6	-2	0		4	0
Research, development, tests, & evaluation	25			25	20		28	25
Retired pay (mandatory, entitlement)	1,361			1,361	1,401		1,401	1,401
Health care fund contribution	266			266	265		265	265
Gross total	10,410	66	-8	10,468	9,867		10,400	10,265

Operational Component	FY2010 Appropriation				FY2011 Appropriation			
	FY2010 Enacted	FY2010 Supp.	FY2010 Resc.	FY2010 Total	FY2011 Request	FY2011 House ^a	FY2011 Senate-Reported S. 3607	FY2011 Enacted P.L. 112-10 ^b
U.S. Secret Service								
Salaries and expenses	1,479			1,479	1,568		1,572	1,514
Acquisition, construction, improvements, and related expenses	4			4	4		4	4
Gross total	1,483			1,483	1,572		1,576	1,518
Gross Budget Authority: Title II	36,850	452	-108	37,194	36,613		37,283	36,521
Net Budget Authority: Title II	32,445	452	-108	32,789	32,545		33,117	32,116

Source: CRS Analysis of the *FY2011 DHS Congressional Budget Justifications*; the *FY2011 DHS Budget in Brief*; S.Rept. 111-22 to accompany S. 3607, 111th Congress; FY2010 Supplemental Appropriations Acts P.L. 111-230 and P.L. 111-242; H.R. 1, 112th Congress, and P.L. 112-10.

Notes: Amounts may not strictly accord with budgetary documents due to rounding.

- a. No official numbers are available for the House position as the bill and report were never published by the House Appropriations Committee.
- b. Due to the lack of available data on fees, totals in this column including fees should be treated as projections.
- c. For FY2011, the Administration's request and Senate recommendation in this account included a \$99.8 million cancellation. For P.L. 112-10, the cancellation is recorded with the rescissions outside this title.
- d. Fees include COBRA, Land Border, Immigration Inspection, Immigration Enforcement, and Puerto Rico.
- e. Fees include Exam, Student Exchange and Visitor Fee, Breached Bond, Immigration User, and Land Border.
- f. Aviation Security Capital Fund, used for installation of Explosive Detection Systems at airports.
- g. Fees include TWIC, HAZMAT, Registered Traveler, and Alien Flight School Checks.
- h. Congressional actions include overseas contingency operations funding as a part of the Homeland Security appropriations bill. The Administration requests this as a transfer from DoD.

After discussing the impact of P.L. 112-10 on DHS components under this title, this report will outline the Administration's request, Senate action on the request in the 2nd session of the 111th Congress, and possible issues for Congress. As the House position on the Administration's full request was never officially ratified by the Appropriations Committee in 2010, there is no data available from the House for direct comparison.

P.L. 112-10 and Title II

Sections 1608 through 1625 of H.R. 1473, the final FY 2011 CR (P.L. 112-10; 125 Stat. 140-142)), provide explicit direction for funding levels for many Title II components of DHS.

For CBP, funds were provided as follows, compared to the President's request: Salaries and Expenses, \$8,213 million (\$5 million, or 0.1% above); Automation Modernization, \$337 million (\$11 million, or 3.2% below), with \$148 million directed to the Automated Commercial Environment (\$5 million, or 3.3% below); Border Security Fencing, Infrastructure and Technology, \$574 million (even); Air and Marine Interdiction, \$516 million (\$13 million, or 2.6% above); and Construction and Facilities Management, \$260 million (\$20 million, or 7% below, as the \$100 million cancellation proposed in this account was taken as a rescission was encompassed in Sec. 257 of P.L. 112-6, the sixth continuing resolution for FY2011 (125 Stat. 26)).

In addition, under Sec. 1608, the Border Patrol was directed to "achieve an active duty presence of not less than 21,370 agents protecting the border of the United States by September 30, 2011," 1,000 more agents than the floor for the entire fiscal year suggested by the Senate bill.

For ICE, P.L. 112-10 expressly provided \$5,438 million to ICE for Salaries and Expenses (\$0.5 million below) and \$74 million for Automation Modernization (\$11 million, or 12.6% below). ICE is directed to maintain at least 33,400 detention beds throughout the fiscal year. No funding was requested or provided for construction projects.

For TSA, funds were provided as follows, compared to the President's request: Aviation Security, \$5,220 million (\$6 million above), including \$4,308 million for screening operations, \$629 million for explosives detection systems (9% of which is expressly set aside for medium- and small-sized airports), and \$912 million for aviation security direction and enforcement; \$106 million for surface transportation security (\$32 million, 23% below); \$163 million for transportation threat assessment and credentialing (\$11 million, or 6.1% below); \$989 million for transportation security support (\$64 million, or 6.1% below); and \$930 million for the Federal Air Marshal Service (\$20 million, or 2.1% below). Overall, TSA got \$507 million less than requested, leaving it with a budget roughly equivalent to the FY2010 amount. The Federal Air Marshal Service received the largest relative increase, funded at \$69 million (8%) above FY2010 levels.

Language in P.L. 112-10 directs that all TSA aviation security spending beyond \$3,114 million be offset by fee collections. Furthermore, the year-ending CR caps TSA screener staffing at a level of 46,000 full time equivalents (FTEs), but would not require that TSA include newly hired part-time screeners in this count. The act requires DHS to report on: efforts to develop advanced, integrated passenger and baggage screening technologies; efforts to deploy screeners in a most cost effective manner; and any improvements in labor savings resulting from these efforts.

For the Coast Guard, funds were provided as follows, compared to the President's request: \$6,907 million for Operating Expenses, of which \$254 million is designated as being for global war on

terror contingency operations, and therefore scored outside the 302(b) (\$2 million above the total request, overall); \$1,520 million for Acquisition, Construction, and Improvements (AC&I) (\$139 million, or 9.1% above); and \$25 million for research and development (\$5 million, or 23.5% above), including \$4 million for toxic chemical and oil spill prevention and response technology. No funding is provided for alteration of bridges that are hazards to navigation.

Of the funding provided for AC&I, \$1,267 million is for Deepwater (\$154 million, or 13.8% above the request), which accommodates a \$154 million (28.6%) increase above the Administration's initial request for the National Security Cutter. \$2 million is provided for the Administration's new initiative to upgrade Coast Guard housing.

Section 1621 authorizes the Coast Guard to decommission one Medium Endurance Cutter, two High Endurance Cutters, four HU-25 aircraft and one Maritime Safety and Security Team, as well as make staffing changes at specific units as specified in the budget justification.

For the Secret Service, \$1,514 million is provided for salaries and expenses (\$53 million, or 3.4% below the request), with construction is left at roughly \$4 million, the FY2010 level, and equal to the President's request. Funding is provided for NSSE reimbursement, but not under Secret Service control.

Rescissions

In addition to the specifically directed reductions in funding levels, all of the accounts in Title II are subject to a 0.2% across-the-board rescission of budget authority for FY2011 in P.L. 112-10, except for the Coast Guard's funding for overseas contingency operations, which amounts to a \$64 million reduction, to be applied proportionately across the accounts in the title, and to the subaccounts within those accounts.

Section 1656 of P.L. 112-10 rescinds \$51 million in FY2010 unobligated balances from Title II components, including \$13 million from CBP salaries and expenses, \$18 million from ICE salaries and expenses and \$14 million from Coast Guard operating expenses.

An additional \$15 million rescission is taken from TSA unobligated balances, and although its target is unspecified, it must not come from explosives detection systems, checkpoint support, aviation regulation and other enforcement, or air cargo programs. An additional \$10 million in unobligated balances is rescinded from ICE construction.²⁸

Customs and Border Protection²⁹

CBP is responsible for security at and between ports-of-entry along the border. Since September 11, 2001, CBP's primary mission is to prevent the entry of terrorists and the instruments of terrorism. CBP's ongoing responsibilities include inspecting people and goods to determine if they are authorized to enter the United States; interdicting terrorists and instruments of terrorism; intercepting illegal narcotics, firearms, and other types of contraband; interdicting unauthorized travelers and immigrants; and enforcing more than 400 laws and regulations at the border on

²⁸ P.L. 112-10, April 15, 2011, 125 Stat. 38, at 147.

²⁹ Prepared by (name redacted), Specialist in Immigration Policy, Domestic Social Policy Division.

behalf of more than 60 government agencies. CBP is comprised of the inspection functions of the legacy Customs Service, Immigration and Naturalization Service (INS), and the Animal and Plant Health Inspection Service (APHIS); the Office of Air and Marine Interdiction, now known as Office of Air and Marine (OAM); and the U.S. Border Patrol (USBP). See **Table 7** for account-level detail for all of the agencies in Title II, and **Table 8** for sub-account-level detail for CBP Salaries and Expenses (S&E) for FY2010 and FY2011.

President's FY2011 Request

The Administration requested \$11,174 million in gross budget authority for CBP for FY2011, amounting to a \$384 million (or 3.3%) decrease from the enacted FY2010 level of \$11,559 million. The Administration requested \$9,809 million in net budget authority for CBP in FY2011, which amounts to a \$318 million decrease from the net FY2010 appropriation of \$10,127 million. The request included the following changes:

- Increase of \$27 million for the Data Center consolidation effort;
- Increase of \$25 million for Intellectual Property Rights (IPR) enforcement;
- Increase of \$10 million for 103 Intelligence Analysts;
- Reduction of \$74 million from the Office of Information Technology (OIT);
- Reduction of \$28 million derived from not sustaining certain FY2010 initiatives including \$20 million from Office of Air and Marine (OAM) personnel enhancements, \$5 millions from Cyber Security, and \$3 million from the API/PNR program;
- Reduction of \$15 million from Border Patrol Premium Pay and Agent Staffing;
- Reduction of \$4 million from human resource reductions;
- Reduction of \$24 million from the Office of Training and Development (OTD);
- Reduction of \$17 million from the Secure Freight Initiative (SFI);
- Reduction of \$12 million from the Customs-Trade Partnership Against Terrorism (C-TPAT);
- Reduction of \$4 million from terminating certain United States Postal Service (USPS) leases;
- Elimination of the CBP Explosive Detector Dog program (\$400,000);
- Reduction of \$51 million from the Container Security Initiative (CSI);
- Reduction of \$25 million from the Western Hemisphere Travel Initiative (WHTI);
- Reduction of \$20 million from the Foreign Language Award Program (FLAP);
- Reductions of \$158 million from the Border Security, Fencing, Infrastructure, and Technology (BSFIT) program, including \$135 million from Development and Deployment, and \$23 million from Program Management;

- Reduction to base funding for Automation Modernization account of \$75 million in funding to the Automated Commercial Environment (ACE)/International Trade Database System (ITDS);
- Reduction to base funding of \$44 million to the Construction and Facilities Management Account, and a cancellation of nearly \$100 million in previously appropriated non-expended funds;
- Reduction to base funding for Air and Marine Interdiction funding of \$14 million, and programmatic reduction of \$3 million for planned logistics and management systems upgrades.

Table 8. CBP Salaries and Expenses Account Detail

(budget authority in millions of dollars)

Activity	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate- Reported S. 3607	FY2011 Enacted P.L. 112- 10
Headquarters Management and Administration	1,418	1,414		1,431	
Border Security Inspections and Trade Facilitation @ POE	2,750	2,913		2,973	
Inspections, Trade & Travel Facilitation @ POE	2,262	2,509		2,544	
Container Security Initiative (CSI)/ International Cargo Screening (ICS)	162	83		103	
Other International Programs	11	11		11	
C-TPAT	63	50		55	
FAST/NEXUS/SENTRI	11	11		11	
Inspection and Detection Technology	154	155		155	
Systems for Targeting	33	32		32	
National Targeting Center	26	36		36	
Training at POE	25	21		21	
Harbor Maintenance Fee	3	3		3	
Border Security and Control Between POE	3,587	3,583		3,573	
Border Security and Control Between POE	3,535	3,547		3,537	
Training Between the POE	52	36		36	
Air and Marine Operations – Salaries	310	298		314	
CBP Salaries and Expenses Total:	8,065	8,208		8,291	8,213

Source: CRS Analysis of the FY2011 DHS Congressional Budget Justifications; the FY2011 DHS Budget in Brief; S.Rept. 111-222 to accompany S. 3607, 111th Congress; FY2010 Supplemental Appropriations Acts P.L. 111-230 and P.L. 111-242; H.R. 1, 112th Congress, and P.L. 112-10.

Notes: Amounts may not strictly accord with budgetary documents due to rounding. FY2010 amounts do not include FY2010 supplemental appropriations. No official numbers are available for the House position as the bill

and report were never published by the House Appropriations Committee. No report was issued to accompany P.L. 112-10 and therefore subaccount-level details for FY2011 are not available.

Senate-Reported S. 3607, 111th Congress

Senate-reported S. 3607 provided \$11,282 million in gross budget authority for CBP for FY2011, amounting to \$108 million (1%) more than was requested by the Administration, and a \$277 million, (2.4%), decrease from the enacted FY2010 level of \$11,559 million. Senate-reported S. 3607 included \$9,916 million in direct appropriations for CBP for FY2010, amounting to a \$107 million increase over the Administration's request and a \$211 million decrease from the FY2010-enacted level of \$10,127 million.

Issues for Congress

Issues that Congress considered during the FY2011 appropriations cycle included funding for Border Patrol agent hiring and staffing levels; the Secure Border Initiative (SBI) surveillance technologies, including SBInet; Unmanned Aerial Vehicles (UAVs), and cargo security.

Border Patrol Staffing Levels

For FY2011, CBP submitted two budget requests: (1) the original budget request, and (2) a revised budget request that made adjustments to the request for Border Patrol staffing and premium pay. While the most recent version of the FY2011 budget request only included a reduction of \$15 million to Border Patrol premium pay, the original FY2011 budget request included a proposed reduction of premium pay of \$31 million and a reduction 181 U.S. Border Patrol (USBP) Agents. This reduction would have reduced the number of USBP Agents from 20,163 in FY2010 to 19,983 in FY2011. Several members of Congress expressed concern over this reduction and which geographic areas would have had their staffing levels reduced.³⁰ Prior to the revised budget request, in testimony before the Senate Homeland Security and Government Affairs Committee, DHS Secretary Napolitano stated that there would be no reductions of agent numbers at the southwest border and the department would continue to meet its staffing obligations at the northern border.³¹ Subsequently, CBP revised its premium pay reduction request, and removed language on Border Patrol Agent reductions altogether.³² In August, Congress passed an Emergency Supplemental Appropriation Bill for border security, P.L. 111-230, that provided \$254 million in CBP salaries and expenses, including \$176 million to hire additional Border Patrol agents for deployment to the southwest border. At the same time, the Administration authorized the deployment of up to 1,200 additional National Guard troops to the southwest border to provide intelligence surveillance, reconnaissance support, and support to counternarcotics enforcement until CBP recruits and trains additional Border Patrol agents. Senate-reported S. 3607 included bill language that would have mandated a floor of not less than 20,370 Border Patrol agents onboard throughout FY2011.

³⁰ U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *The Homeland Security Department's Budget Submission for Fiscal Year 2011*, 111th Cong., 1st sess., February 24, 2010.

³¹ Ibid.

³² U.S. Customs and Border Protection, *Congressional Budget Justifications* (Revised), p. CBP S&E -4.

Fencing, Infrastructure, and Technology

The Administration requested \$574 million for the deployment of SBI technology and tactical infrastructure, including SBInet,³³ a decrease of \$226 million over the FY2010 enacted level of \$800 million. Within the FY2011 request, the Administration proposed to allocate \$336 million for developing and deploying additional technology and infrastructure solutions to the southwest border. An additional \$169 million was requested for operations and maintenance of the cameras, sensors, and tactical infrastructure (TI) fencing. Secretary Napolitano stated in February 2010 that 645.2 miles of pedestrian and vehicle fencing were in place along the southwest border and that DHS/CBP planned to construct an additional 6.4 miles of fencing. Senate-reported S. 3607 and P.L. 112-10 matched the Administration's funding request.

The management and deployment of SBInet have been a subject of controversy for several years.³⁴ The Government Accountability Office (GAO) noted that the Border Patrol was not consulted early enough in the process of developing the technology solutions that would be used by SBInet, and that this fact combined with some challenges relating to the integration of the technologies deployed by Boeing led to an eight month delay in the initial pilot program's deployment in Tucson Sector.³⁵ Secretary Napolitano froze spending on the Boeing portion of SBInet in March 2010 and ordered a department-wide assessment of the SBInet technology project.³⁶ In January 2011, the Administration announced its intention to end the Boeing SBInet contract and to develop a new border security technology plan incorporating SBInet technology along with other surveillance technologies.

Unmanned Aerial Vehicles

The Administration's FY2011 budget request included a reduction of \$20 million for the Office of Air and Marine Operations, which the Administration would have accomplished mainly by not sustaining program enhancements, resulting in the elimination of 120 staffing positions. In FY2010, Congress fully funded the Administration's request at the time to hire 144 new OAM pilots, vessel commanders, and support personnel; but as of July 2010 the Administration had taken steps to hire only 24 of the 144 funded positions.³⁷ The Emergency Supplemental Appropriation Bill for Border Security, P.L. 111-230, provided \$32 million for the acquisition of two additional Unmanned Aerial Vehicle systems (UAVs). The Senate-reported S. 3607 would

³³ The Secure Border Initiative (SBI) is a multifaceted DHS effort to enhance border security and reduce illegal migration by improving surveillance technology, increasing staffing levels, strengthening interior immigration enforcement, and improving physical infrastructure including fencing at the country's borders. Within SBI, CBP established the SBInet Technology Program to manage surveillance technology at the border, including video surveillance systems, infrared cameras, radar, and aircraft. As part of SBInet, DHS awarded a contract to Boeing in 2006 to construct a networked system of fixed sensor towers to feed information to Border Patrol command centers and provide situational awareness of unauthorized entries and enhanced operational capabilities, a project described as a "virtual fence."

³⁴ CRS Memorandum, *SBInet: Background, Implementation, and Issues*, by (name redacted).

³⁵ Testimony of GAO Director of Homeland Security and Justice Issues Richard Stana, in U.S. Congress, Committee on Appropriations, Subcommittee on Homeland Security, *DHS Has Taken Actions to Strengthen Border Security Programs and Operations, But Challenges Remain*, 110th Cong., 2nd Sess., March 6, 2009.

³⁶ U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *The Homeland Security Department's Budget Submission for Fiscal Year 2011*, 111th Cong., 1st sess., February 24, 2010.

³⁷ U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *Department of Homeland Security Appropriations Bill, 2011*, 111th Cong., 2nd sess., July 19, 2010.

have provided \$15.9 million above the Administration's request for OAM personnel and \$20.5 million above the Administration's request for OAM procurement to fund and support two additional UAVs.³⁸

Cargo Security

The Administration's FY2011 budget request contained decreases in funding for cargo security initiatives. The international cargo screening activity in the budget included funding for the Container Security Initiative (CSI) program and the Secure Freight Initiative (SFI). In FY2010 Congress appropriated \$162 million for these two programs. The President's budget request for this activity in FY2011 was \$84 million, a decrease of \$78 million or 48%. The Senate-reported version of S. 3607 proposed \$103 million for these two programs, a decrease of \$59 million, or 36%, as compared to the FY2010-enacted level.

The SFI is characterized as a "three-pronged approach to enhance supply chain security." The three prongs of this approach are the International Container Security (ICS) program (see below); an initiative known as Security Filing (10+2) that consists of the development of a regulation to require additional data elements for improved high-risk targeting; and additional efforts to identify and acquire technology to enhance cargo scanning and risk assessment capabilities.³⁹

The ICS program is CBP's effort to subject all U.S.-bound maritime containers to an integrated scan (image and radiation detection) at participating overseas port before being loaded onto a U.S.-bound vessel. In FY2010 ICS was operational in six ports (Hong Kong; Busan, South Korea; Southampton, United Kingdom; Puerto Cortes, Honduras; Qasim, Pakistan; and in a very limited capacity in Salalah, Oman) and scanning 100% of U.S.-bound containers as mandated by the SAFE Port Act at Southampton, Puerto Cortes, and Qasim.⁴⁰ The President's FY2011 request proposed a reduction of nearly \$17 million for ICS, to be achieved by changing the protocols at two of these fully operational ICS ports (Honduras and Southampton) and at the port of Busan from the ICS protocols (100% integrated scanning of cargo) to CSI protocols (integrated scanning only of high risk containers; see below). The Administration proposed to continue following the ICS program at Port Qasim in Pakistan and in Salalah, Oman.

The President's FY2011 budget also proposed a \$58 million reduction to the CSI program. CSI is a program under which CBP stations CBP officers in foreign ports to target high-risk containers for inspection before they are loaded on U.S.-bound ships. CSI was operational in 58 ports for FY2010, and screened over 80 percent of the volume of maritime containers destined for the U.S.⁴¹ According to the *FY2011 Congressional Budget Justifications*, the proposed \$58 million reduction in CSI funding will be achieved by changing CSI's operational posture from one in which CBP Officers are on the ground in foreign ports, to a remote posture whereby the targeting and selection of high risk containers are done at the National Targeting Center-Cargo (NTC-C).⁴² For FY2011 CBP plans to phase out physical operations at 54 of the 58 existing CSI ports.

³⁸ For more information on Unmanned Aircraft Systems, see CRS Report RS21698, *Homeland Security: Unmanned Aerial Vehicles and Border Surveillance*, by (name redacted) and (name redacted).

³⁹ DHS, *FY2011 Congressional Budget Justifications*, p. CBP-SE-37.

⁴⁰ Ibid. p. CBP-S&E-38 and CRS communication with CBP.

⁴¹ Ibid., CBP-S&E-37.

⁴² The FY2011 request included nearly \$37 million for NTC, a \$10 million increase over the FY2010 enacted amount, (continued...)

These reductions were the subject of congressional scrutiny. The Senate Appropriations Committee noted in S.Rept. 111-222 that it strongly supports programs that effectively support and promote the strategies of “pushing out the borders” and layered border security, citing the Container Security Initiative as an example.⁴³ The committee also noted its disappointment in the proposed cuts to C-TPAT, a voluntary government-business partnership to validate international supply chains and provide expedited processing for trusted importers; and to the Western Hemisphere Travel Initiative, which requires travelers from Mexico and Canada to present a passport or other secure travel document. The committee further requested a briefing within 90 days of enactment to explain how the additional \$29 million provided for these programs will be used by CBP, and how the agency plans to mitigate the potential effects of the proposed cuts on security.⁴⁴

Immigration and Customs Enforcement⁴⁵

ICE focuses on enforcement of immigration and customs laws within the United States. ICE develops intelligence to reduce illegal entry into the United States and is responsible for investigating and enforcing violations of the immigration laws (e.g., alien smuggling, hiring unauthorized alien workers). ICE is also responsible for locating and removing aliens who have overstayed their visas, entered illegally, or have become deportable. In addition, ICE develops intelligence to combat terrorist financing and money laundering, and to enforce export laws against smuggling, fraud, forced labor, trade agreement noncompliance, and vehicle and cargo theft. This bureau no longer oversees the building security activities of the Federal Protective Service (FPS), which has been transferred to the National Protection and Programs Directorate (NPPD). See **Table 7** for account-level detail for all of the agencies in Title II, and **Table 9** for sub-account-level detail for ICE Salaries and Expenses (S&E) for FY2010 and FY2011.

President’s FY2011 Request

The Administration requested \$5,835 million in gross budget authority for ICE in FY2011. This represented a 1.6% increase over the enacted FY2010 level of \$5,742 million. The Administration requested an appropriation of \$5,524 million in net budget authority for ICE in FY2011, representing a 1.6% increase over the FY2010 enacted level of \$5,437 million. The request includes the following increases:

- \$20 million to Detention and Removal Operations (DRO) to maintain current bed space;
- \$20 million for the co-location of ICE facilities;
- \$15 million for Office of Investigations mission support;

(...continued)

but more than \$9 million of this increase represented a realignment of 65 positions that were originally appropriated in the 2007 War Supplemental and had been incorrectly annualized under Inspections, Trade, and Travel Facilitation rather than under NTC. The increase to NTC thus had no programmatic impact.

⁴³ U.S. Congress, Senate Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2011*, report to accompany S. 3607, 111th Cong., 2nd sess., July 17, 2010, S.Rept. 111-222 (Washington: GPO, 2010), p. 32.

⁴⁴ Ibid.

⁴⁵ Prepared by (name redacted), Specialist in Immigration Policy, Domestic Social Policy Division.

- \$10 million for data center migration;
- \$10 million for addition Border Enforcement Security Task Forces (BEST);
- \$5 million for intellectual property rights enforcement.

Table 9. ICE Salaries and Expenses Account Detail

(budget authority in millions of dollars)

Activity	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate- Reported S. 3607	FY2011 Enacted P.L. 112-10
Management (HQ) & Administration	512	510		495	
Legal Proceeding	222	222		222	
Investigations - Domestic	1,650	1,727		1,761	
Investigations - International	113	114		114	
Visa Security Program	31	31		38	
Total Investigations	1,794	1,871		1,913	
Intelligence	70	71		72	
DRO-Custody Operations	1,771	1,904		1,904	
DRO-Fugitive Operations	230	168		168	
DRO-Criminal Alien Program	193	179		179	
DRO-Alternatives to Detention	70	72		72	
DRO Transportation and Removal Program	282	295		295	
DRO Total	2,546	2,618		2,618	
Comprehensive Identification and Removal of Criminal Aliens (Secure Communities)	200	147		147	
ICE Salaries and Expenses	5,342	5,439		5,466	5,438

Source: CRS Analysis of the FY2011 DHS Congressional Budget Justifications; the FY2011 DHS Budget in Brief; S.Rept. 111-222 to accompany S. 3607, 111th Congress; FY2010 Supplemental Appropriations Acts P.L. 111-230 and P.L. 111-242; H.R. 1, 112th Congress, and P.L. 112-10.

Notes: Amounts may not strictly accord with budgetary documents due to rounding. FY2010 amounts do not include FY2010 supplemental appropriations. No official numbers are available for the House position as the bill and report were never published by the House Appropriations Committee. No report was issued to accompany P.L. 112-10 and therefore subaccount-level details for FY2011 are not available.

Senate-Reported S. 3607, 111th Congress

Senate-reported S. 3607 provided \$5,863 million to ICE in gross budget authority for FY2011, \$27 million more than the Administration requested. Senate-reported S. 3607 provided \$5,551 million to ICE in net budget authority, \$27 million more than the Administration request.

Issues for Congress

ICE is responsible for many divergent activities due to the breadth of the civil and criminal violations of law that fall under its jurisdiction. As a result, how ICE resources are allocated in order to best achieve its mission is a continuously contentious issue. Debate during the FY2011 appropriations process included questions about ICE's role in detaining and removing (deporting) aliens and on the role of state and local law enforcement agencies in immigration enforcement.

Detention and Removal Operations

Part of ICE's mission includes locating and removing deportable aliens, which also involves determining the appropriate amount of detention space as well as which aliens should be detained. Although many contend that the priority should be placed on removing aliens who have committed crimes in the United States, less than one-third of those deported by ICE in FY2008 and in FY2009 were convicted of a criminal offense.⁴⁶ Furthermore, others argue that the prioritization of criminal aliens should not come at the expense of ICE's other responsibilities, such as terrorist travel and worksite enforcement investigations.⁴⁷

ICE's office of Detention and Removal Operations provides custody management of the aliens who are in removal proceedings or who have been ordered removed from the United States.⁴⁸ DRO is also responsible for ensuring that aliens ordered removed actually depart from the United States. Many contend that DRO does not have enough detention space to house all those who should be detained. Concerns have been raised that decisions regarding which aliens to release and when to release them may be based on the amount of detention space, not on the merits of individual cases, and that detention conditions may vary by area of the country leading to inequities. A number of policymakers have advocated for the increased use of alternatives to detention programs for non-criminal alien detainees, citing these programs as a lower cost option than detention and a more proportional treatment relative to the violation.⁴⁹ Furthermore, there

⁴⁶ U.S. Congress, House Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2010*, Report to accompany H.R. 2892, 111th Cong., 1st sess., June 16, 2009, H.Rept. 111-157, p. 8; U.S. Department of Homeland Security Office of Immigration Statistics, *Immigration Enforcement Actions: 2009*.

⁴⁷ U.S. Congress, House Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2010*, Report to accompany H.R. 2892, 111th Cong., 1st sess., June 16, 2009, H.Rept. 111-157, p. 228.

⁴⁸ For more information on detention issues see CRS Report RL32369, *Immigration-Related Detention: Current Legislative Issues*, by (name redacted) and (name redacted). Under the INA aliens can be removed for reasons of health, criminal status, economic well-being, national security risks, and others that are specifically defined in the act. In 2010, ICE changed the name of DRO to Enforcement and Removal Operations (ERO).

⁴⁹ U.S. Congress, House Committee on Homeland Security, Subcommittee on Border, Maritime, and Global Counterterrorism, *Moving Toward More Effective Immigration Detention Management*, 111th Cong., 1st sess., December 10, 2009 (Washington: GPO, 2009).

have been concerns raised about the adequacy of medical care received by aliens in detention.⁵⁰ In 2009, ICE released new detention standards aimed at addressing these criticisms.⁵¹

The total number of FY2010 detention beds was 33,400, and the President's FY2011 budget requested an increase of \$20 million to maintain the current amount of bed space. Senate-reported S. 3607 matched the Administration's funding request.

State and Local Law Enforcement⁵²

The Immigration and Nationality Act (INA) provides limited avenues for state enforcement of its civil provisions, including most laws governing the removal of unauthorized immigrants. One of the broadest grants of authority for state and local immigration enforcement activity stems from INA §287(g), which authorizes the Attorney General to enter into a written agreement with a state, or any political subdivision, to allow state and local law enforcement officers to perform the functions of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States. The enforcement of immigration by state and local officials has sparked debate among many who question what the proper role of state and local law enforcement officials should be in enforcing federal immigration laws. Many have expressed concern over proper training, finite resources at the local level, possible civil rights violations, and the overall impact on communities. Nonetheless, some observers contend that the federal government has scarce resources to enforce immigration law and that state and local law enforcement entities should be utilized. The President's FY2011 request for ICE included \$5 million for 287(g) agreements which is the FY2010 ICE funding level for such agreements; however, state and local entities may apply for additional funding through appropriations to the Office of State and Local Government Coordination in FEMA. Senate-reported S. 3607 matched the Administration's funding request.

Transportation Security Administration⁵³

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

⁵⁰ For more on the issue of detainee medical care, see CRS Report RL34556, *Health Care for Noncitizens in Immigration Detention*, by (name redacted).

⁵¹ Immigration and Customs Enforcement, "Secretary Napolitano and ICE Assistant Secretary Morton Announce New Immigration Detention Reform Initiatives," press release, October 6, 2009.

⁵² This section adapted from CRS Report RL32270, *Enforcing Immigration Law: The Role of State and Local Law Enforcement*, by Lisa M. Seghetti, (name redacted), and (name redacted).

⁵³ Prepared by (name redacted), Specialist in Aviation Safety, Security, and Technology, Resources, Science, and Industry Division.

systems. TSA is further charged with serving as the primary liaison for transportation security to the law enforcement and intelligence communities. See **Table 7** for account-level detail for all of the agencies in Title II, and **Table 10** for amounts specified for TSA budget activities.

President's FY2011 Request

The President's request specified total gross funding of \$8,165 million in FY2011 for the TSA, an increase of about 7% over FY2010 enacted levels. The request for Aviation Security of \$5,560 million was also roughly 7% more than FY2010 enacted levels and would comprise 68% of the total TSA budget. Proposed programmatic increases for aviation security highlight initiatives on passenger screening and international aviation security, two key areas brought to the forefront of policy debate following the December 25, 2009, attempted bombing of a trans-Atlantic flight on approach to Detroit. Proposed increases for passenger screening and security include an increase of \$215 million over FY2010 baseline levels for the purchase and deployment of advanced imaging technology (AIT), also known as whole body imaging (WBI) systems, at airport screening checkpoints. The President's request also specified an additional \$219 million for about 3,500 full-time equivalent (FTE) screeners to operate newly deployed AIT systems, as well as \$96 million for airport management and mission support for deploying and operating these systems. The President's budget also specified a \$60 million increase, within the Checkpoint Support activity, for purchasing about 800 new portable Explosive Trace Detection (ETD) machines for deployment to airport screening checkpoints. In contrast to the proposed budget increases for Checkpoint Support, the President's request reflected a decrease of \$404 million for checked baggage Explosives Detection Systems (EDS) and ETD purchase and installation, due to a high level of non-recurring procurement and installation costs for EDS and ETD that were allocated in the FY2010 budget.

The FY2011 budget request also included \$71 million for 275 additional canine explosives detection teams as part of the proposed increase for Aviation Regulation and Other Enforcement activities, and \$20 million for deploying 350 additional behavioral detection officers (BDOs) to spot suspicious behavior as part of passenger and baggage screening operations. To enhance international aviation security initiatives, the President's request included an increase of \$85 million for the Federal Air Marshals (FAMS) to increase coverage on international flights, as well as an additional \$39 million for international cooperative programs and rapid response capabilities to deploy to high risk areas such as the Middle East and Africa, included as part of the proposed increase for Aviation Regulation and Other Enforcement activities.

The President's request included an increase of roughly \$27 million for Surface Transportation Security, reflecting an increase in rail security inspectors and canine explosives detection teams. The request also included an increase of about \$51 million for Transportation Security Support, including \$10 million to increase Office of Intelligence staffing by 35 FTEs, primarily to expand the Field Intelligence Officer (FIO) program presence at large airports.

Table 10. TSA Gross Budget Authority by Budget Activity

(budget authority in millions of dollars)

Budget Activity	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate-Reported S. 3607	FY2011 Enacted P.L. 112-10
Aviation Security	5,215	5,561		5,490	5,220
Screening Partnership Program (SPP)	150	143		142	
Passenger & Baggage Screening (PC&B)	2,759	2,998		2,961	
Screener Training & Other	205	265		258	
Checkpoint Support	129	360		360	
EDS/ETD Purchase/Installation	778	374		355	
Screening Technology	317	333		323	
Operation Integration	21	-		0	
Aviation Regulation and Other Enforcement	254	368		368	
Airport Management, IT, and Support	454	577		575	
FFDO & Crew Training	25	25		26	
Air Cargo Security	123	118		122	
Federal Air Marshal Service	861	950		950	930
Management and Administration	763	823		823	
Travel and Training	98	127		127	
Threat Assessment and Credentialing (TTAC)	172	174		148	163
Secure Flight	84	85		85	
Other/ TTAC Admin. & Ops.	88	89		63	
Credentialing Fees	48	40		40	
TWIC—Fee	9	9		9	
HAZMAT CDL—Fee	15	12		12	
Certified Cargo Screening Program—Fee	5	5		5	
Large Aircraft Security Plan—Fee	2	1		1	
Security Identification Display Area Checks—Fee	10	8		8	
Indirect Air Cargo—Fee	3	1		1	
Alien Flight School—Fee	4	4		4	
Surface Transportation Security	110	138		138	106
Operations and Staffing	42	40		40	
Security Inspectors	68	98		98	

Budget Activity	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate- Reported S. 3607	FY2011 Enacted P.L. 112-10
Transportation Security Support	1,001	1,052		1,049	989
Intelligence	28	38		38	
Headquarters Administration	249	271		270	
Human Capital Services	226	263		261	
Information Technology	498	480		480	
Aviation Security Capital Fund (ASCF)	250	250		250	250
TSA Gross Total	7,657	8,165		8,064	7,657

Source: CRS Analysis of the FY2011 DHS Congressional Budget Justifications; the FY2011 DHS Budget in Brief; S.Rept. 111-222 to accompany S. 3607, 111th Congress; FY2010 Supplemental Appropriations Acts P.L. 111-230 and P.L. 111-242; H.R. 1, 112th Congress, and P.L. 112-10.

Notes: Amounts may not strictly accord with budgetary documents due to rounding. No official numbers are available for the House position as the bill and report were never published by the House Appropriations Committee. No report was issued to accompany P.L. 112-10 and therefore subaccount-level details for FY2011 are not available.

Senate-Reported S. 3607, 111th Congress

Senate-reported S. 3607 specified \$8,064 million for the TSA, \$100 million less than the President's request. Of this amount, \$5,491 million (68%) was designated for aviation security programs. Additionally, \$950 million was specified for FAMS, and an additional \$250 million was to be provided as grants to airports derived from the mandatory Aviation Security Capital Fund (ASCF).

The amount specified in S. 3607 for aviation security is \$69 million less than the requested amount. The Senate-reported amount for passenger and baggage screener personnel, compensation, and benefits (PC&B) was \$37 million less than requested. The Senate committee denied the TSA's request for additional BDOs, at an additional cost of roughly \$16 million, expressing concern over further expansion of the program without a complete assessment and validation of its effectiveness. Additionally, the Senate-reported amount reflected an anticipation that increased efficiency gains from the expedited deployment of in-line EDS systems will allow for personnel reductions. The committee also noted that in prior years, the TSA has carried large unobligated balances for screener PC&B, and included a general provision rescinding \$15 million from prior year balances.

The Senate-reported amount for EDS/ETD purchase and installation is \$19 million less than requested, and the amount specified for Screening Technology Maintenance and Utilities is \$9 million below the requested amount. These lower amounts reflect anticipated recovery of amounts appropriated in prior years but not fully expended for EDS procurement and installation, as well as reductions in anticipated maintenance costs due to the negotiation of extended vendor warranties for AIT systems currently being deployed. The Senate-reported bill provides \$360 million, the same as requested, for procurement and installation of AIT systems and other checkpoint technologies under the Checkpoint Support program. The Senate-reported bill included the requested level of \$368 million for Aviation Regulation and Other Enforcement,

supporting the Administration's request for an increase of \$114 million above FY2010 levels to provide for additional canine teams and strengthening of international aviation security programs in high risk areas of the world. The Senate committee also recommended \$122 million for Air Cargo Security, \$4 million above the request to accelerate inspector needs and canine cooperative programs with state and local law enforcement to support cargo screening mandates.

The Senate-reported bill included \$138 million for Surface Transportation Security, as requested. It also specified, \$1,049 million for Transportation Security Support, roughly in-line with the requested amount. S. 3607, however, specified \$147 million for Transportation Threat Assessment and Credentialing (TTAC), \$25 million less than the requested amount. The lower amount reflects the TSA's decision to pursue competitive bidding for its initiative to "modernize" its vetting and credentialing infrastructure, to reduce duplication and complexity among the various programs and services for conducting criminal checks, security threat assessments, and maintaining data on transportation workers and others with access to transportation systems and facilities. As a result of the shift to a competitive procurement, less development funding was anticipated in FY2011 for this initiative.

Issues for Congress

The FY2011 DHS appropriations process was conducted amid heightened congressional interest in aviation security issues following the December 25, 2009, attempted bombing of a Detroit-bound international airline flight from Amsterdam. The incident focused particular attention on the use of terrorist watchlists in aviation security, the screening of passengers and carry-on items for explosives, and security measures for inbound international flights. Additionally, TSA faced challenges in meeting the statutory deadline set forth in P.L. 110-53 to screen 100% of all cargo placed on passenger airliners by August 2010. Challenges in meeting this deadline, particularly for inbound international flights, raised specific issues regarding cargo screening technologies and TSA oversight of air carriers, freight forwarders, and cargo consolidation operations. Amid growing concerns over deficit spending, options for increasing aviation security fees, most notably the passenger security fee, have been discussed in the context of TSA appropriations.

Checkpoint Explosives Screening

The President's request included \$344 million to test, procure, and deploy a variety of new checkpoint technologies to improve the detection of explosives and prohibited items, an increase of \$227 million over FY2010 baseline funding levels. The most controversial of these technologies are whole body imaging systems, that the TSA refers to as advanced imaging technology (AIT), used to screen passengers for items concealed by clothing. In addition to raising considerable concerns among privacy advocates, these systems are costly to acquire and maintain. They are also labor intensive, since current generations require the images to be analyzed by human operators, although future versions may include automated target recognition capabilities.

In addition to AIT, advanced technology X-ray systems, bottle liquid scanner, and next generation explosives trace detection (ETD) equipment are also being procured. By the end of FY2011, the TSA anticipates that AT X-ray deployment will be at 96% of full operating capacity (FOC) sought by FY2014, whereas AIT deployments will only be at 56% of FOC. The TSA strategy has been to focus its AIT deployments at larger airports first, and by end of FY2011, it plans to have deployed

75% of the FOC at the most critical Category X airports. This strategy may, however, leave vulnerabilities at smaller airports.

The sustainment costs of checkpoint screening systems has also been a particular concern for appropriators. For FY2011, the President's request included \$74 million for maintenance of checkpoint screening equipment, a 45% increase compared to FY2010. Checkpoint screening maintenance costs will likely increase considerably in future years, to pay for upkeep and extend the service life of the more complex next generation screening technologies currently being deployed.⁵⁴

Another concern is the costs of modifying airport terminals to accommodate next-generation checkpoint technologies, particularly AIT systems. S.Rept. 111-222 contains language instructing the TSA to work closely with airport authorities to address space and facility requirements and constraints before AIT units are deployed, and to provide funding for necessary terminal modifications. The Senate-reported bill included \$65 million within the Checkpoint Support program, as requested, for anticipated costs to accommodate AIT equipment.

P.L. 112-10 requires DHS to report on efforts to develop advanced, integrated passenger and baggage screening technologies, efforts to deploy screeners in a most cost effective manner, and any resulting improvements in labor savings.

Secure Flight, Terrorist Watchlists, and Transportation Security Intelligence

Terrorist watchlisting and the TSA's efforts to deploy its Secure Flight system to check passenger names for possible ties to terrorism have been considerable issues in appropriations debate for several years. Past appropriations measures have included language requiring that adequate steps be taken to protect data, ensure privacy, and provide avenues for passenger redress before Secure Flight could be fully deployed. Full implementation of Secure Flight, covering both domestic and international flights, was completed in December 2010, and the FY2011 request only included inflationary adjustments to the FY2010 enacted levels for the Secure Flight program.

To a large degree, following the December 25, 2009, incident, the policy emphasis has now shifted from the procedural, technical, and privacy issues surrounding the Secure Flight system development and deployment to the intelligence analysis process underlying the no-fly and selectee lists against which passenger names are checked. While the circumstances of the incident have focused attention more specifically on intelligence gathering and analysis agencies, the FY2011 President's request included a proposed increase of \$10 million for the TSA's Office of Intelligence (TSA-OI). The increase was intended to provide additional field intelligence capabilities at large airports and to implement improved secure communications capabilities between TSA headquarters and large airports to improve the dissemination of intelligence information to security operations in the field. Another relevant issue has been the adequacy of TSA-OI resources and capabilities to work with the intelligence community with respect to making accurate and timely decisions for including terrorist identities on the no-fly and selectee lists. Lawmakers have also raised questions regarding the scope of those lists compared to the broader available information contained in government terrorist systems and databases, such as the Terrorist Identities Datamart Environment (TIDE), maintained by the National

⁵⁴ See CRS Report R40543, *Airport Passenger Screening: Background and Issues for Congress*, by (name redacted).

Counterterrorism Center (NCTC), and the Terrorist Screening Database (TSDB), maintained by the Terrorist Screening Center (TSC).⁵⁵

S. 3607 (111th Congress) included a general provision that would have required the TSA to certify that no significant security risks are raised if the Secure Flight system checks passengers names against a subset of the full terrorist watchlist, instead of the full terrorist watchlist.

Air Cargo Screening

The Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53, Sec. 1602) required the TSA to establish a system for screening 50% of cargo placed on passenger airliners by February 2009, and 100% of such cargo by August 2010. The TSA currently requires 100% screening of cargo placed on domestic passenger flights. It relies on a process known as the Certified Cargo Screening Program (CCSP) to regulate screening and supply chain security practices of participating shippers, freight forwarders, and cargo consolidation facilities to carry out these screening requirements. About 15,000 shipping facilities and 250 freight forwarding and cargo consolidation facilities participate in the CCSP. However, screening of cargo on inbound international flights remains a particular challenge for meeting the statutory requirements. Specific challenges in the international arena include limited control over foreign supply chain activities, the scale of diversity among various supply chains, and diplomatic considerations that pose specific challenges to implementing the CCSP model overseas. The TSA indicates that it will continue to work with international partners through FY2011 to better harmonize air cargo security standards and advance the supply chain screening approach to move toward achieving 100% screening of cargo on inbound international passenger flights. With respect to domestic air cargo security, the TSA is anticipated to face continuing resource challenges to adequately oversee the large number of shipping and freight forwarding entities participating in the CCSP.

The FY2011 request included \$28 million for air cargo policy and programs, a reduction of \$11 million compared to FY2010 levels reflecting the culmination of the air cargo screening technology pilot program effective August 2010, and the transition of those technologies and screening responsibilities to the CCSP participants. The request also includes \$74 million for air cargo inspectors, which reflects inflationary adjustments to the FY2010 baseline of \$70 million. The request also included \$15 million for the National Explosive Detection Canine Training Program (NEDCTP) which provides for the training and certification of local law enforcement canine teams assigned to air cargo screening duties at airports, as well as partial reimbursement for the operational and maintenance costs through cooperative agreements with local law enforcement agencies.⁵⁶

S. 3607 included a general provision that would have directed the TSA to continue its quarterly reporting of cargo screening statistics and provide an implementation plan for meeting the 100% screening mandate for passenger aircraft in the event that the August 2010 statutory deadline was not met. The Senate committee also issued report language (see S.Rept. 111-222, p. 65) encouraging the TSA to expedite approval of effective and suitable technologies for screening air

⁵⁵ For further discussion of this topic see CRS Report RL33645, *Terrorist Watchlist Checks and Air Passenger Prescreening*, by (name redacted) and (name redacted).

⁵⁶ See CRS Report RL34390, *Aviation Security: Background and Policy Options for Screening and Securing Air Cargo*, by (name redacted).

cargo commodities with a particular emphasis on continuing its ongoing work with the fresh fruit industry to identify and certify screening systems.

Passenger Security Fee Collections

ATSA gave the TSA authority to collect passenger security fees totaling \$2.50 per leg, not to exceed \$5.00 per one-way trip. The Bush Administration had unsuccessfully attempted to raise passenger security fees on several occasions, but its proposals failed to gain sufficient support in Congress. The Obama Administration proposed a phased-in increase beginning in FY2012. Under this proposal, the base fee would increase by \$1 per leg each year in FY2012, FY2013, and FY2014, until it reaches a level of \$5.50 per leg with a cap of \$11 per one-way trip. Congress has also considered options to increase passenger security fee collections. For example, S. 1808 (111th Congress) and S. 698 (111th Congress), both offered by Senator Feingold, sought a flat fee of \$5.00 per one-way trip.

The airline industry has ardently opposed such fee increases, arguing that aviation security is a national concern that impacts all citizens, and therefore, like national defense, its costs should be borne by all and not just aviation system users. The airline industry also argues that the passenger security fees, along with ticket taxes and other government fees, must be offset to some degree in the pricing of airline tickets to sustain passenger demand, which impacts airline revenues during tough economic times.⁵⁷ Notwithstanding these arguments, Congress may be more willing to consider a fee increase in the current context given that the fee has remained unchanged and has not been adjusted for inflation since its initial authorization in 2001, and there is increasing pressure to identify offsetting revenue sources to reduce federal deficit spending. No changes were made to passenger security fees during the 111th Congress or in the context of FY2011 appropriations, however this remains an issue of considerable interest to the 112th Congress and the Obama Administration.

United States Coast Guard⁵⁸

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

President's FY2011 Request

The President's requested amount for major accounts compared with last year's enacted level is shown in **Table 7**. As the table indicates, the President requested \$87 million more in operating expenses (an increase of 1%) and \$155 million less in the capital (ACI) account (a decrease of 10%) compared to last year's enacted level. These two accounts are shown in further detail in **Table 11**, below. The President requested no funds for the Bridge Alteration account (consistent

⁵⁷ Chris Strohm, "Airlines oppose renewed push for higher security fees," *Congress Daily*, February 9, 2010.

⁵⁸ Prepared by (name redacted), Specialist in Transportation Policy, Resources, Science and Industry Division.

with prior Administration budget requests) and requested \$5 million less for research and development. The other requested amounts are nearly the same as last year's enacted level.

Table 11. Coast Guard Operating (OE) and Acquisition (ACI) Sub-account Detail
(budget authority in millions of dollars)

	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate- Reported S. 3607	FY2011 Enacted P.L. 112-10
Operating Expenses					
Military pay and allowances	3,253	3,358		3,381	
Civilian pay and benefits	701	757		757	
Training and recruiting	206	204		204	
Operating funds and unit level maintenance	1,155	1,106		1,114	
Centrally managed accounts	335	346		347	
Intermediate and depot level maintenance	914	880		893	
Marine Safety and Response Personnel				20	
Overseas contingency operations ^a	242	0		254	254
Total	6,805	6,651		6,970	6,907
Acquisition, Construction, and Improvements					
Vessels and Critical Infrastructure	121	42		62	42
Icebreaker Refurbishment				21	
Other Equipment	130	36		36	36
Integrated Deepwater System	1,154	1,113		1,234	1,267
Shore facilities and Aids to Navigation	27	69		108	69
Personnel and Related Support	105	108		108	106
Coast Guard Housing	-	14		14	2
Total	1,536	1,381		1,583	1,520

Source: CRS Analysis of the FY2011 DHS Congressional Budget Justifications; the FY2011 DHS Budget in Brief; S.Rept. 111-222 to accompany S. 3607, 111th Congress; FY2010 Supplemental Appropriations Acts P.L. 111-230 and P.L. 111-242; H.R. 1, 112th Congress, and P.L. 112-10.

Notes: Amounts may not strictly accord with budgetary documents due to rounding. No official numbers are available for the House position as the bill and report were never published by the House Appropriations Committee. No report was issued to accompany P.L. 112-10 and therefore subaccount-level details for FY2011 are not available.

- a. Congressional actions include overseas contingency operations funding as a part of the Homeland Security appropriations bill. The Administration requests this as a transfer from DoD.

Senate-Reported S. 3607, 111th Congress

The Senate Appropriations Committee recommended about 6% more than the President requested. However, the Senate committee included \$254 million for the Coast Guard's overseas activities in Iraq and Afghanistan, while the President requested these funds under the Navy's budget. Other major differences are that the Senate committee provided \$41 million more than requested for vessel acquisition, about \$40 million more for shore facilities, \$8 million more for research and development, and \$4 million for modifying bridges interfering with navigation. Other differences are discussed below.

Issues for Congress

Increased duties in the maritime realm related to homeland security have added to the Coast Guard's obligations and increased the complexity of the issues it faces. Some members of Congress have expressed concern with how the agency is operationally responding to these demands, including Coast Guard plans to replace many of its aging vessels and aircraft. The President's FY2011 budget request reflects a trade off of mission hours for capital investment in order not to further delay the replacement of older vessels and aircraft.

Deepwater

The Deepwater program is a 25-year acquisition program to replace or modernize 91 cutters, 124 small surface craft, and 247 aircraft at an estimated cost of over \$25 billion. The Coast Guard's management and execution of the program has been strongly criticized and the GAO and DHS IG have been very active in reviewing Deepwater. In 2007, the Coast Guard decided to phase out an outside system integrator (a team led by Lockheed Martin and Northrup Grumman) to execute the program. Issues for Congress include the Coast Guard's management of the program, which is the largest and most complex acquisition effort in Coast Guard history, the overall cost of the program, and the program's time line for acquisition.⁵⁹ For FY2011, the President requested \$1,113 million for Deepwater. This amount includes \$538 million for the construction of a fifth National Security Cutter and \$240 million for four Fast Response Cutters.

The Senate Appropriations Committee provided \$121 million more than the request for Deepwater. Most of this difference is for advancing the procurement of a sixth national security cutter.

Over the last several years, the Coast Guard lost two C-130s and several helicopters in flight accidents. In 2010, Congress provided through H.R. 4899 (P.L. 111-212) funding to recondition an existing airframe to replace a crashed HH-65 and direction that the Department of Defense purchase two C-103Js and transfer them to the Coast Guard.⁶⁰

P.L. 112-10 provided \$1,267 million for Deepwater; \$101 million for Deepwater aircraft and \$1,101 million for surface ships.

⁵⁹ These issues are discussed in CRS Report RL33753, *Coast Guard Deepwater Acquisition Programs: Background, Oversight Issues, and Options for Congress*, by (name redacted).

⁶⁰ P.L. 111-212 (124 Stat. 2315, 2317).

Personnel Strength

The FY2011 budget request would reduce the size of the Coast Guard's military workforce by 485 FTE (1,112 positions) and increase the size of the civilian workforce by 384 FTE (339 positions) for a net reduction of 773 personnel.⁶¹ Some military positions would be re-classified as civilian positions. Some of the reduction in personnel is due to the planned decommissioning of older vessels (cutters) that require more crew than the newer vessels replacing them. However, some of the newer vessels will not be ready for service when the older vessels are taken out of service, reducing total cutter hours in FY2011 by an estimated 5,000 hours.

The USCG has 12 Maritime Safety and Security Teams (MSSTs), which can be deployed to respond to a safety or security situation in a port that requires additional personnel. MSSTs escort vessels, patrol critical infrastructure, perform counter terrorism activities, board high interest vessels, and respond to unanticipated surge operations (e.g., mass migration, hurricane response, terrorist attack, etc.). The MSSTs are part of a larger group called the Deployable Operations Group (DOG), consisting of 3,000 personnel who are ready to provide a "surge capacity" when needed at a particular port.⁶²

The President's budget proposes eliminating five of the 12 MSSTs for a savings of \$18.2 million. Teams would be eliminated in San Francisco, New Orleans, New York, Anchorage, and Kings Bay, GA. The decision of where to eliminate teams was based, in part, on where the agency already had a large permanent presence of Coast Guard personnel.

The Senate Appropriations Committee rejected the President's request to eliminate five MSSTs. The committee also partially rejected the request for decommissioning certain assets, continuing the operations of two High Endurance Cutters and five HH-65 helicopters.

P.L. 112-10 (sec. 1621) allowed the Coast Guard to decommission one Medium Endurance Cutter, two High Endurance Cutters, four HU-25 aircraft, and one MSST.

Marine Safety Mission

The oil spill from the drilling rig in the Gulf of Mexico has focused attention on the Coast Guard's role in marine safety and environmental protection. The Coast Guard oversees the safety of the non-drilling aspects of offshore oil platforms, rescues crews when in danger, and is the lead agency in responding to oil spill clean up. One issue that has been raised with respect to the Coast Guard's role in overseeing the safety of oil rigs is its ability to keep pace with changing technology in the offshore industry. For instance, it has been noted that some areas of the Coast Guard regulations covering the safety requirements of "Mobile Offshore Drilling Units," such as the *Deepwater Horizon*, date back to 1978 when rigs were much closer to shore and in shallower water. The Coast Guard's pace in issuing rulemakings and its overall competence in carrying out its marine safety mission was the subject of a recent congressional hearing⁶³ as well as an issue

⁶¹ FY2011 Budget Justification, pp. CG-OE-6 and 8.

⁶² A DHS OIG report provides further information on MSSTs, http://www.dhs.gov/xoig/assets/mgmttrpts/OIG_10-89_May10.pdf.

⁶³ House Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation, Hearing on Challenges Facing the Coast Guard's Marine Safety Program, July 27, 2007. See also an independent assessment report on the Coast Guard's marine safety mission available at [http://www.uscg.mil/hq/cg5/cg54/docs/\(continued...\)](http://www.uscg.mil/hq/cg5/cg54/docs/(continued...))

raised in the aftermath of the *Cosco Busan* oil spill in San Francisco Bay in November 2007. In response to these criticisms, the Coast Guard has revamped its marine safety program.⁶⁴ In FY2009, the Administration requested and Congress provided funds for about 300 additional marine safety personnel.

The Senate Appropriations Committee provided \$20 million more in the operations account than the President requested for 176 marine safety positions to improve regulation, enforcement, and compliance of the maritime industry.

Rescue-21

Congress has been concerned with the Coast Guard's management of the Rescue 21 program, the Coast Guard's new coastal zone communications network that is key to its search and rescue mission and replaces its National Distress and Response System. A 2006 GAO audit of the program found a tripling of project cost from the original estimate and likely further delays in project completion, which was already five years behind schedule.⁶⁵ The GAO's FY2008 Coast Guard budget review noted that while Rescue-21 was originally intended to limit gaps to 2% of coverage area, that target has now expanded to a less than 10% coverage gap.⁶⁶ As of December 2009, Rescue-21 was deployed at 24 of 39 planned locations.

For FY2011, the President requested \$36 million for Rescue-21, to complete deployment at six locations and continue deployment at four other locations. The Senate committee agreed with the President's request.

United States Secret Service⁶⁷

The U.S. Secret Service (USSS)⁶⁸ has two broad missions, criminal investigations and protection. Criminal investigation activities encompass financial crimes, identity theft, counterfeiting, computer fraud, and computer-based attacks on the nation's financial, banking, and telecommunications infrastructure, among other areas. The protection mission is the most prominent, covering the President, Vice President, their families, and candidates for those offices, along with the White House and Vice President's residence, through the Service's Uniformed Division. Protective duties also extend to foreign missions in the District of Columbia and to designated individuals, such as the DHS Secretary and visiting foreign dignitaries. Aside from these specific mandated assignments, USSS is responsible for security activities at National

(...continued)

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⁶⁴ For a description of its intended changes, see Coast Guard Proceedings, Summer 2008, pp. 20-28, available at <http://www.uscg.mil/proceedings>.

⁶⁵ GAO, United States Coast Guard: Improvements Needed in Management and Oversight of Rescue System Acquisition, GAO-06-623, May 2006.

⁶⁶ GAO, Coast Guard: Observations on the Fiscal Year 2008 Budget, Performance, Reorganization, and Related Challenges, April 18, 2007, GAO-07-489T, p. 3.

⁶⁷ Prepared by (name redacted), Analyst in Emergency Management and Homeland Security Policy, Government and Finance Division.

⁶⁸ For more information, see CRS Report RL34603, *The U.S. Secret Service: An Examination and Analysis of Its Evolving Missions*, by (name redacted).

Special Security Events (NSSE)⁶⁹, which include the major party quadrennial national conventions as well as international conferences and events held in the United States. The NSSE designation by the President gives the USSS authority to organize and coordinate security arrangements involving various law enforcement units from other federal agencies and state and local governments, as well as from the National Guard.

President's FY2011 Request

For FY2011, the Administration requested an appropriation of \$1,570 million. The Administration's request reflected an increase of \$87 million from FY2010. Within the Protection of Persons and Facilities account, the Administration protects 34 individuals, of which 24 are authorized under U.S. Code⁷⁰ and ten are provisional protectees authorized pursuant to presidential memoranda.⁷¹ Additionally the Secretary of the Treasury receives protection on a reimbursable basis.⁷² USSS intends to continue to provide protection for the President and Vice President, their families, visiting heads-of-state, and the White House and other buildings within the Washington, DC, area. Finally, USSS plans to continue implementing operational security for designated NSSEs.⁷³

Senate-Reported S. 3607, 111th Congress

The Senate Committee on Appropriations recommended \$1,576 million for the Secret Service for FY2011, an increase of \$93 million over the FY2010 appropriations and \$4 million over the president's FY2011 budget request.⁷⁴ In all spending categories (except for one), the Appropriations Committee recommendations for FY2011 were identical to the president's budget request. The single difference was for domestic investigations: the committee recommended \$4 million above the president's request, which accounts for the increase in the total amount between the committee's recommendation and the president's request.

The panel raised concerns—based on a 2010 Government Accountability Office report (GAO-10-762)—however, that the Secret Service was in violation of the Anti-Deficiency Act, by spending more funds than it had available. The committee directed the Secret Service and the DHS Chief Financial Officer (CFO) to implement the GAO recommendations related to financial management and compliance.⁷⁵ The panel also retained bill language withholding from obligation \$20 million until the DHS Chief Information Officer submits a report to the House and Senate Appropriations Committees certifying that all information security modernization plans are consistent with DHS data center migration and enterprise architecture requirements.⁷⁶

⁶⁹ For more information, see CRS Report RS22754, *National Special Security Events*, by (name redacted).

⁷⁰ 18 U.S.C. § 3056.

⁷¹ The ten provisional protectees are not identified due to security operations.

⁷² U.S. Department of Homeland Security, U.S. Secret Service, *Salaries & Expenses: Fiscal Year 2011 Congressional Justification*, Washington, DC, February 2010, p. S&E-1.

⁷³ *Ibid.*, p. S&E-10.

⁷⁴ U.S. Senate Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2011*, S.Rept. 111-222, 111th Cong., 2nd sess., pp. 89-93.

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*

Table 12. FY2010 Enacted and FY2011 Budget Authority for the U.S. Secret Service
(Amounts in millions of dollars)

Programs and Activities	FY2010 Enacted	FY2011 Budget Request	FY2011 House	FY2011 Senate-Reported S. 3607	FY2011 Enacted P.L. 112-10
Protection of persons and facilities	756	792		792	
Protective intelligence activities	68	69		69	
National Special Security Events	1	1		1	
Candidate nominee protection	—	18		18	
White House mail screening	22	25		25	
Management and administration	221	253		253	
Rowley Training Center	54	55		55	
Domestic field operations	261	257		261	
International field operations	31	31		31	
Electronic crimes program	57	57		57	
Forensic support to the National Center for Missing and Exploited Children	8	8		8	
Acquisition, construction, and improvements	4	4		4	
Total	1,483	1,572		1,576	1,518

Source: CRS Analysis of the *FY2011 DHS Congressional Budget Justifications*; the *FY2011 DHS Budget in Brief*; S.Rept. 111-222 to accompany S. 3607, 111th Congress; FY2010 Supplemental Appropriations Acts P.L. 111-230 and P.L. 111-242; H.R. 1, 112th Congress, and P.L. 112-10.

Notes: Amounts may not strictly accord with budgetary documents due to rounding. No official numbers are available for the House position as the bill and report were never published by the House Appropriations Committee. No report was issued to accompany P.L. 112-10 and therefore subaccount-level details for FY2011 are not available.

Issues for Congress

There are two issues of potential interest to Congress concerning the FY2011 appropriations for USSS. The two issues include funding for the Service's protection mission, and NSSE funding.

Protection Mission Funding

USSS's protection mission, as opposed to its investigative mission, employs the majority of the Service's agents and receives a larger share of the agency's resources. Additionally, the majority of congressional action concerning USSS has been related to its protection mission, as evidenced by past appropriations, and their accompanying conference report, for USSS. The priority given to protection reflects the costs associated with an increase in protecting individuals, events, and facilities, which the conferees noted in the conference report accompanying P.L. 111-83 (FY2010 DHS appropriations). While Congress has maintained USSS's role in investigating financial crimes, such as providing funding for a new international field office in Estonia to combat

electronic crimes in FY2010, congressional action primarily has addressed, and continues to address, the Service's protection mission. An example of this is the 110th Congress' enactment of P.L. 110-326, the Former Vice President Protection Act of 2008, which requires the Service to protect former Vice Presidents, their spouses, and minor children for a period of up to six months after leaving office. Congress has, however, moved to reduce the Service's protection mission by specifically stating, in the FY2010 DHS appropriation, that the USSS could not use any funds to protect any federal department head, except the DHS Secretary, unless the Service is reimbursed.⁷⁷

One could argue that potential terrorist attacks and possible threats to the President have resulted in an increase in the need for the Service's protection activities. Advocates for expansion of the investigation mission, however, may contend that protection is enhanced through better threat investigation efforts.

National Special Security Event Funding

The Administration proposed \$20 million for a new initiative, the NSSE State and Local Reimbursement Fund (NSSE Fund). For FY2011, the Administration proposes housing this account in Title I, under Analysis and Operations (see **Table 5**). The NSSE Fund would reimburse state and local governments for costs incurred when providing security at NSSEs. In the past state and local governments were reimbursed for NSSE costs through targeted through multiple federal programs that were not consolidated or coordinated. Eligible costs of the NSSE Fund would be determined by the DHS Secretary and the fund's management and administrative costs could not exceed one percent (\$200,000). NSSE Fund allocations would not be available to states and localities that receive reimbursement from other federal programs, including the Department of State's "Protection of Foreign Missions and Officials" account.⁷⁸

NSSEs are events of national significance⁷⁹ that may heighten the possibility of terrorist attacks because of the anticipated attendance by U.S. officials and foreign dignitaries; the size of the event; and the event's historical, political, and symbolic significance. Recent NSSEs include the January 2009 inauguration of President Barack Obama and the 2008 presidential nominating conventions.

The U.S. Secret Service (USSS) is the lead federal agency for planning, implementing, and coordinating operational security at NSSEs.⁸⁰ USSS's Major Events Division (MED) plans and coordinates NSSE security operations. Some of the coordination includes advance planning and liaison for venue and air space security, training, communications, and security credentialing.⁸¹ State and local law enforcement entities augment federal law enforcement security of NSSEs.

⁷⁷ P.L. 111-83.

⁷⁸ U.S. Office of Management and Budget, *Appendix: Budget of the U.S. Government, Fiscal Year 2011*, Washington, DC, February 1, 2010, p. 518.

⁷⁹ P.L. 106-544, Sec. 3. 114 Stat. 2713.

⁸⁰ Ibid.

⁸¹ U.S. Department of Homeland Security, U.S. Secret Service, Office of Legislative Affairs, *National Special Security Events: Meeting the Counter-Terrorism Challenge*, Washington, DC, 2006, p. 1. This document is only available by contacting the USSS's Office of Legislative Affairs.

Recent NSSE funding include the appropriation of \$100 million for securing the 2008 Presidential Nominating Conventions in Denver, CO, and Minneapolis-St. Paul, MN.⁸² The \$100 million was appropriated to the Department of Justice (DOJ) and administered through the DOJ's Edward Byrne Memorial State and Local Enforcement Assistance Programs (Byrne Programs). DOJ used most of this funding to reimburse state and local law enforcement entities for NSSE security costs.

Until the passage of P.L. 112-10, the most recent NSSE funding was \$15 million for "emergency planning and security costs" incurred by the District of Columbia (DC) during the January 20, 2009, inauguration of President Obama.⁸³ Prior to the inauguration, former President George W. Bush issued an emergency declaration for DC, which authorized the federal government to reimburse the District for emergency preparedness activities and expenditures that exceeded the \$15 million Congress appropriated in P.L. 110-329, "The Consolidated Security, Disaster Assistance, and Continued Appropriations Act, 2009."⁸⁴ Additionally, Congress appropriated, in the FY2009 Omnibus Appropriations Act, \$39.2 million for emergency planning and security costs in DC; however, this funding was not specifically for NSSEs.⁸⁵

The Administration's request for a NSSE Fund raises potential questions that include the following:

- In 2008, the Presidential Nominating Conventions were provided a total of \$100 million, with \$50 million each provided to Denver and Minneapolis-St. Paul, which hosted a convention. DC was provided \$15 million to reimburse 2009 inauguration security and emergency preparedness activities, with an additional \$39.2 million appropriated in the FY2009 omnibus.

How did DHS determine \$20 million as the appropriate amount for the NSSE Fund for FY2011?

- The FY2011 budget request proposed that the NSSE Fund be placed in the Office of the Secretary but does not identify an administering agency. USSS has statutory authority to administer, plan, and implement NSSE operations; however, USSS is not identified as the NSSE Fund administering agency. One would assume that there would be coordination, at a minimum, between USSS and the DHS entity that administers the NSSE Fund. The budget request is silent on the NSSE Fund's relationship with other grants and assistance provided to states and localities by other DHS agencies. For example, the Federal Emergency Management Agency's (FEMA) Grant Programs Directorate (GPD) provides homeland security grants and assistance to states and localities, and has an established relationship with states and localities.

What entity within DHS would administer the NSSE Fund?

- In the past, Congress funded some state and local NSSE costs by providing assistance through the DOJ Byrne Programs. If Congress were to approve the

⁸² P.L. 110-161. 121 Stat. 1909.

⁸³ P.L. 110-329, Div. A, Sec. 135. 122 Stat. 3579.

⁸⁴ For more information on this emergency declaration, see <http://www.fema.gov/news/newsrelease.fema?id=47284>.

⁸⁵ P.L. 111-8, Div. D, Title IV. 123 Stat. 650.

Administration's NSSE Fund, one would assume that Congress would not provide funding through the DOJ Byrne Program. As noted earlier, DHS already provides funding to states and localities through GPD for homeland security assistance. Specifically, GPD's State Homeland Security Program and the Urban Area Security Initiative can be used for NSSE security activities. The grant approval process for these programs, however, is not flexible, so the programs have limited application to NSSEs.

Would the NSSE Fund be redundant of the other federal programs?

Title III: Protection, Preparedness, Response, and Recovery

Title III includes appropriations for the Federal Emergency Management Agency (FEMA), the National Protection and Programs Directorate (NPPD), and the Office of Health Affairs (OHA). Congress expanded FEMA's authorities and responsibilities in the Post-Katrina Emergency Reform Act (P.L. 109-295) and explicitly kept certain DHS functions out of the "new FEMA."⁸⁶ In response to these statutory exclusions, DHS officials created the NPPD to house functions not transferred to FEMA, and the OHA was established for the Office of the Chief Medical Officer. **Table 13** provides account-level appropriations detail for Title III.

⁸⁶ P.L. 109-295, 120 Stat. 1400.

Table 13. Title III: Protection, Preparedness, Response, and Recovery

(budget authority in millions of dollars)

Operational Component	FY2010 Appropriation				FY2011 Appropriation			
	FY2010 Enacted	FY2010 Supp.	FY2010 Resc.	FY2010 Total	FY2011 Request	FY2011 House	FY2011 Senate-Reported S. 3607)	FY2011 Enacted P.L. 112-10
National Protection and Programs Directorate								
Management and Administration	45			45	46		45	44
Infrastructure Protection and Information Security	899			899	866		880	840
US-VISIT	374			374	335		335	335
Federal Protective Service (FPS)	1,115			1,115	1,115		1,115	1,115
Gross Total	2,433			2,433	2,362		2,375	2,334
Offsetting collections	-1,115			-1,115	-1,115		-1,115	-1,115
Net total	1,318			1,318	1,247		1,260	1,219
Office of Health Affairs	139			139	213		155	140
Federal Emergency Management Agency								
Management and Administration	798			798	903		913	788
Grant Programs Directorate	4,165a			4,165a	4,001b		4,234	3,380
Firefighter Assistance Grants	(810)c			(810)c	(610)c		(81)	(810)
U.S. Fire Administration	46			46	46		46	46
Disaster relief	1,600d	5,100		6,695d	1,950		1,950e	2,650
Flood map modernization fundf	220			220	194		194	182
National flood insurance fund (NFIF)g	(146)			(146)	(169)		(169)	(169)
Pre-disaster mitigation fund	100			100	100		75	50

Operational Component	FY2010 Appropriation			FY2011 Appropriation				
	FY2010 Enacted	FY2010 Supp.	FY2010 Resc.	FY2010 Total	FY2011 Request	FY2011 House	FY2011 Senate-Reported S. 3607)	FY2011 Enacted P.L. 112-10
Emergency food and shelter	200			200	100		150	120
Disaster assistance direct loan account	(25)			(25)	(25)		(25)	(25)
Radiological Emergency Preparedness	0			0	0		0	0
Net total	7,128	5,100		12,224	7,294		7,562	7,216
Gross budget authority Title III	9,701	5,100		14,801	9,869		10,092	9,690
Offsetting collections	1,115			1,115	1,115		1,115	1,115
Net budget authority subtotal: Title III	8,586	5,100		13,681	8,754		8,977	8,575

Source: CRS Analysis of the *FY2011 DHS Congressional Budget Justifications*; the *FY2011 DHS Budget in Brief*; S.Rept. 111-222 to accompany S. 3607, 111th Congress; FY2010 Supplemental Appropriations Acts P.L. 111-230 and P.L. 111-242; H.R. 1, 112th Congress, and P.L. 112-10.

Notes: Amounts may not strictly accord with budgetary documents due to rounding. No official numbers are available for the House position as the bill and report were never published by the House Appropriations Committee.

- a. Includes State and Local Grants, Emergency Performance Management Grants (EMPG), Assistance to Firefighters grants, and \$50 million in Real ID grants.
- b. Includes State and Local Grants, Emergency Performance Management Grants (EMPG), and Assistance to Firefighters grants.
- c. Numbers to not add to total as Firefighter Assistance Grants are included under Grants Program Directorate.
- d. Does not include transfers from the DRF of \$106 million to FEMA’s Management and Administration account, nor does it include a transfer from the DRF of \$16 million to the DHS OIG in Title I.
- e. Does not include transfers from the DRF of \$217 million to FEMA’s Management and Administration account, nor does it include a transfer from the DRF of \$16 million to the DHS OIG in Title I.
- f. Referred to in FY2011 request and Senate report as “Flood hazard mapping and risk analysis.”
- g. National Flood Insurance Fund (NFIF) funding is derived from premium payments or transfers from the U.S. Treasury, not appropriations. Levels are set in the appropriations bill and do not add to totals in this chart.
- h. The number in the chart reflects the limitation on direct loans carried in the bill, not the appropriation. Actual appropriations of the direct loan subsidy rounds to zero.
- i. Radiological Emergency Preparedness funds are provided through reimbursements and are not actually appropriated funds. Current levels round to zero.

After discussing the impact of P.L. 112-10 on DHS components under this title, this report will outline the Administration's request, Senate action on the request in the 2nd session of the 111th Congress, and possible issues for Congress. As the House position on the Administration's full request was never officially ratified by the Appropriations Committee in 2010, there is no data available from the House for direct comparison.

P.L. 112-10 and Title III

Sections 1626 through 1638 of H.R. 1473, the final FY 2011 CR (P.L. 112-10), provide explicit direction for funding levels for the Title III components of DHS.

For NPPD, funds were provided as follows, compared to the President's request: Management and Administration, \$44 million (\$3 million, or 5.4% below); IPIS, \$840 million (\$25 million, or 2.9% below); US-VISIT, \$335 million (even with the request).

P.L. 112-10f also rescinded a total \$877 million in unobligated funds appropriated for the IPIS program.

FPS is not funded at a specified level—it is funded through fees collected for its activities. This authority is restated in P.L. 112-10, Section 1628: “the revenues and collections of security fees credited to FPS would be available until expended for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service.” In addition, the Federal Protective Service is directed to reach a staffing level of “not fewer than 1,250 full-time staff and 935 full-time Police Officers, Inspectors, Area Commanders, and Special Agents who... are directly engaged on a daily basis in protecting and enforcing laws at Federal buildings.” This represents a drop of 98 full-time staff and 76 in-service field staff from the Senate proposal.

For OHA, P.L. 112-10 expressly provides \$140 million (\$73 million, or 34% below the President's request), with \$27 million for salaries and expenses, \$0.5 million below the President's request.

For FEMA Management and Administration, \$788 million was provided directly. This is \$115 million, or 12.7% below the Administration's request, not counting \$106 million to be transferred from DRF. P.L. 112-10 increased the amount requested by the Administration for the DRF by 36% (\$2,650 million), and provided 20% less (\$3,380 million) for the major grant programs for state and local governments (State and Local Programs, firefighter assistance grants and emergency management performance grants) than what was recommended (\$4,234 million) in S. 3607. Other funding in P.L. 112-10 included \$182 million for Flood Map Modernization, a decrease of 6% compared to both the Administration's request, and S. 3607, and \$120 million for Emergency Food and Shelter—a 20% increase compared to the Administration's request—but a 20% decrease when compared to S. 3607.

Though FY2010 funding levels for the State Homeland Security Grant Program only included funding for the Operation Stonegarden program, the FY2011 funding levels for the State Homeland Security Grant Program provided by P.L. 112-10 included funding for the Operation Stonegarden, REAL ID, Citizen Corps, and Metropolitan Medical Response System programs. P.L. 112-10 also provided funding levels for the Public Transportation Security Assistance and Railroad Security Assistance that included funding for the Over-the-Road Bus Security

Assistance and the AMTRAK Security program. Past funding levels for the Public Transportation Security Assistance and Railroad Security Assistance did not include funding for the Over-the-Road Bus Security Assistance.

P.L. 112-10 set the EFS program funding level at \$120 million, a \$20 million increase over the Administration's request and an \$80 million reduction from the previous year's funding level. The suggested cut-backs are significant within the context of current hunger statistics that suggest increased need.⁸⁷

P.L. 112-10 also provides \$50 million for the PDM program, matching the lowest level of funding for the program since FY2006, and \$182 million for Flood Map Modernization, \$12 million below requested amounts.

Finally, Section 1653 provides \$8 million for reimbursement of costs to state and local governments for certain costs associated with the presence of a National Special Security Event, to be managed by the FEMA Administrator.

Rescissions

In addition to the specifically directed reductions in funding levels, all of the accounts in Title III are subject to a 0.2% across-the-board rescission of budget authority for FY2011 in P.L. 112-10, which amounts to a \$18 million reduction.

Section 1656 of P.L. 112-10 rescinds \$3 million in FY2010 unobligated balances from Title III components.⁸⁸

Section 1660 of P.L. 112-10 rescinds in unobligated balances \$16 million from NPPD IPIS programs—\$6 million from Next Generation Networks, and \$10 million from programs to be determined by the department.

Section 1662 rescinds \$33 million from US-VISIT unobligated balances.

National Protection and Programs Directorate⁸⁹

The National Protection and Programs Directorate (NPPD) was formed by the Secretary for Homeland Security in response to the Post-Katrina Emergency Management Reform Act of 2006. The Directorate includes the Office of the Under Secretary and accompanying administrative support functions (budget, communications, etc.), the Office of Risk Management and Analysis, the Office of Infrastructure Protection, the Office of Cybersecurity and Communications, the U.S. Visitor and Immigrant Status Indicator Technology Program (US-VISIT), and the Federal Protective Service. The activities of the Office of the Under Secretary and the other administrative functions and the Office of Risk Management and Analysis (RMA) are supported by the Management and Administration Program. The activities of the Office of Infrastructure

⁸⁷ Feeding America, *Hunger and Poverty Statistics*, <http://feedingamerica.org/faces-of-hunger/hunger-101/hunger-and-poverty-statistics.aspx>

⁸⁸ P.L. 112-10, April 15, 2011, 125 Stat. 38, at 147.

⁸⁹ Prepared by John Moteff, Specialist in Science and Technology Policy, Resources, Science and Industry Division.

Protection and the Office of Cybersecurity and Communications are supported by the Infrastructure Protection and Information Security Program (IPIS). The US-VISIT and the Federal Protective Service each have their own programs.

Management and Administration

The Management and Administration Program supports the basic administrative functions of the directorate through the Directorate Administration Program/Project Activity (PPA). It also supports the activities of the Office of Risk Management and Analysis (through the Risk Management and Analysis PPA). The Office of Risk Management and Analysis is responsible for developing and implementing a common risk management framework and to leverage risk management expertise throughout the department. Among its projects are the development of the Risk Assessment Process for Informed Decision-making (RAPID) and support for the Homeland Security National Risk Assessment (HSNRA). RAPID is being developed to inform the department's budgeting and programming efforts to help it prioritize the allocation of resources. HSNRA is used to support the DHS Quadrennial Homeland Security Review.

President's FY2011 Request

For FY2011, the Administration requested \$46 million for Management and Administration: \$36 million for Directorate Administration and \$10 million for RMA. This was \$1 million above the funding appropriated for FY2010, with all of the budget increase going to Directorate Administration. The increase was the net effect of adjustments to the base and some minor programmatic changes. Base adjustments included a request for 54 additional FTE slots: 41 for functions supported by the Directorate Administration account and 13 for RMA. The department's effort to reduce the number of contractors working at DHS accounted for the request. The cost was more than offset by a reduction in contracting fees. The Administration claimed that it was saving a half million dollars in contracting expenses. Programmatic changes were minor. The Administration requested an additional \$2 million in the Directorate Administration account to support the establishment of two DHS Enterprise Data Centers and the migration of applications to those Centers. The Administration also requested a modest programmatic reduction for RMA (much less than \$1 million). The reduction would reduce the technical assistance RMA provides to other components inside DHS.

Table 14. FY2009 Budget Activity for NPPD Management and Administration Appropriation

(budget authority in millions of dollars)

Program Project Activity	FY2010 Enacted	FY2011 Request	FY2011 House- Passed	FY2011 Senate- Reported	FY2011 Enacted
Directorate Administration	35	36		36	
Risk Management and Analysis	10	10		9	
Total	45	46		45	44

Sources: CRS Analysis of the Department of Homeland Security, National Protection and Programs Directorate, Management and Administration, Fiscal Year 2011, Overview, Budget Justification, and S.Rept. 111-222.

Note: Amounts may not strictly accord with budgetary documents due to rounding. No official numbers are available for the House position as the bill and report were never published by the House Appropriations Committee. No report was issued to accompany P.L. 112-10 and therefore subaccount-level details for FY2011 are not available.

Senate-Reported S. 3607, 111th Congress

Senate-reported S. 3607 included \$45 million for Management and Administration. It approved \$1 million less than the request for the Office of Risk Management and Analysis (RMA). According to report language, the Senate found RMA's expenditure plan, required by the Homeland Security Appropriations Act, 2010, did not adequately clarify quantifiable outcomes that would show how the office was fulfilling its mission. Senate-reported S. 3607 would require the Under Secretary to report to Congress on which quantifiable priorities will be implemented with the FY2011 appropriation.

Infrastructure Protection and Information Security⁹⁰

The Infrastructure Protection and Information Security Program (IPIS) supports the activities of the Office of Infrastructure Protection (OIP) and the Office of Cybersecurity and Communications. The latter includes the National Cyber Security Division (NCSD), the National Communication System (NCS), and the Office of Emergency Communications (OEC). OIP coordinates the national effort to reduce the risks associated with the loss or damage to the nation's critical infrastructure due to terrorist attack or natural events. This effort is a cooperative one between the federal government, state, local and tribal governments, and the private sector, to identify critical elements of the nation's infrastructure, their vulnerabilities, the potential consequences of their loss or damage, and ways to mitigate those losses. The NCSD performs a similar function, but specifically focuses on the nation's information networks. The NCS also performs a similar function, but specifically focuses on the nation's communication systems, in particular the communications systems and programs that ensure the President can communicate with selected federal agencies, state, local, and tribal governments, and certain private sector entities during times of national emergencies. The OEC is responsible for promoting the ability of state, local and federal emergency response providers to communicate with each other during an emergency through the development and distribution of interoperable communication equipment.

President's FY2011 Request

For FY2011, the Administration requested \$866 million for the IPIS program. This is \$33 million below what Congress appropriated for FY2010, about a 4% reduction. Net adjustments to base funding accounted for between \$4 million and \$5 million of the reductions. Net programmatic changes accounted for slightly less than \$29 million of the proposed reductions.

The Administration aggregated the activities supported by the IPIS program into 11 line items called Program/Project Activities (PAAs). Adjustments to the base funding and programmatic changes requested by the Administration resulted in net reductions to all but 2 of the PPAs (see **Table 15**). What follows is a brief discussion of selected changes being proposed within this PPA structure.

⁹⁰ Prepared by John Moteff, Specialist in Science and Technology Policy, Resources, Science and Industry Division.

Base adjustments⁹¹ (worth -\$12 million) resulted in the large net decrease in the United States Computer Emergency Readiness Team (US-CERT) PPA. These adjustments were the migration of information systems to a different location, presumably outside the US-CERT budget, and the transfer of funds to the Federal Law Enforcement Training Center to support the National Computer Forensic Institute.

The largest programmatic reductions within various PPAs were proposed for the National Cybersecurity Protection System (-\$13 million) and Critical Infrastructure and Key Resources Partnerships and Information Sharing Program (-\$10 million). Other reductions were proposed for Vulnerability Assessments (-\$4 million), the National Infrastructure Simulation and Analysis Center (-\$4 million), the National Infrastructure Protection Plan Management Program (-\$4 million), and Next Generation Networks (-\$4 million), cybersecurity-related Training and Education (-\$4 million), and Critical Infrastructure Protection-Cybersecurity (-\$4 million).

The Administration proposed programmatic increases within various PPAs for Assessment, Testing, and Analysis (+\$9 million), Infrastructure Protection Data Center Migration (+\$7 million), Cybersecurity Coordination (+\$5 million), Cybersecurity Exercises (+\$3 million), and the National Coordinating Center (+\$2 million).

Some of the increases/decreases in requested funding resulted from proposed increases/decreases in requested FTE levels. In some cases, the Administration requested increased FTE levels as part of an effort to reduce the number of contractors working for NPPD. These requests, considered as adjustments to the base, were budget neutral, with the costs offset by reductions in contracting budgets. In other cases, the Administration requested fewer FTEs, based on an analysis of the historical rates at which those FTEs were being filled. In other cases, increases/decreases in FTEs resulted from proposed programmatic changes. In all, the Administration requested a net increase of 138 FTEs. The predominate share of these fell within the US-CERT PPA. The second largest increase occurred within the Mitigation PPA.

Also, the Administration attributed a number of programmatic reductions within the PPAs managed by the NCSD and NCS to greater efficiencies associated with newly instituted Cybersecurity and Communications quarterly reviews collaboratively managed by US-CERT and the Office of the Assistant Secretary of Cybersecurity and Communications.

Along with the IPIS FY2011 budget justification, the Administration submitted an Addendum proposing an alternative PPA structure for the IPIS. The restructuring proposed three basic changes. The creation of a separate PPA for the Office of the Assistant Secretary for Cybersecurity and Communications; a restructuring of the activities carried out by the National Cyber Security Division; and a realignment of the FTEs associated with the activities of the National Communications System.

⁹¹ Base adjustments are not reflected in **Table 15**.

Table 15. Budget Authority for Infrastructure Protection and Information Security
(budget authority in millions of dollars)

Program	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate- Reported	FY2011 Enacted
IP	348	334		339	
Identification and Analysis	91	83		89	
Coordination and Information Sharing	60	53		52	
Mitigation Programs	197	198		198	
NCS	397	379		388	
US-CERT	324	315		0	
Strategic Initiatives	64	57		0	
Outreach and Programs	9	7		0	
Management and Administration	0	0		16	
Cybersecurity Protection and Response	0	0		262	
Cybersecurity Compliance, Standards, and Workforce Development	0	0		46	
Critical Infrastructure Cyber Protection and Awareness	0	0		53	
Cybersecurity Coordination	0	0		10	
NCS	110	109		109	
Priority Telecom Service	57	56		56	
Programs to Study and Enhance Telecom	17	17		17	
Critical Infrastructure Protection	11	15		15	
Next Generation Networks	25	21		21	
OEC	45	45		45	
Total	899	866		881	840

Source: CRS Analysis of the FY2011 DHS Congressional Budget Justifications; the FY2011 DHS Budget in Brief; S.Rept. 111-222 to accompany S. 3607, 111th Congress; FY2010 Supplemental Appropriations Acts P.L. 111-230 and P.L. 111-242; H.R. 1, 112th Congress, and P.L. 112-10.

Notes: Amounts may not strictly accord with budgetary documents due to rounding. No official numbers are available for the House position as the bill and report were never published by the House Appropriations Committee. No report was issued to accompany P.L. 112-10 and therefore subaccount-level details for FY2011 are not available.

Senate-Reported S. 3607, 111th Congress

The Senate approved \$881 million for the IPIS program. It provided more funds than requested for vulnerability assessments (+\$4 million) and the NISAC (+\$2 million) in the IP-Identification

and Analysis PPA. It provided more funds than requested for the National Infrastructure Protection Plan Management program and the Critical Infrastructure/Key Resources Partnership program (\$7 million) in the IP- Coordination and Information Sharing PPA. It did not fund the department's request for data center migration (-\$7 million). The Senate provided the requested funds for the IP- Mitigation Program PPA and required DHS to provide quarterly updates on progress in hiring personnel to enforce compliance associated with security at chemical facilities and ammonia nitrate security program. The Senate also encouraged the Secretary to consider the ability of chemical facilities covered under security regulations to communicate with local law enforcement and first responders as part of that compliance program.

The Senate adopted a new PPA structure for the National Cyber Security Division, similar to the one proposed by DHS in its budget justification addendum. The Senate also provided the funds requested, plus an additional \$9 million for the new Cybersecurity Protection and Response PPA. The additional funds included \$5 million for expediting network security deployments. It also included \$4 million associated with not transferring funds to the Federal Law Enforcement Training Center to support the National Computer Forensic Institute.

The Senate provided funds as requested for the Office of Emergency Communications, but expressed concerns that the potential of emerging commercial broadband services has not been adequately explored and taken advantage of. The Senate requested a report on plans for developing and disseminating training and best practices on standard operating procedures, equipment purchases and other issues associated with broadband technologies.

The Senate provided funds as requested for the National Security/Emergency Preparedness Telecommunications. However, it continued to express concern about the lack of clarity regarding the mission of the Next Generation Networks PPA and the difficulty this program has had obligating funds.

Issues for Congress

The Administration proposed a \$13 million reduction for the National Cybersecurity Protection System Program, also known as EINSTEIN. The reduction in funding would slow the deployment of the latest intrusion detection hardware and software throughout the federal government and its partners. The deployment of this hardware/software and the analysis of the resulting information is a major part of the Comprehensive National Cybersecurity Initiative. Some of these funds were redirected toward initiating the new Assessment, Test, and Analysis Program. The Assessment, Test, and Analysis Program supports penetration testing of federal networks by red and blue teams, to assess the effectiveness of agencies' cybersecurity protections. Such regular penetration testing has been suggested for a number of years by many in the information security community. Congress might consider the trade-offs associated with this redirection of funds.

The Administration proposed a \$10 million reduction in the Critical Infrastructure and Key Resources Partnerships and Information Sharing Program. This program supports the Sector and Government Coordinating Councils and their operations. The reduction would reduce the travel, meeting, workshop, and Secretariat support for State, local, tribal, and territorial government, and regional consortium representatives. The number of joint regional consortium meetings between public and private stakeholders would be reduced. The Administration also anticipated the end of operations for the Critical Infrastructure Warning Information Network (CWIN) or its incorporation into the department's overall future communication enterprise. Congress might

investigate how this reduction impacts the participation of the affected groups and to what extent termination of CWIN operations has been considered at the department level.

In the past, the Appropriations Committees of both chambers have expressed their frustration with the NPPD's budget documentation. Congress instructed DHS to use the current budget structure. Congress might consider the merits of the DHS restructuring proposal and if it achieves the transparency and rationalization that both seek.

The migration of information systems appeared in various places within the NPPD budget. In the Directorate Administration PPA and as part of the IPIS Coordination and Information Sharing PAA, it appeared as programmatic increases. In the US-CERT PPA, it appeared as a programmatic reduction. Congress might ask for clarification of the budget impact of these migrations and consolidation of information resources.

The FY2011 appropriation represents a 6% drop in funding from FY2010 levels. Congress might consider how these reductions were allocated throughout the program.

U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT)⁹²

US-VISIT leads the collection and storage of biometric identification information on foreign visitors seeking entry into the United States and other immigration benefits. This information is shared with a wide range of federal, state, and local government agencies to help them accurately identify people who pose a risk to the United States. US-VISIT stores biometric data—10-print digital fingerprints and a photograph—collected from international travelers at U.S. visa-issuing posts and ports of entry. This information helps immigration officers to apprehend or detain individuals for law enforcement actions as well as to determine whether individuals are eligible to receive a visa, enter the United States, or receive immigration benefits.

Directorship of US-VISIT has changed several times since it was created. Until FY2006, US-VISIT was coordinated out of the Directorate of Border and Transportation Security (BTS). A second stage review by Former DHS Secretary Chertoff eliminated BTS and proposed placing US-VISIT within a new Screening Coordination Office (SCO) that would have included several DHS screening programs⁹³ and reported directly to the Secretary. However, funding for the SCO was never appropriated, and US-VISIT became a stand-alone office within Title II of the DHS appropriation in FY2006.⁹⁴ In FY2008, DHS transferred US-VISIT into its new National Protection Programs Directorate (NPPD) “to support coordination for the program’s protection mission and to strengthen DHS management oversight.”⁹⁵ Major NPPD divisions include Cyber

⁹² Prepared by (name redacted), Specialist in Immigration Policy, Domestic Social Policy Division.

⁹³ Programs proposed for transfer to the Screening Coordination Office included the U.S. Visitor and Immigrant Status Indicator Project (US-VISIT); Free and Secure Trade (FAST) and NEXUS/SENTRI, from CBP; and Secure Flight, Transportation Worker Identification Credential (TWIC), Registered Traveler, Hazardous Materials (HAZMAT) background checks, and the Alien Flight School background checks program from TSA.

⁹⁴ H.Rept. 109-241.

⁹⁵ U.S. Department of Homeland Security, letter from Secretary Michael Chertoff to the Honorable Joseph I. Lieberman, Chairman, Committee on Homeland Security and Government Affairs, U.S. Senate, Washington, DC, January 18, 2007, p. 8.

Security and Communications, Infrastructure Protection, Federal Protective Service, US-VISIT and Risk Management and Analysis.

President's FY2011 Request

The Administration requested \$335 million for US-VISIT in FY2011, a decrease of \$39 million from the FY2010 enacted level of \$374 million. Included in the Administration's request was a reduction of \$12 million for US-VISIT Program Management Services and no funding request for the Comprehensive Biometric Exit Program, which was appropriated \$22 million in FY2010. Other program changes identified by US-VISIT included identity management and screening, data center mirror and migration, unique identity, and US-VISIT 1.0.⁹⁶

Senate-Reported S. 3607, 111th Congress

Senate-reported S. 3607 included \$335 million for US-VISIT, thereby matching the Administration's budget request. Moreover, language in the bill would have provided that not less than \$50 million in prior-year balances would remain available until expended solely for implementation of a biometric air exit capability. Also, bill language would have prohibited the obligation of \$167 million for US-VISIT until it submitted an expenditure plan for use of the FY2011 funds.

Issues for Congress

Biometric Exit Component

Deployment of a biometric exit system has been of concern to Congress since 1996, and US-VISIT has been heavily criticized for not implementing an exit system at ports of entry. Without verifying the identity of travelers who leave the United States, DHS has no reliable way of identifying individuals who overstay their visas and remain in the country illegally. Currently, DHS uses biographical information from confirmed arrivals of Traveler Enforcement Compliance System (TECS) officers, I-94 forms, and other traveler information to conduct matching of entry data to exit data—a method with inherent inaccuracies. A pair of recent pilot projects on biometric exit systems were completed in late 2009, yet according to GAO there is no transition plan in place to begin comprehensive deployment of either system.⁹⁷ The FY2011 budget requested no funding for implementation of a biometric exit capability. The lack of such a funding request could indicate that a comprehensive biometric exit solution at ports of entry is unlikely to begin deployment in FY2011. The exact nature of US-VISIT's exit system strategy may be an issue that Congress will examine, given the intense congressional interest on this topic in the past.

⁹⁶ US-VISIT 1.0 addresses IDENT systems scalability issues and other re-architecting issues to the current system to improve efficiency and performance.

⁹⁷ U.S. Government Accountability Office, *Homeland Security: Key US-VISIT Components at Varying Stages of Completion, but Integrated and Reliable Schedule Needed*, GAO-10-13, November 19, 2009.

Federal Protective Service⁹⁸

The Federal Protective Service (FPS), now within National Protection and Programs Directorate (NPPD),⁹⁹ is responsible for the protection and security of federally owned and leased buildings, property, and personnel.¹⁰⁰ In general, FPS operations focus on security and law enforcement activities that reduce vulnerability to criminal and terrorist threats.¹⁰¹ FPS protection and security operations include all-hazards based risk assessments; emplacement of criminal and terrorist countermeasures, such as vehicle barriers and close-circuit cameras; law enforcement response; assistance to federal agencies through Facility Security Committees; and emergency and safety education programs. FPS also assists other federal agencies, such as the U.S. Secret Service (USSS) at National Special Security Events (NSSE), with additional security.¹⁰² FPS is the lead “Government Facilities Sector Agency” for the National Infrastructure Protection Plan (NIPP).¹⁰³ Currently, FPS employs approximately 1,225 law enforcement officers, investigators, and administrative personnel, and administers the services of approximately 13,000 contract security guards.

President’s FY2011 Request

The FPS congressional budget justification proposed \$1,115 million for FPS in FY2011 to be collected in security fees (which is not an appropriation, but an accounting of other agencies’ funding for security fees), the same amount Congress enacted in FY2010.¹⁰⁴ FPS estimated a collection of security leasing fees to provide \$220 million for basic security operations,¹⁰⁵ \$420 million for building specific security operations,¹⁰⁶ and \$475 million for Security Work Authorizations.¹⁰⁷

Senate-Reported S. 3607, 111th Congress

Senate-reported S. 3607 would provide FPS with \$1,115 million for salaries and expenses. This is the same amount requested for FY2011, and enacted in FY2010. This appropriation would be fully offset by collections of security fees. The total amount would provide \$220 million for basic

⁹⁸ Prepared by Lorraine Tong, Analyst in American National Government, and (name redacted), Analyst in Emergency Management and Homeland Security Policy, Government and Finance Division.

⁹⁹ FPS was transferred to NPPD from ICE following the enactment of the FY2010 DHS appropriations, P.L. 111-83.

¹⁰⁰ 40 U.S.C. 1315.

¹⁰¹ For more information on FPS, see CRS Report RS22706, *The Federal Protective Service and Contract Security Guards: A Statutory History and Current Status*, by (name redacted).

¹⁰² For information on NSSEs, see CRS Report RS22754, *National Special Security Events*, by (name redacted).

¹⁰³ Information on the NIPP is available at http://www.dhs.gov/xprevprot/programs/editorial_0827.shtm.

¹⁰⁴ U.S. Department of Homeland Security, National Protection & Programs Directorate, *Federal Protective Service: Fiscal Year 2011 Overview, Congressional Justification*, Washington, DC, February 2011, p. FPS-2.

¹⁰⁵ Basic security operations include law enforcement services on federally-controlled property, preliminary investigations of incidents, limited proactive activities to detect and deter attacks on high-risk facilities, and capture and detention of suspects.

¹⁰⁶ Building specific security operations include security countermeasure requirements specific to a particular building.

¹⁰⁷ Security Work Authorizations are agreements between FPS and customer agencies to procure security measures beyond those included with basic security operations and building specific security operations.

security operations, \$420 million for building specific security operations, and \$475 million for Security Work Authorizations.

In report language (S.Rept. 111-222), the Senate Appropriations Committee expressed its continued concern about the lack of adequate resources for FPS to address terrorist attacks and threats against federal employees and facilities. The committee noted that the threats continue while FPS faces a 2% increase in protected square footage since the last fee increase. The President's FY2011 budget did not assume an increase in fee charges, and the committee encouraged the Office of Management and Budget to adjust fees charged for FY2011. In addition, the committee provided for an increase in the number of FPS employees to 1,348, including at least 1,011 police officers, inspectors, area commanders, and special agents.

The committee also directed NPPD to provide to the committee and GAO, within 45 days of the enactment date of S. 3607, with the new FPS staffing model that has been in development. GAO is expected to report to the committee on the model's validity within 75 days after it receives the model.

Finally, the committee directed NPPD and ICE to provide without delay a signed copy of the memorandum of understanding (MOU) between ICE and NPPD regarding the business services provided to FPS.¹⁰⁸

Issue for Congress

FPS Operations

In July 2009, the Government Accountability Office (GAO) completed and reported a survey that indicated that 82% of FPS customers do not use the agency as their primary law enforcement agency in emergency situations. Additionally, the customers informed GAO that they primarily rely on other entities such as local law enforcement, the U.S. Marshals Service, or the Federal Bureau of Investigation. GSA also informed GAO that it has not been satisfied with the level of protection and security provided by FPS since being transferred to DHS. According to GSA officials, FPS has not been responsive and timely in providing building security assessments for new leases. GAO, however, stated FPS has taken steps to improve customer service through education and outreach initiatives.¹⁰⁹

As a result of GAO's findings and other criticisms, FPS intends (in FY2011) to

- improve the strategic methods used in identifying and reducing actual and potential threats directed at FPS-protected facilities;
- restore proactive monitoring activities to mitigate the increased risk to FPS-protected facilities noted by GAO;

¹⁰⁸ At the time of the FPS transfer from ICE to NPPD, there was an understanding that the core support given to FPS would be maintained. The MOU, which is needed to determine whether FPS is being provided adequate resources, has not been completed.

¹⁰⁹ U.S. Government Accountability Office, *Homeland Security: Federal Protective Service Should Improve Human Capital Planning and Better Communicate with Tenants*, GAO-09-749, July 2009, pp. 5-6.

- improve the service provided by contract security guard forces through acquisition strategies and “intensive” monitoring and training;
- develop risk-based security standards tied to intelligence and risk-assessments;
- refine business practices to ensure full collection of revenue through “positive” stakeholder interface; and implement a capital plan that will improve security and customer service.

Office of Health Affairs¹¹⁰

The Office of Health Affairs (OHA) coordinates or consults on DHS programs that have a public health or medical component. These include several of the homeland security grant programs, and medical care provided at ICE detention facilities. OHA also administers several programs, including the BioWatch program, the National Biosurveillance Integration System (NBIS), and the department’s occupational health and safety programs.¹¹¹ Dr. Alexander G. Garza, President Obama’s nominee for the position, was confirmed by the Senate as Assistant Secretary of Homeland Security and Chief Medical Officer in August 2009. OHA received \$139 million in FY2010 appropriations.

President’s FY2011 Request

The President requested \$213 million for OHA for FY2011, \$74 million (53%) more than was provided for FY2010. The requested funding level would support 95 FTEs, 11 more than in FY2010. The requested increase would more than double the funding for the BioWatch program, discussed below. The request would decrease funding for other OHA budget lines, namely Salaries and Expenses; Planning and Coordination (under which numerous leadership and coordination activities are implemented); the National Biosurveillance Integration Center; and the Rapidly Deployable Chemical Detection System.¹¹²

Senate-Reported S. 3607, 111th Congress

The committee recommended \$155 million for OHA for FY2011, \$57 million (27%) less than the President’s request.¹¹³ While the recommendation included a modest increase for the BioWatch program above the FY2010 level, it still fell \$60 million below the FY2011 request. The recommendation also included requested amounts for NBIC and Salaries and Expenses, and small increases above requested amounts for the Rapidly Deployable Chemical Detection System and Planning and Coordination.

¹¹⁰ Prepared by (name redacted), Specialist in Public Health and Epidemiology, Domestic Social Policy Division.

¹¹¹ DHS, Office of Health Affairs, http://www.dhs.gov/xabout/structure/editorial_0880.shtm.

¹¹² OHA, *Fiscal Year 2011 Congressional Justification*, Overview, p. OHA-4.

¹¹³ S.Rept. 111-222, pp. 106-108.

Issues for Congress

BioWatch: Effectiveness and Deployment

The BioWatch program deploys sensors in more than 30 large U.S. cities to detect the possible aerosol release of a bioterrorism pathogen, in order that medications could be distributed before exposed individuals became ill. The Administration requested an \$84 million (93%) increase for BioWatch, from about \$90 million in FY2010 to almost \$174 million in FY2011. The increase would be used to procure and deploy “Generation 3” (Gen-3) detectors, which are intended to improve timeliness by automating detection on site, no longer requiring daily collection and off-site analysis. However, deployments of Gen-3 prototypes raised questions about their performance. In the past, appropriators have withheld some funding for the transition to next-generation automated detectors, and/or required notification prior to any such deployments.¹¹⁴ For FY2011, the Senate committee noted that problems with Gen-3 detector development and deployment had led to significant carryover of funds in previous years.¹¹⁵

In FY2008, Congress funded a National Academies study of the effectiveness of the BioWatch program. Among other things, the group recommended thorough operational testing of Gen-3 detectors before deployment; more robust assessments of BioWatch system performance; and improved coordination with federal and non-federal partners. In addition, they estimated the average annual costs to deploy and operate a system of Gen-3 detectors, over a ten-year period, at \$200 million per year.¹¹⁶

Federal Emergency Management Agency¹¹⁷

The Federal Emergency Management Agency (FEMA) is responsible for leading and supporting the nation’s preparedness through a risk-based and comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation. This comprehensive emergency management system is intended to reduce the loss of life and property, and protect the nation from all hazards. These hazards include natural and accidental man-made disasters, and acts of terrorism.¹¹⁸

FEMA executes its mission through a number of activities such as providing assistance through its administration of the Disaster Relief Fund (DRF) and the Pre-Disaster Mitigation Fund. Additionally, FEMA provides assistance to state, local, and tribal governments, and non-governmental entities through its management and administration of programs such as State and

¹¹⁴ For more information, see the discussion in the OHA section of CRS Report R40642, *Homeland Security Department: FY2010 Appropriations*, coordinated by (name redacted) and (name redacted).

¹¹⁵ S.Rept. 111-222, pp. 106-108.

¹¹⁶ Institute of Medicine and National Research Council, *BioWatch and Public Health Surveillance: Evaluating Systems for the Early Detection of Biological Threats*, Summary, Abbreviated Version, 2010, Washington, DC, The National Academies Press, <http://www.nap.edu/>.

¹¹⁷ This section was prepared by (name redacted), Analyst in Emergency Management Policy, (name redacted), Analyst in American Federalism and Emergency Management Policy, Francis McCarthy, Analyst in Emergency Management Policy, Government and Finance Division, and (name redacted), Specialist in Science and Technology Policy, Research, Science, and Industry Division.

¹¹⁸ U.S. Department of Homeland Security, Federal Emergency Management Agency, *About FEMA: FEMA Mission*, Washington, DC, November 2008, at <http://www.fema.gov/about/index.shtm>.

Local Programs, the Emergency Food and Shelter program, and the Radiological Emergency Preparedness program. **Table 13** provides information on the FY2010 appropriations and the FY2011 budget request for all of FEMA's activities.

President's FY2011 Request

For FY2011, the Administration proposed an appropriation of \$7,294 million for FEMA, which is an increase of \$165 million compared to the FY2010 FEMA appropriation of \$7,129 million. The proposed increase was due to a proposed appropriation of \$696 million for FEMA's Management and Administration activities, which was \$105 million more than appropriated in FY2010; and a proposed appropriation of \$1,950 million for the DRF, which was \$250 million more than the FY2010 amount. These proposed increases, however, were slightly offset by a proposed reduction in other FEMA activities. The Administration proposed \$4,001 million for State and Local Programs, which was a \$164 million reduction from the FY2010 amount; \$194 million for the Flood Map Modernization Fund, which was a \$16 million reduction from the FY2010 appropriation; and \$100 million for Emergency Food and Shelter, which was a \$100 million reduction from the FY2010 amount.

Significant budget proposals include consolidating selected State and Local Programs;¹¹⁹ refocusing FEMA's resources on its mission of preparing for and coordinating disaster response and recovery while providing support for the non-disaster Emergency Food and Shelter program;¹²⁰ repairing, maintaining, and improving regional facilities,¹²¹ and eliminating the National Flood Mitigation Fund and funding its activities through the National Flood Insurance Fund.¹²² The Administration also proposed to partner FEMA with the Department of Housing and Urban Development to support strategic local approaches to sustainable development by combining certain hazard mitigation objectives with community development objectives.¹²³ Finally, the Administration assumed that catastrophic disasters are rare and that these catastrophic disasters would be funded through a supplemental or emergency appropriation.¹²⁴

Senate-Reported S. 3607, 111th Congress

Compared to the Administration's request, the Senate proposed a slight increase for FEMA's budget (\$7,345 million). The Senate also proposed a decrease of 24% for the Management and Administration (\$696 million). The decrease is offset, however, by a transfer of \$216 million from the DRF, making the proposal comparable to the Administration's request. The Senate committee recommended a total appropriation of \$4,234 million for State and Local Programs, which was \$236 million more than the Administration proposed. The Senate proposal for Emergency Food and Shelter was \$150 million, an increase of \$50 million compared to the

¹¹⁹ U.S. Office of Management and Budget, *Appendix: Budget of the U.S. Government, Fiscal Year 2011*, Washington, DC, February 2010, p. 557.

¹²⁰ U.S. Department of Homeland Security, Federal Emergency Management Agency, *FY2011 Budget Request: FEMA-All Appropriations, Congressional Committee Rollout*, Washington, DC, February 2010, p. 27.

¹²¹ *Ibid.*, p. 6.

¹²² U.S. Office of Management and Budget, *Appendix: Budget of the U.S. Government, Fiscal Year 2011*, Washington, DC, February 2010, p. 561.

¹²³ *Ibid.*, p. 562.

¹²⁴ *Ibid.*, p. 563.

Administration's request. The Senate proposed the same amount for Flood Map Modernization (\$194 million).

Issues for Congress

As noted above, there are several significant issues associated with FEMA's FY2011 budget. They include supplemental appropriations for the DRF, consolidation of selected state and local programs, reduction in funding for the Assistance to Firefighters Program, reduction in funding for the Emergency Food and Shelter Program, expiration of the Pre-Disaster Mitigation program, and Flood Map Modernization appropriations.

Disaster Relief Fund¹²⁵

The DRF is the main account used to fund a wide variety of programs, grants, and other forms of emergency and disaster assistance to states, local governments, certain nonprofit entities, and families and individuals affected by disasters.¹²⁶ The DRF is funded yearly through regular appropriations; however, the account often needs supplemental funds for continued disaster assistance. Ongoing recovery efforts from the Gulf Coast hurricanes of 2005 have increased the federal government's reliance on supplemental funding for the DRF.

The DRF appropriation for FY2011 may be of particular concern due to developments that occurred after the initial FY2011 request, when the President submitted a supplemental request for appropriations for the DRF for FY2010.¹²⁷ According to President Obama, additional funds for the DRF were needed to supplement continued response and recovery efforts. Initially, the Administration included a request for \$3,600 million in supplemental funds to carry out disaster assistance in FY2010, with the FY2011 budget request.¹²⁸ Unexpected recovery costs were incurred by FEMA however, which prompted the Administration to amend this supplemental request by an additional \$1,500 million, making the FY2010 request for supplemental appropriations to the DRF \$5,100. These requests for additional supplemental FY2010 funds were included in the proposed legislative language of the FY2011 request as a General Provision in Title V, and on May 27, 2010, Congress provided the requested supplement of \$5,100 million in P.L. 111-212.

Emergency supplemental appropriations for disasters in the past five years have increased significantly. However, it is unclear if increased expenditures are due solely to hurricane activity in the Gulf Coast since 2005. Rather, the rise in expenditures may indicate increases in the number of disasters occurring each year, an escalation of federal involvement in disaster assistance more broadly, or both. Moreover, the arbitration panels authorized by P.L. 111-5 have resulted in increased costs to the DRF because arbitrators have overturned some of FEMA's cost

¹²⁵ Prepared by (name redacted), Analyst in Emergency Management Policy.

¹²⁶ In most cases, funding from the DRF is released after the President has issued a declaration pursuant to the Robert T. Stafford Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). For further analysis on the DRF, see CRS Report R40708, *Disaster Relief Funding and Emergency Supplemental Appropriations*, by (name redacted) and (name redacted). For further analysis on declaration process, see CRS Report RL34146 *FEMA's Disaster Declaration Process: A Primer*, by (name redacted).

¹²⁷ Barrack Obama, Letter from the White House, Washington DC, February 12, 2010.

¹²⁸ Office of Management and Budget, *Appendix: Budget of the U.S. Government*, Washington DC, 2010, pp. 1362-1363.

decisions for FY2010. Regardless of the cause, the federal funding for disaster assistance since 2005 has been on the rise and monthly pay-outs from the DRF have been averaging roughly \$350 million. Thus, it could be argued that the \$2,650 million provided in P.L. 112-10 was still insufficient to cover annual emergency and disaster recovery costs.

*State and Local Programs*¹²⁹

FEMA's State and Local Programs assist state, local, and tribal governments—primarily first responder entities—to meet homeland security needs and enhance capabilities to prepare for, respond to, and recover from both man-made and natural disasters. **Table 16** provides information on the FY2010 appropriations, the Administration's FY2011 budget request and enacted funding levels for all State and Local Programs.

Table 16. Budget Authority for State and Local Programs

(budget authority in millions of dollars)

Programs	FY2010 Enacted	FY2011 Budget Request	FY2011 House-Reported	FY2011 Senate-Reported	FY2011 Enacted
Homeland Security Prevention and Protection Programs					
<i>Urban Area Security Initiative</i>	887	1,100		950	725
<i>State Homeland Security Grant Program (SHSGP)</i>	950	1,050		950	725
<i>Driver's License Security Program (REAL ID)</i>	50	0		0	(45) ^a
<i>Buffer Zone Protection Program</i>	50	50		50	0
<i>Transportation Security Grant Program</i>	600	600		700	500 ^b
<i>Over-the-Road Bus Security Grants</i>	12	0		0	(5) ^c
Homeland Security Response and Recovery Programs					
<i>Assistance to Firefighters</i>	810	610		810	810
<i>Emergency Management Performance Grants</i>	340	345		345	340
<i>Metropolitan Medical Response System</i>	41	0		38	(35) ^a
<i>Citizen Corps Programs</i>	13	0		12	(10) ^a
<i>Regional Catastrophic Preparedness</i>	35	35		35	15
<i>Interoperable Emergency Communications Grants</i>	50	0		50	0
<i>Emergency Operations Centers</i>	60	0		32	15

¹²⁹ Prepared by (name redacted), Analyst in American Federalism and Emergency Management Policy.

Programs	FY2010 Enacted	FY2011 Budget Request	FY2011 House-Reported	FY2011 Senate-Reported	FY2011 Enacted
Other National, State and Local Grant Programs/Training, Measurement and Exercise Program					250 ^d
<i>Continuing Training Grants</i>	29	22		30	
<i>National Domestic Preparedness Consortium</i>	102	52		97	
<i>Cybercrime Counterterrorism Training</i>	2	0		2	
<i>Center for Domestic Preparedness/Noble Training Center</i>	63	63		63	
<i>National Exercise Program</i>	40	42		40	
<i>Technical Assistance Programs</i>	13	15		15	
<i>Evaluations and Assessments</i>	16	18		16	
<i>Rural Domestic Preparedness Consortium</i>	3	0		0	
Total	4,165	4,001		4,234	3,380

Source: CRS Analysis of the FY2011 DHS Congressional Budget Justifications; the FY2011 DHS Budget in Brief; S.Rept. 111-222 to accompany S. 3607, 111th Congress; FY2010 Supplemental Appropriations Acts P.L. 111-230 and P.L. 111-242; H.R. 1, 112th Congress, and P.L. 112-10.

Notes: Amounts may not strictly accord with budgetary documents due to rounding. No official numbers are available for the House position as the bill and report were never published by the House Appropriations Committee. No report was issued to accompany P.L. 112-10 and therefore subaccount-level details for FY2011 are not available.

- a. Funding to be drawn from the allocation for SHSGP.
- b. Includes \$20 million for AMTRAK Security.
- c. Funding to be drawn from the allocation for the Public Transportation Security Assistance and Railroad Security Assistance program under the Transportation Security grant programs.
- d. P.L. 112-10 provides \$249.5 million for training, exercises and technical assistance, of which \$155.5 million is set aside for the training of State, local, and tribal emergency response providers.

For FY2011, the Administration proposed a total appropriation of \$4,001 million for State and Local Programs, which was \$164 million less than Congress appropriated in FY2010. P.L. 112-10 provided \$3,380 for FY2011. This proposed reduction in total appropriations is a combination of reducing funding for some programs and the elimination of selected programs. This proposed reduction in total appropriations and elimination of selected programs, such as the Interoperable Emergency Communications Grant Program and the Metropolitan Medical Response System, could potentially lead to two scenarios:

- Grantees would attempt to continue funding all of their homeland security projects, including those that are eliminated but eligible under other programs, which might result in reduced funding for all homeland security projects; and
- grantees would not fund all of their needed homeland security projects.

The Administration, however, states that the reduction in the number of assistance programs consolidates prior individual programs and expands the eligible activities of the remaining programs. Additionally, the Administration states that the consolidation increases grantee discretion and encourages grantees to prioritize investments that meet specific homeland security needs that vary from grantee to grantee.¹³⁰

Assistance to Firefighters Grant Program (AFG)¹³¹

The Administration's FY2011 budget proposed \$610 million for firefighter assistance. The FY2011 request is a 25% decrease from the FY2010 level, and would, if approved, constitute the lowest amount for firefighter assistance since FY2002. Specifically, the Administration's FY2011 budget proposed \$305 million for AFG (a 22% decrease from the FY2010 level) and \$305 million for the Staffing for Adequate Fire and Emergency Response Program (SAFER) (a 27% decrease). The FY2011 request for AFG alone would, if approved, be the lowest amount since FY2001, the initial year of the program. The FY2011 budget proposal stated that the firefighter assistance grant process "will give priority to applications that enhance capabilities for terrorism response and other major incidents."

The Senate Appropriations Committee approved \$810 million for firefighter assistance (including \$390 million for AFG and \$420 million for SAFER), the same level as FY2010 and 33% more than the Administration proposal. Unlike the Administration proposal, the committee would continue to keep firefighter assistance in its own separate budget account. The committee report directed DHS to continue funding applications according to local priorities and priorities established by the United States Fire Administration, and to continue direct funding to fire departments and the peer review process.

Emergency Food and Shelter Program (EFS)¹³²

The EFS Program is authorized by Title III of the McKinney-Vento Homeless Assistance Act. The program enables thousands of social service providers across the nation to provide emergency help (preventing evictions, utility cut-offs; supplementing shelters, soup kitchens, food banks; etc.) to families and individuals in need. FEMA chairs a national board consisting of representatives from the Salvation Army, Catholic Charities USA, the United Way, the American Red Cross, the Jewish Federations of North America, and the National Council of Churches. The unique part of the program is that after allocations are made at the national level, decisions on funding to specific provider organizations are made at the local level by an EFS Local Board similar in composition to the EFS National Board. The total administrative budget for the program is 3.5%, so almost all funds go to direct services.

The Administration's FY2011 budget suggests cutting the EFS program in half, from its current \$200 million to \$100 million. The program had received an additional \$100 million in supplemental appropriations for FY2009, from P.L. 111-5, the American Recovery and

¹³⁰ U.S. Office of Management and Budget, *Appendix: Budget of the U.S. Government, Fiscal Year 2011*, Washington, DC, February 2010, p. 557.

¹³¹ Prepared by (name redacted), Specialist in Science and Technology Policy, Resources, Science and Industry Division.

¹³² Prepared by Francis McCarthy, Analyst in Emergency Management Policy, Government and Finance Division.

Reinvestment Act of 2009, the availability of which extended three months into FY2010. This means that the proposed funding cuts may have had a greater impact on local recipients given the recent funding history. The Administration's justification notes that the reduction in EFS funding will permit a "refocus of agency-wide resources on FEMA's primary mission" of disaster response and recovery efforts. The Senate has suggested a program budget of \$150 million, \$50 million above the Administration level and \$50 million below the current funding level.

While the EFS program is not a disaster program, it has been hosted at FEMA for more than 25 years and has a significant role in communities during times of high unemployment. The program has frequently been augmented during economic downturns, but the FY2011 budget request of \$100 million, as well as the Senate mark of \$150 million (from the \$200 million of the previous year), represents the largest reduction in the program's 27-year history.¹³³

Pre-Disaster Mitigation¹³⁴

The Pre-Disaster Mitigation (PDM) program provides federal grants to mitigate property damage and loss of life due to disasters. Although funding is authorized under Section 203 of the Stafford Act, eligibility for the PDM program does not require a Stafford Act disaster declaration.¹³⁵

Authorization for the PDM program was scheduled to expire on September 30, 2010. The Administration's FY2011 budget request would extend the authorization until September 30, 2011.¹³⁶ In the 111th Congress, Representative Oberstar and other sponsors introduced the Pre-Disaster Mitigation Act of 2010 which became P.L. 111-351. That act re-authorized the PDM program for an additional three years at \$180 million for FY2011 and \$200 million per year for the remaining two years.¹³⁷ The FY2011 budget requested \$100 million, which does not reflect any change from the appropriated amount for FY2010.¹³⁸ The Senate has suggested \$75 million, a reduction of \$25 million.

Flood Map Modernization¹³⁹

FEMA was directed to perform digital updates of flood maps every five years for communities participating in the National Flood Insurance Program.¹⁴⁰ The Administration's FY2011 budget requested \$26 million less than the FY2010 appropriated level, from \$220 million to \$194

¹³³ The largest previous reduction was in FY1996, which reduced the program funding level by \$30 million (from \$130 million to \$100 million).

¹³⁴ Prepared by (name redacted), Analyst in American Federalism and Emergency Management Policy, Government and Finance Division.

¹³⁵ 42 U.S.C. 5133 §203. For additional information on the PDM program, see CRS Report RL34537, *FEMA's Pre-Disaster Mitigation Program: Overview and Issues*, by (name redacted) and (name redacted).

¹³⁶ U.S. Office of Management and Budget, *Appendix: Budget of the U.S. Government, Fiscal Year 2011*, Washington, DC, February 2010, p. 574.

¹³⁷ P.L. 111-351, 124 Stat. 3864. This reauthorization also increased the state minimum amount to \$575,000.

¹³⁸ The FY2010 budget requested \$150 million, but P.L. 111-83 appropriated \$100 million and extended authorization for the program until September 30, 2010.

¹³⁹ Prepared by (name redacted), Analyst in American Federalism and Emergency Management Policy, Government and Finance Division.

¹⁴⁰ As required by §575 of P.L. 103-325, the 1994 Flood Insurance Program Reform Act.

million.¹⁴¹ In agreement with the Administration's request, the Senate committee recommended \$194 million for FY2011 for flood mapping activities. The reduced funding level may be attributed to the anticipated completion of the Flood Map Modernization Initiative (FMMI), and greater sharing of the costs of ongoing Flood Map Modernization (MapMod) with other federal, state, local, and private stakeholders.¹⁴²

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

Title IV includes appropriations for U.S. Citizenship and Immigration Services (USCIS), the Federal Law Enforcement Training Center (FLETC), the Science and Technology Directorate (S&T), and the Domestic Nuclear Detection Office (DNDO). **Table 17** provides account-level details of Title IV appropriations.

Table 17. Title IV: Research and Development, Training, Assessments, and Services

(budget authority in millions of dollars)

Operational Component	FY2010 Appropriation				FY2011 Appropriation			
	FY2010 Enacted	FY2010 Supp.	FY2010 Resc.	FY2010 Total	FY2011 Request	FY2011 House	FY2011 Senate-Reported S. 3607	FY2011 Enacted P.L. 112-10
Citizenship and Immigration Services								
Total available budget authority	2,727	11		2,738	2,812		2,598	2,650
Offsetting Fees	-2,503			-2,503	-2,427		-2,427	-2,503
Net subtotal	224	11		235	386		172	147
Federal Law Enforcement Training Center								
	283	8		291	280		274	271
Science and Technology								
Management and Administration	143			143	152		147	141
Research, Development, Acquisition, and Operations	863			863	866		863	688
Net Subtotal	1,006			1,006	1,018		1,010	829
Domestic Nuclear Detection Office								
Management and Administration	39			39	37		37	37

¹⁴¹ U.S. Office of Management and Budget, *Appendix: Budget of the U.S. Government, Fiscal Year 2011*, Washington, DC, February 2010, p. 564.

¹⁴² FEMA introduced the FMMI in 1997 to convert paper flood insurance rate maps (FIRMs) to digital maps (DFIRMs). MapMod costs are shared with FEMA Cooperating Technical Partners, which include other federal agencies, state and local governments, and private stakeholders.

Operational Component	FY2010 Appropriation				FY2011 Appropriation			
	FY2010 Enacted	FY2010 Supp.	FY2010 Resc.	FY2010 Total	FY2011 Request	FY2011 House	FY2011 Senate-Reported S. 3607	FY2011 Enacted P.L. 112-10
Research, Development, and Operations	325			325	208		208	275
Systems Acquisition	20			20	61		78	30
Net Subtotal	384			384	306		323	342
Gross budget authority: Title IV	4,400	19		4,419	4,416		4,206	4,092
Offsetting collections: Title IV	-2,503			-2,503	-2,427		-2,427	-2,503
Net budget authority: Title IV	1,896	19		2,019	1,990		1,779	1,589

Source: CRS Analysis of the *FY2011 DHS Congressional Budget Justifications*; the *FY2011 DHS Budget in Brief*; S.Rept. 111-222 to accompany S. 3607, 111th Congress; FY2010 Supplemental Appropriations Acts P.L. 111-230 and P.L. 111-242; H.R. 1, 112th Congress, and P.L. 112-10.

Notes: Amounts may not strictly accord with budgetary documents due to rounding. No official numbers are available for the House position as the bill and report were never published by the House Appropriations Committee.

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

After discussing the impact of P.L. 112-10 on DHS components under this title, this report will outline the Administration’s request, Senate action on the request in the 2nd session of the 111th Congress, and possible issues for Congress. As the House position on the Administration’s full request was never officially ratified by the Appropriations Committee in 2010, there is no data available from the House for direct comparison.

P.L. 112-10 and Title IV

Sections 1639 through 1647 of H.R. 1473, the final FY2011 CR (P.L. 112-10), provide explicit direction and funding level for the Title IV components of DHS.

The act appropriates \$147 million for USCIS, stipulating that \$103 million should be used for E-Verify and \$25 million for processing applications for asylum and refugee status. This represents a decline of \$239 million or 62% from the FY2011 request, and a decline of \$77 million or 34% from the FY2010 enacted appropriation of \$224 million.

The Federal Law Enforcement Training Center is provided \$235.9 million for salaries and expenses, even with the President’s request, and \$35.5 million for acquisitions, construction, improvements, and related expenses, \$3 million, or 7.8% below the request.

The Science and Technology Directorate is provided \$141.2 million for management and administration (\$10.7 million, or 7% below the request), and \$688 million for research, development, acquisition, and operations (\$178 million, or 21% below the request). The act states that funding for university programs shall not be reduced more than 20% from the FY2010 enacted level. It also sets aside \$40 million of the account as multi-year funding for the National Bio- and Agro-defense Facility’s (NBAF) central utility plant.

The act goes on in Section 1647 to restrict the use of funds it provides for NBAF until DHS has completed 50% of the design planning for NBAF and submitted a revised site-specific biosafety and biosecurity mitigation risk assessment that addresses the shortcomings found by the National Academy of Sciences' evaluation of the first risk assessment for NBAF.

For DNDO, funds were provided as follows, compared to the President's request: Management and Administration, \$37 million (even); Research, Development, and Operations, \$275.4 million (\$67.6 million, or 32.5% above); and Systems Acquisition, \$30 million (\$31 million, or 50.8% below).

Rescissions

In addition to the specifically directed reductions in funding levels, all of these accounts are subject to a 0.2% across-the-board rescission of budget authority for FY2011 in P.L. 112-10, which amounts to a \$3.2 million reduction.

Section 1656 of P.L. 112-10 rescinds \$9.4 million in FY2010 unobligated balances from Title IV components, including \$7.9 million from USCIS.

Section 1663 rescinds a further \$13 million in unobligated balances from USCIS, but states those funds may not come from E-Verify, data center migration, and processing applications for asylum and refugee status.¹⁴³

U.S. Citizenship and Immigration Services¹⁴⁴

Three major activities dominate the work of the U.S. Citizenship and Immigration Services (USCIS): (1) adjudication of immigration petitions (including nonimmigrant change of status petitions, relative petitions, employment-based petitions, work authorizations, and travel documents); (2) adjudication of naturalization petitions for legal permanent residents to become citizens; and (3) consideration of refugee and asylum claims, and related humanitarian and international concerns.

USCIS funds the processing and adjudication of immigrant, nonimmigrant, refugee, asylum, and citizenship benefits largely through funds generated by the Examinations Fee Account.¹⁴⁵ As part of the former Immigration and Naturalization Service (INS), USCIS was directed to transform its revenue structure with the creation of the Examinations Fee Account.¹⁴⁶ Although the agency has received annual direct appropriations in the last decade, they have been largely directed towards

¹⁴³ P.L. 112-10, April 15, 2011, 125 Stat. 38, at 147.

¹⁴⁴ This section was prepared by William Kandel, Analyst in Immigration Policy, Domestic Social Policy Division.

¹⁴⁵ §286 of the Immigration and Nationality Act, 8 U.S.C. §1356.

¹⁴⁶ There are two other fee accounts at USCIS, known as the H-1B Nonimmigrant Petitioner Account and the Fraud Prevention and Detection Account. The revenues in these accounts are drawn from separate fees that are statutorily determined (P.L. 106-311 and P.L. 109-13, respectively). USCIS receives 5% of the H-1B Nonimmigrant Petitioner Account revenues and 33% of the Fraud Detection and Prevention Account revenues. In FY2007, the USCIS shares of revenues in these accounts were approximately \$13 million each, and the funds combined for a little less than 2% of the USCIS budget (U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *Fiscal Year 2009 Congressional Budget Justifications*).

specific projects such as backlog reduction initiatives. The agency receives most of its revenue from adjudication fees of immigration benefit applications and petitions.

President's FY2011 Request

Table 18, which presents the FY2010 appropriations and FY2011 request, shows the requested USCIS gross budget authority for FY2011 at approximately \$2,813 million. The requested direct appropriation of \$386 million included \$103 million for the E-Verify program, \$23 million for data center development, and \$18 million for the Immigrant Integration Initiative. Moreover, the agency requested \$34 million for a new Systematic Alien Verification Entitlements (SAVE) Program to assist state, local, and federal agencies to determine individuals' eligibility for public benefits based on their immigration status. USCIS also proposed to fund asylum and refugee applications and military naturalizations—all which have no fees attached—with a direct appropriation of \$207 million. The remaining \$2,427 million in gross budget authority requested was expected to be funded by fee revenue. Of the fee-collected funds for FY2011, \$1,955 million would fund the USCIS adjudication services. The President's budget request also included requested funding levels of \$84 million for information and customer services, and \$337 million for administration.

Table 18. USCIS Budget Account Detail

(budget authority in millions of dollars)

Program/Project Activity	FY2010 Enacted	FY2011 Request	FY2011 House-Passed	FY2011 Senate-Reported	FY2011 Enacted
Appropriations	224	386		172	147
REAL ID Act Implementation	10	0		0	
E-Verify (Basic Pilot Program)	137	103		103	103
Data Center Development	11	23		7	
Immigrant Integration Initiative	11	18		11	
Asylum, Refugees, & Military Naturalizations Processing	55	207		50	25
SAVE		34			
Fee Collections	2,503	2,427		2,427	
Immigration Examination Fee Account	2,451	2,375		2,375	
H-1B Visa	13	13		13	
H-1B/L Fraud	38	38		38	
Total USCIS Funding	2,860	2,813		2,598	

Source: CRS Analysis of the FY2011 DHS Congressional Budget Justifications; the FY2011 DHS Budget in Brief; S.Rept. 111-222 to accompany S. 3607, 111th Congress; FY2010 Supplemental Appropriations Acts P.L. 111-230 and P.L. 111-242; H.R. 1, 112th Congress, and P.L. 112-10.

Notes: Amounts may not strictly accord with budgetary documents due to rounding. No official numbers are available for the House position as the bill and report were never published by the House Appropriations Committee. No report was issued to accompany P.L. 112-10 and therefore subaccount-level details for FY2011 are not available.

Senate-Reported S. 3607, 111th Congress

The Senate-reported S. 3607 proposed appropriating \$172 million for USCIS, the same as the Administration's request, including \$50 million for processing asylee and refugee applications and \$103 million for immigration verification programs such as E-Verify. The Senate also proposed that immigrant integration funds be limited to assist immigrants lawfully admitted for permanent residence.

Issues for Congress

For the FY2011 budget cycle, potential issues for Congress continue to include declines in immigrant and nonimmigrant applications, the use of fee-generated funding, and the USCIS request for appropriations to process refugee, asylee, and military naturalization applications.

Application Declines and Fee-generated Funding

Because USCIS supports itself primarily through fee revenue, it must accurately project the number of anticipated applications to avoid building backlogs or over-budgeting projects. USCIS was criticized for its alleged unpreparedness in the face of surging applications prior to the 2007 fee increases.¹⁴⁷ More recently, the global economic downturn raised concerns about declining application volume and agency revenue. Such declines would affect future projects and require additional Congressional appropriations. In response, USCIS has moved to more accurately project its application volume to better inform the budgeting process.¹⁴⁸

Appropriations for Waiver Applications

In its FY2011 presidential budget request, USCIS sought direct appropriations of \$207 million to fund applications for refugees, asylum-seekers, and military naturalizations. Historically, USCIS has funded these no-fee applications through its general application fee revenue. Congress has considered providing USCIS with direct appropriations for such application processing and the fees. This may be an issue of concern to Congress as it considers the FY2011 request. Likewise, the FY2011 presidential budget request also included a \$34 million appropriation for the SAVE Program, currently funded through "surcharges" on immigration application fees.

¹⁴⁷ For more information, see CRS Report RL34040, *U.S. Citizenship and Immigration Services' Immigration Fees and Adjudication Costs: Proposed Adjustments and Historical Context*, by (name redacted).

¹⁴⁸ Information is based upon CRS discussions with the USCIS Chief Financial Officer in 2009.

Federal Law Enforcement Training Center¹⁴⁹

The Federal Law Enforcement Training Center (FLETC) provides law enforcement instruction, such as firearms training, high-speed vehicle pursuit, and defendant interview techniques, for 85 federal entities with law enforcement responsibilities. FLETC also provides training to state and local law enforcement entities and international law enforcement agencies. Training policies, programs, and standards developed by an interagency board of directors focus on providing training that develop the skills and knowledge needed to perform law enforcement activities. FLETC administers four training sites throughout the United States and employs approximately 1,000 personnel.

President's FY2011 Request

The overall request for FLETC in FY2011 was \$280 million, a decrease of \$3 million from the FY2010 appropriation of \$283 million. In FY2011, FLETC officials intend to

- continue the re-accreditation, begun in FY2010, for its law enforcement training programs; and
- continue to provide professional law enforcement training to its federal, state, local, and international partners.¹⁵⁰

Senate-Reported S. 3607, 111th Congress

The Senate-reported S. 3607 would provide \$274 million to FLETC, or \$5 million less than the administration request and a \$8 million decrease from the FY2010-enacted amount.

Science and Technology¹⁵¹

The Directorate of Science and Technology (S&T) is the primary DHS organization for research and development (R&D). Headed by the Under Secretary for Science and Technology, it performs R&D in several laboratories of its own and funds R&D performed by the Department of Energy national laboratories, industry, universities, and others.¹⁵²

President's FY2011 Request

The Administration has requested a total of \$1,018 million for the S&T Directorate for FY2011 (see **Table 19**). This is 2% more than the FY2010 appropriation, but it includes \$109 million for radiological and nuclear countermeasures R&D, an activity formerly funded in the Domestic

¹⁴⁹ Prepared by (name redacted), Analyst in Emergency Management and Homeland Security Policy, Government and Finance Division.

¹⁵⁰ U.S. Department of Homeland Security, *Federal Law Enforcement Training Center, Salaries and Expenses: Fiscal Year 2011 Congressional Justification*, Washington, DC, February 2010.

¹⁵¹ Prepared by (name redacted), Specialist in Science and Technology Policy, Resources, Science, and Industry Division.

¹⁵² For more information, see CRS Report RL34356, *The DHS Directorate of Science and Technology: Key Issues for Congress*, by (name redacted) and (name redacted).

Nuclear Detection Office (DNDO). Funding for the directorate's other activities is 9% below the FY2010 level. The proposed reduction of \$39 million for the Infrastructure and Geophysical Division includes the termination of local and regional initiatives previously established or funded at congressional direction. The request for Laboratory Facilities includes no funds for the planned National Bio and Agro Defense Facility (NBAF), which received \$32 million in FY2010, but DHS announced plans to request a reprogramming of unobligated prior-year funds to support construction of a utility plant at the NBAF site.¹⁵³

Table 19. Directorate of Science and Technology, Accounts and Activities

(budget authority in millions of dollars)

	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate- Reported	FY2011 Enacted
Directorate of Science and Technology—Total	1,006	1,018		1,010	829
Management and Administration	143	152		147	141
R&D, Acquisition, and Operations	863	866		863	688
Border and Maritime	44	40		40	
Chemical and Biological	207	201		201	
Command, Control, and Interoperability	82	75		77	
Explosives	121	121		121	
Human Factors / Behavioral Sciences	16	13		13	
Infrastructure and Geophysical	75	36		57	
Radiological/Nuclear	—	109		109	
Innovation	44	44		44	
Laboratory Facilities	150	122		122	
Test and Evaluation, Standards	29	23		23	
Transition	46	42		42	
University Programs	49	40		50	
Unspecified Reduction				-36	

Source: CRS Analysis of the FY2011 DHS Congressional Budget Justifications; the FY2011 DHS Budget in Brief; S.Rept. 111-222 to accompany S. 3607, 111th Congress; FY2010 Supplemental Appropriations Acts P.L. 111-230 and P.L. 111-242; H.R. 1, 112th Congress, and P.L. 112-10.

Notes: Amounts may not strictly accord with budgetary documents due to rounding. No official numbers are available for the House position as the bill and report were never published by the House Appropriations

¹⁵³ DHS is prohibited from obligating funds for NBAF construction until 30 days after it completes a safety and security assessment, has it evaluated by the National Academy of Sciences, and provides the Academy's report and certain other reports to the House and Senate appropriations committees. (Department of Homeland Security Appropriations Act, 2010, P.L. 111-83, Sec. 560) According to the FY2011 DHS congressional budget justification, DHS expects to conduct site preparation at the NBAF site during FY2010 and FY2011, and to begin construction of a utility plant in FY2011, but does not plan to commence construction of the laboratory facility until FY2012.

Committee. No report was issued to accompany P.L. 112-10 and therefore subaccount-level details for FY2011 are not available.

Senate-Reported S. 3607, 111th Congress

The Senate-reported bill would provide \$8 million less than requested for the S&T Directorate. Relative to the request, the bill would restore \$21 million for local and regional initiatives in the Infrastructure and Geophysical Division and add \$10 million for University Programs. These increases would be more than offset, however, by an unspecified reduction of \$36 million and the elimination of \$5 million requested for data center migration in the Management and Administration account. The Senate committee “strongly endorsed” the transfer of radiological and nuclear R&D from DNDO to the S&T Directorate but called for an independent review before S&T determines the program’s FY2011 research priorities.

Issues for Congress

National Bio and Agro Defense Facility (NBAF)

The construction of NBAF will likely require significant increases in Laboratory Facilities funding over the next several years. It may also result in increased congressional oversight. For construction of NBAF and decommissioning of the Plum Island Animal Disease Center (PIADC), which NBAF will replace, DHS expects to need further appropriations of \$691 million between FY2012 and FY2017. The estimated total federal cost of the NBAF project increased from \$451 million in December 2006 to \$615 million in May 2009. Additional site-specific infrastructure and utility upgrade costs of \$110 million are to be contributed in-kind by Kansas State University and its partners. Decommissioning PIADC is expected to cost another \$190 million. These estimated costs have not changed since May 2009, but the completion schedule has been extended by one year because the process of selling Plum Island is taking longer than DHS had planned. In the Department of Homeland Security Appropriations Act, 2009 (P.L. 110-329, Div. D, Sec. 540) and the Department of Homeland Security Appropriations Act, 2010 (P.L. 111-83, Sec. 540) Congress authorized DHS to use receipts from the sale of Plum Island, subject to appropriation, to offset NBAF construction and PIADC decommissioning costs. Similar language is included in S. 3607 as reported.¹⁵⁴

Testing and Evaluation for Large DHS Acquisition Projects

Congress has been interested for several years in DHS policies and procedures for testing and evaluation (T&E) of large acquisition projects. This interest has especially focused on the T&E role of the S&T Directorate in acquisitions by other DHS components. The Homeland Security Act of 2002 (P.L. 107-296, Section 306) authorizes the Secretary of Homeland Security, acting through the Under Secretary for Science and Technology, to “issue necessary regulations with respect to ... testing and evaluation activities of the Department.” Under current DHS policy, in establishing T&E policies and procedures for DHS acquisitions, the Under Secretary acts through the Director of the S&T Directorate’s Test and Evaluation and Standards Division (TSD) and a special assistant in the TSD known as the Director of Operational Testing and Evaluation

¹⁵⁴ For more information on NBAF, see CRS Report RL34160, *The National Bio- and Agro-Defense Facility: Issues for Congress*, by (name redacted), (name redacted), and (name redacted).

(DOT&E).¹⁵⁵ Congressional oversight of DHS acquisition and T&E may therefore focus attention on the S&T Directorate's funding for Test and Evaluation and Standards.

Federally Funded Research and Development Centers: HSI, HSSAI, and HSSEDI

Statutory authority for the Homeland Security Institute (HSI) expired in April 2009. Under its general authority to establish federally funded R&D centers, the S&T Directorate has replaced HSI with the Homeland Security Studies and Analysis Institute (HSSAI). It has also established a new Homeland Security Systems Engineering and Development Institute (HSSEDI). Both institutes are funded mostly on a cost-reimbursement basis by other S&T programs and other DHS and non-DHS agencies. The institutes attracted outside users in FY2009 at only about one-third the level that DHS had anticipated. Nevertheless, DHS expects them to grow rapidly in FY2010 and continue growing in FY2011. The FY2011 budget justification projects reimbursable obligations of \$187 million in FY2011, more than four times the FY2009 level of \$42 million.

Domestic Nuclear Detection Office¹⁵⁶

The Domestic Nuclear Detection Office (DNDO) is the primary DHS organization for combating the threat of nuclear attack. It is currently responsible for all DHS nuclear detection research, development, testing, evaluation, acquisition, and operational support. Under the Administration's FY2011 budget, DNDO's research role would be transferred to the Directorate of Science and Technology (S&T).

President's FY2011 Request

The Administration requested a total of \$306 million for DNDO for FY2011 (see **Table 20**). This is a 20% decrease from the FY2010 appropriation, but excluding Transformational R&D, which would be transferred to the S&T Directorate, the remaining activities would increase by 12%. In some cases, however, there would be substantial shifts in emphasis. Systems Acquisition would receive \$53 million for human-portable radiation detection systems, versus none in FY2010. Systems Development would be reduced by \$31 million.

¹⁵⁵ DHS, *Acquisition Management Directive*, DHS Directive 102-01, revision 01, authorized by the Under Secretary for Management on January 20, 2010.

¹⁵⁶ Prepared by (name redacted), Specialist in Science and Technology Policy, Resources, Science, and Industry Division.

Table 20. Domestic Nuclear Detection Office, Accounts and Activities

(budget authority in millions of dollars)

	FY2010 Enacted	FY2011 Request	FY2011 House- Passed	FY2011 Senate- Reported	FY2011 Enacted
Domestic Nuclear Detection Office					
Total	384	306		323	342
Management and Administration	39	37		37	37
Research, Development, and Operations	325	208		208	275
Systems Engineering and Architecture	25	39		39	
Systems Development	100	69		69	
Transformational Research and Development	109			0	
Assessments	32	43		43	
Operations Support	38	34		34	
National Technical Nuclear Forensics	20	23		23	
Systems Acquisition	20	61		78	30
Radiation Portal Monitoring Program	—	8		20	
Securing the Cities	20	—		20	
Human Portable Radiation Detection Systems	—	53		38	

Source: CRS Analysis of the FY2011 DHS Congressional Budget Justifications; the FY2011 DHS Budget in Brief; S.Rept. 111-222 to accompany S. 3607, 111th Congress; FY2010 Supplemental Appropriations Acts P.L. 111-230 and P.L. 111-242; H.R. 1, 112th Congress, and P.L. 112-10.

Notes: Amounts may not strictly accord with budgetary documents due to rounding. No official numbers are available for the House position as the bill and report were never published by the House Appropriations Committee. No report was issued to accompany P.L. 112-10 and therefore subaccount-level details for FY2011 are not available.

Senate-Reported S. 3607, 111th Congress

The Senate-reported bill would provide \$17 million more than the request for DNDO. It would provide the requested amount for Research, Development, and Operations but would rescind \$27 million in unobligated prior-year balances. Relative to the request for Systems Acquisition, the bill would increase funding for radiation portal monitors by \$12 million in order to address coverage gaps, restore funding for the Securing the Cities program, and reduce funding for human-portable radiation detectors by \$15 million because of procurement delays. The Senate committee encouraged DHS to review whether the acquisition of nuclear detection equipment should be funded by the operational components rather than by DNDO; in this discussion, the committee characterized DNDO as primarily an R&D organization.

Issues for Congress

Advanced Spectroscopic Portal (ASP) Program

Congressional attention has focused in recent years on the testing and analysis DNDO has conducted to support its planned purchase and deployment of Advanced Spectroscopic Portals (ASPs), a type of next-generation radiation portal monitor.¹⁵⁷ Congress included a requirement for secretarial certification before full-scale ASP procurement in each homeland security appropriations act from FY2007 through FY2010. Similar language is included in S. 3607 as reported. The expected date for certification has been postponed several times. In February 2010, DHS decided that it will no longer pursue the use of ASPs for primary screening, although it will continue developing and testing them for use in secondary screening.¹⁵⁸

Global Nuclear Detection Architecture

The global nuclear detection architecture overseen by DNDO remains an issue of congressional interest.¹⁵⁹ According to the FY2011 congressional budget justification, the proposed reduction in funding for Systems Development reflects “a shift in DNDO priorities to developing a wider range of potential solutions to enduring vulnerabilities in the global nuclear detection architecture” and will result in increased funding for “systems studies, as well as testing and piloting existing technologies in new operational environments.” Congress may consider the basis for and implications of these changes in priorities, including how they may affect other elements of the global architecture. Other agencies with a role in the architecture, in addition to DHS, include DOD, DOE, the Department of State, and the intelligence community.

DNDO Role in Research and Acquisition

The mission of DNDO, as established by Congress in the SAFE Port Act (P.L. 109-347, Title V), includes serving as the primary federal entity “to further develop, acquire, and support the deployment of an enhanced domestic system” for detection of nuclear and radiological devices and material (6 U.S.C. 592). The act also eliminated any explicit mention of radiological and nuclear countermeasures from the statutory duties and responsibilities of the Under Secretary for S&T. Congress may consider whether the proposed transfer of DNDO’s research activities to the S&T Directorate is consistent with its intent in the SAFE Port Act. It may also consider the acquisition portion of DNDO’s mission. Most of DNDO’s funding for Systems Acquisition was eliminated in FY2010, and that year’s budget stated that “funding requests for radiation detection equipment will now be sought by the end users that will operate them.”¹⁶⁰ In contrast, the FY2011 request for Systems Acquisition includes more funding than ever before for DNDO’s procurement of human-portable radiation detectors on behalf of the Coast Guard, Customs and Border

¹⁵⁷ For more information, see CRS Report RL34750, *The Advanced Spectroscopic Portal Program: Background and Issues for Congress*, by (name redacted), (name redacted), and (name redacted).

¹⁵⁸ Letter from Dr. William K. Hagan, Acting Director, DNDO, to Senator Lieberman, February 24, 2010, http://hsgac.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=11f7d1f0-c4fe-4105-94e6-bb4a0213f048.

¹⁵⁹ For more information, see CRS Report RL34574, *The Global Nuclear Detection Architecture: Issues for Congress*, by (name redacted).

¹⁶⁰ Executive Office of the President, FY2010 Budget, Appendix, p. 560.

Protection, and the Transportation Security Administration. The reasons for this apparent reversal of policy are not explained in the FY2011 congressional budget justification for DNDO.

Appendix A. FY2010 Supplemental Appropriations

P.L. 111-212

On July 29, 2010, the President signed into law P.L. 111-230, making \$5,177 million in supplemental FY2010 appropriations available to DHS. The supplemental appropriations include the following amounts: \$66 million for the Coast Guard (\$50 million for Operating Expenses, and \$16 million for Acquisition, Construction, and Improvements); \$5,100 million for FEMA's Disaster Relief Fund (of which \$5 million is transferred to the DHS OIG); and \$11 million for USCIS.

P.L. 111-230

On August 13, 2010, the President signed into law P.L. 111-230, making \$600 million emergency supplemental appropriations available for border security, of which \$394 million is allocated to DHS, \$196 million to the Department of Justice (DOJ), and \$10 million to the Federal Judiciary. Within DHS, P.L. 111-230 provides CBP with a total of \$306 million, including \$176 million for additional Border Patrol agents, \$39 million for CBP officers at ports of entry on the Southwest border, \$10 million to support integrity and background investigation programs, \$14 million for tactical communications, \$32 million for UAV acquisition and deployment, and \$6 million for the construction of forward-operating bases for the Border Patrol. P.L. 111-230 also includes \$80 million for ICE, of which \$30 million is directed toward efforts to reduce the threat of violence along the Southwest border, and \$50 million for additional ICE personnel; and \$8 million for the CBP, BP, and ICE basic training at the Federal Law Enforcement Training Center (FLETC).

Administration Budget Amendment

In a June 22, 2010, budget amendment the Administration requested an additional \$600 million for border security along the Southwest border of the United States, including added funding to the U.S. Border Patrol (USBP). This funding would be partially offset by rescinding \$100 million in DHS funds for SBInet (commonly known as the "virtual border fence"), which has been suspended pending the outcome of a technical and cost review. The Administration requested that the remainder be designated as emergency requirements. Of the total, \$399 million would have been for DHS and \$201 million would go to DOJ.

Within the DHS total, \$297 million would have been used to hire 1,000 new Border Patrol agents, \$37 million for two new unmanned aerial detection systems, \$53 million for 160 new Immigration and Customs Enforcement (ICE) agents, \$6.5 million for 30 new Customs and Border Patrol (CBP) officers, and \$6 million for 20 new Customs and Border Protection (CBP) canine teams to improve border enforcement operations along the Southwest border.

The \$201 million that was requested for DOJ would have increased the presence of federal law enforcement in the Southwest border districts by adding seven Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) Gunrunner Teams, five FBI Hybrid Task Forces, additional Drug Enforcement Administration (DEA) agents, equipment, operational support, and additional attorneys and immigration judges, and supporting additional detention and incarceration costs for criminal aliens in coordination with DHS enforcement activities. The amendment would also

have provided funding to support Mexican law enforcement operations with ballistic analysis, DNA analysis, information sharing, technical capabilities, and technical assistance.¹⁶¹

Congressional Action on Border Security

The budget amendment by the Administration was initially included in the House-passed version of H.R. 4899, but the border security provisions were dropped prior to final passage and the identical provisions were re-introduced as a separate bill—the Emergency Border Security Supplemental Appropriations Act of 2010 (H.R. 5875). H.R. 5875 included \$701 million for border security, \$100 million more than the Administration’s request. Both the Administration and the House-amended version included \$201 million to DOJ for border security efforts, largely for more law enforcement personnel, as discussed above. H.R. 5875 was passed in the House on July 28, 2010.

For CBP, House-passed H.R. 5875 would have provided a total of \$412 million, \$13 million more than the request, including \$208 million for new Border Patrol agents, \$32 million for two new unmanned aerial detection systems, \$136 million to hire and retain new CBP officers, and \$36 million for tactical communications and infrastructure, as well as for corruption investigations, and \$8 million for training. Additionally, the House-passed version would have provided \$30 million for ICE, \$23 million less than requested, to reduce narcotics smuggling and border violence, and it puts \$50 million toward supporting state and local law enforcement through Operation Stonegarden (distributed through FEMA). Also, the Administration’s request would have provided fewer Border Patrol agents and CBP officers than the House July-amended version.

On August 5, 2010, the Senate took up S. 3721 as a substitute amendment to House-passed H.R. 5875. The bill was passed by unanimous consent. Senate-passed H.R. 5875 includes \$600 million for border security (\$101 million less than House-passed H.R. 5875 would provide), of which \$394 million is allocated to DHS and \$196 million to DOJ. In contrast to the House version of the bill, Senate-passed H.R. 5875 was reportedly completely offset by increases to H1-B and L visa fees and a rescission.

For CBP, Senate-passed H.R. 5875 would have provided a total of \$306 million, including \$176 million for additional Border Patrol agents, \$39 million for CBP officers at ports of entry on the Southwest border, \$10 million to support integrity and background investigation programs, \$14 million for tactical communications, \$32 million for UAV acquisition and deployment, and \$6 million for the construction of forward-operating bases for the Border Patrol. Senate-passed H.R. 5875 also included \$80 million for ICE, of which \$30 million was directed toward efforts to reduce the threat of violence along the Southwest border, and \$50 million for additional ICE personnel; and \$8 million for the CBP, BP, and ICE basic training at the Federal Law Enforcement Training Center (FLETC).

On August 9, the House introduced a new border security supplemental bill—H.R. 6080—which was subsequently passed by the House on August 10. H.R. 6080 contained identical language to Senate-passed H.R. 5875. Reportedly, the House took up the bill with a new number to avoid a

¹⁶¹ OMB, Estimate No. 8, “FY2010 Emergency Supplemental Proposals in the FY2011 Budget for the Departments of Homeland Security and Justice to Support Efforts to Secure the Southwest Border and Enhance Federal Border Protection and Law Enforcement and Counternarcotics Activities,” June 22, 2010.

dispute related to its constitutional obligation to originate all revenue measures.¹⁶² This dispute arose with the addition of funding provisions in Senate-passed H.R. 5875 that were not included in the House-passed version. On August 12, the Senate passed H.R. 6080 without amendment by unanimous consent.

¹⁶² Theo Emery and Edward Epstein, "Border Security Bill Passes in House," *CQ Today*, August 10, 2010, online edition.

Appendix B. DHS Appropriations in Context

Federal-Wide Homeland Security Funding

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

With regard to DHS funding, it is important to note that DHS funding does not comprise all federal spending on homeland security efforts. In fact, while the largest component of federal spending on homeland security is contained within DHS, the DHS homeland security request for FY2011 accounts for approximately 51% of total federal funding for homeland security. The Department of Defense comprises the next highest proportion at 26% of all federal spending on homeland security. The Department of Health and Human Services at 6%, the Department of Justice at 6% and the Department of Energy at 3% round out the top five agencies in spending on homeland security. These five agencies collectively account for nearly 93% of all federal spending on homeland security. It is also important to note that not all DHS funding is classified as pertaining to homeland security activities. The legacy agencies that became a part of DHS also conduct activities that are not homeland security related. Therefore, while the FY2011 request included total *homeland security* budget authority of \$37.1 billion for DHS, the requested *total budget authority* for DHS was \$52.6 billion. Moreover, the amounts shown in **Table B-1** will not be consistent with total amounts shown elsewhere in the report. This same inconsistency between homeland security budget authority and requested total budget authority is true of the other agencies listed in the table.

Table B-1. Federal Homeland Security Funding by Agency, FY2002-FY2011

(budget authority in millions of dollars)

Department	FY2002	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011 Request	FY2011 as % of Total
Department of Homeland Security (DHS)	17,381	23,063	22,923	24,549	26,571	29,554	32,486	38,988	32,807	37,066	51%
Department of Defense (DOD) ^a	16,126	8,442	7,024	17,188	17,510	16,538	18,032	19,483	19,041	19,103	26%
Department of Health and Human Services (HHS)	1,913	4,144	4,062	4,229	4,352	4,327	4,301	4,677	7,228	4,528	6%
Department of Justice (DOJ)	2,143	2,349	2,180	2,767	3,026	3,518	3,528	3,715	4,107	4,285	6%
Department of Energy (DOE)	1,220	1,408	1,364	1,562	1,702	1,719	1,827	1,939	2,018	2,023	3%
Department of State (DOS)	477	634	696	824	1,108	1,242	1,719	1,809	1,767	2,259	3%
Department of Agriculture (AG)	553	410	411	596	597	541	575	513	599	596	1%
National Science Foundation (NSF)	260	285	340	342	344	385	365	407	390	405	1%
Department of Veterans Affairs (VA)	49	154	271	249	298	260	309	310	427	428	1%
Department of Commerce	116	112	125	167	181	205	207	272	254	286	0%
Other Agencies	3,613	1,445	1,437	1,910	1,429	1,545	1,751	1,883	1,824	1,533	2%
Total Federal Budget Authority	43,848	42,447	40,834	54,383	57,118	59,833	65,099	73,996	70,462	72,512	100%

Sources: CRS analysis of data contained in Section 3. "Homeland Security Funding Analysis," and Appendix K of the Analytical Perspectives volume of the FY2011 President's Budget (for FY2009-FY2011); Section 3. "Homeland Security Funding Analysis," and Appendix K of the Analytical Perspectives volume of the FY2010 President's Budget (for FY2008); Section 3. "Homeland Security Funding Analysis," and Appendix K of the Analytical Perspectives volume of the FY2009 President's Budget (for FY2007); Section 3. "Homeland Security Funding Analysis," of Analytical Perspectives volume of the FY2008 President's Budget (for FY2006); Section 3. "Homeland Security Funding Analysis," of Analytical Perspectives volume of the FY2008 President's Budget (for FY2005); Section 3. "Homeland Security Funding Analysis," of Analytical Perspectives volume of the FY2006 President's Budget (for FY2004); Section 3. "Homeland Security Funding Analysis," of Analytical Perspectives volume of the FY2005 President's Budget (for FY2003) and Office of Management and Budget, *2003 Report to Congress on Combating Terrorism*, Sept. 2003, p. 10; CRS analysis of FY2002-2006 re-estimates of DOD homeland security funding provided by OMB, March 17, 2005.

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

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

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