

Department of Homeland Security Appropriations: FY2024 State of Play

Updated October 5, 2023

Congressional Research Service

<https://crsreports.congress.gov>

R47688

Contents

Introduction	1
When Annual Appropriations Are Not Enacted Before the New Fiscal Year Begins... ..	1
If a Continuing Resolution Is Not Enacted or Expires... ..	2
DHS Appropriations Timing.....	5
The FY2024 DHS Appropriations Process.....	7
Advance Supplemental Appropriations.....	7
President’s Budget Request.....	8
House Action.....	8
Senate Committee Action.....	8
Continuing Resolution	9
Proposed Anomalies and Authorization Extensions for FY2024.....	9
Continuing Resolution Enacted	10

Figures

Figure 1. Planned DHS Furlough and Exemption/Exception Summary, Sept. 2023	3
Figure 2. DHS Appropriations Process Timing, FY2004-FY2024	6

Tables

Table 1. Accounts with Supplemental and Advance Appropriations for DHS in the Infrastructure Investment and Jobs Act (P.L. 117-58)	7
---	---

Contacts

Author Information.....	12
-------------------------	----

Introduction

Fiscal year 2024 marks the 21th annual appropriations cycle with a Department of Homeland Security (DHS) appropriations measure. In six of the first seven years of its existence, the annual appropriations measure for DHS was enacted within a month of the beginning of the fiscal year it covered. Since FY2010, no annual DHS appropriations measure was enacted before two months of the fiscal year it covered had passed, and in ten of those thirteen years, three months had passed before DHS annual appropriations were enacted. Lapses in annual appropriations for the department lasting more than a week have occurred twice in this period when continuing appropriations were not provided.

This report is a quick reference for tracking the status of DHS appropriations for FY2024 from the end of the August 2023 district work period going forward.

For more in-depth analyses of the FY2024 DHS appropriations request and the House and Senate Appropriations Committee responses, see

- CRS Report R47496, *DHS Budget Request Analysis: FY2024*;
- CRS Report R47678, *Comparing DHS Component Funding, FY2024: In Brief*; and
- CRS Report R47663, *Department of Homeland Security Appropriations: FY2024 Provisions*.

For background on DHS structure and function, see CRS Report R47446, *The Department of Homeland Security: A Primer*.

When Annual Appropriations Are Not Enacted Before the New Fiscal Year Begins...

The federal government's fiscal year ends at midnight on September 30. As this deadline approaches, if any of the regular, full-year appropriations measures are not expected to be enacted by the end of the fiscal year, the Administration and Congress may take steps to prepare continuing appropriations legislation—known as a *continuing resolution* (CR), or, colloquially, “stopgap” funding—to extend funding for federal government operations until the unresolved appropriations measures are signed into law. CRs do not provide specific levels of budget authority to agencies. They provide *temporary* budget authority at a specified *rate for operations* (the annualized level of resources available for the period of time covered by the CR) through a fixed expiration date, or until annual appropriations are enacted. Further, the Office of Management and Budget generally apportions those resources gradually over the period of the CR, and there are certain restrictions placed on the use of that temporary budget authority beyond the most basic agency operations. The rate for operations is typically derived from the prior fiscal year's annual appropriations measures, and the terms and conditions of those appropriations continue to apply under the CR.¹

These steps first become visible to the public when the Administration provides Congress technical assistance on issues that would need to be addressed in the CR to avoid unintended consequences. These include necessary exceptions to that rate for operations, known as “anomalies.” The technical assistance often includes extensions of authorizations that the

¹ For more detailed information on continuing resolutions and how they work, see CRS Report R46595, *Continuing Resolutions: Overview of Components and Practices*, coordinated by James V. Saturno.

Administration either proposes including, or would not object to including, in a CR, in the event other legislation does not address expiring authorities in time. The Biden Administration provided technical assistance for drafting a continuing resolution, including such lists of anomalies and authorization provisions, on August 31, 2023.² Congress weighs that information in formulating a CR, which is generally introduced by the House or Senate Appropriations Committee without going through a formal markup process. A CR may be considered as a stand-alone measure or attached to another bill.

A CR may only cover certain federal government agencies in cases when some annual appropriations have been enacted. For example, in FY2015, when disputes over immigration policy led to the DHS appropriations bill being pulled from a consolidated appropriations measure, for almost three months DHS was the only federal department covered by the CR.³

If a Continuing Resolution Is Not Enacted or Expires...

A lapse in annual appropriations, or “funding gap,” occurs if the regular appropriations bills or a CR are not enacted prior to the end of a fiscal year, or is allowed to expire without enactment of either further continuing appropriations or the covered annual appropriations acts. A funding gap may result in a partial shutdown of government operations for those agencies without enacted annual appropriations. Immediately prior to the end of the fiscal year, agencies release shutdown plans that indicate, in broad terms, how the partial shutdown of operations would be implemented.

Two general types of agency activities are allowed to continue:

1. Those that still have funding available (exempt functions), such as activities funded by multi-year appropriations or those that are funded through laws other than the appropriations acts (known as mandatory or direct spending); and
2. Those which have exceptions in law (excepted functions), such as those specifically related to the protection of life and property, and those necessary to the discharge of constitutional duties and powers. However, even for agencies like DHS, which conducts many of these excepted activities, lapses in annual appropriations can be highly disruptive.⁴

Occasionally, funding gaps have occurred for a matter of hours, or over a weekend, meaning that a shutdown may not have fully commenced for certain activities.⁵ However, in October 2013 (FY2014), a funding gap resulted in a partial shutdown of DHS operations for 16 days. Also, in

² The lists are not available on the White House website as of the date of this report’s original publication. The lists of CR issues (hereinafter “FY2024 CR Appropriations Issues”) and authorization issues (hereinafter “FY2024 CR Authorization Issues”) can be found at https://www.crs.gov/products/Documents/FY2024_CR_anomalies_list/pdf/FY2024_CR_anomalies_list.pdf, and https://www.crs.gov/products/Documents/FY2024_CR_authorization_provisions/pdf/FY2024_CR_authorization_provisions.pdf, respectively.

³ P.L. 113-235, Division L.

⁴ For further information on the impact of the FY2014 lapse in appropriations on DHS, see CRS Report R43252, *FY2014 Appropriations Lapse and the Department of Homeland Security: Impact and Legislation*, by William L. Painter.

⁵ In FY2018, two brief lapses of annual appropriations occurred with expirations of the CR: on January 20, 2018, appropriations lapsed until January 22; and on February 8, 2018, appropriations lapsed for several hours until an extension of the CR was enacted.

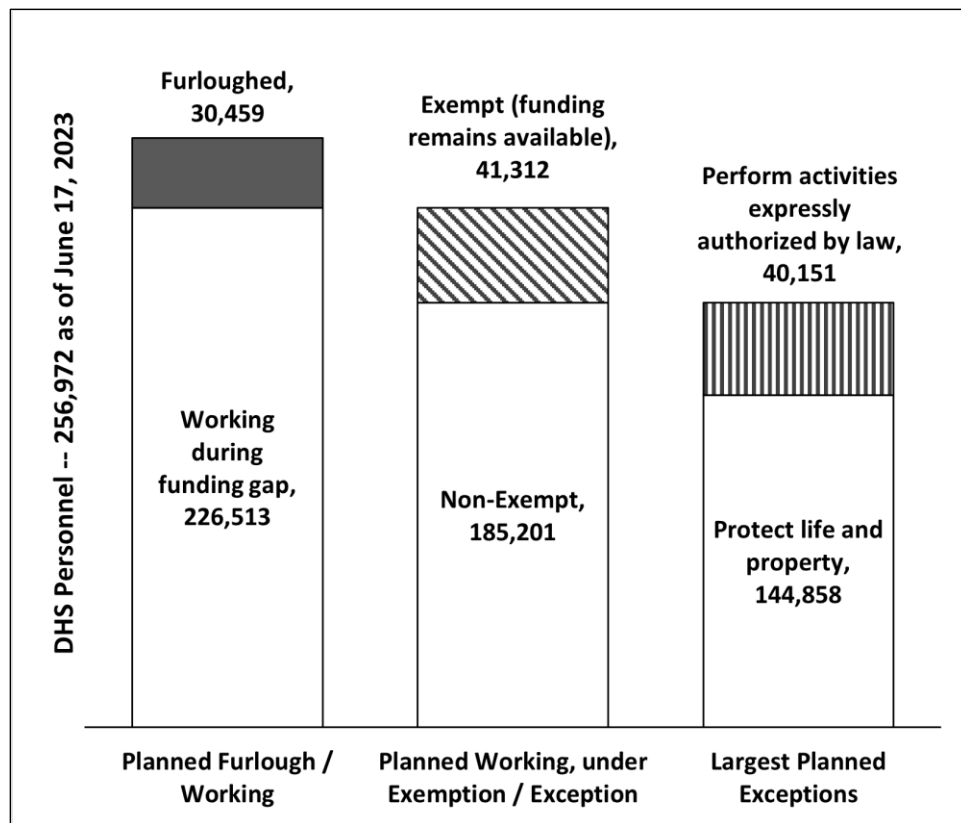
late 2018 and early 2019 (FY2019), annual appropriations for many departments, including DHS, lapsed for 34 days.⁶

Potential Impact of a DHS Funding Gap

The Office of Management and Budget requires agencies to submit contingency plans for lapses in annual appropriations. DHS's contingency plan, published on September 26, 2023, included information on what activities would continue and which would cease in the event of such a funding gap.

Figure 1 and the ensuing text box present department-level information from the September 26, 2023, contingency plan.

Figure 1. Planned DHS Furlough and Exemption/Exception Summary, Sept. 2023



Source: U.S. Department of Homeland Security, "Procedures Related to a Lapse in Appropriations," September 26, 2023.

Notes: Exception totals do not include additional personnel who may qualify as excepted in the event of an emergency. The September 2023 plan also notes exception from furlough of 38 personnel whose positions are implied by law to incur obligations in advance of appropriations, and 154 persons who carry out duties necessary for the discharge of the President's duties under the Constitution.

⁶ At the time of the lapse, five of the 12 appropriations measures had been enacted. For more information on the impacts of past shutdowns, see CRS Report R41759, *Past Government Shutdowns: Key Resources*, by Jared C. Nagel and Justin Murray.

Based on the 2023 plan, DHS's eight operational components⁷ combined include 97% of DHS personnel, 10.5% of which were planned to be furloughed in the event of a funding gap. The three largest DHS components (CBP, USCG, and TSA) employ more than two-thirds of all DHS personnel, and planned to furlough 8.2% of their combined personnel in the event of a lapse.

Four other operational components were planned to furlough at higher rates than either the operational average or the three largest components:

- Cybersecurity and Infrastructure Security Agency—81.7%
- U.S. Secret Service—19.3%
- U.S. Immigration and Customs Enforcement—17.4%
- Federal Emergency Management Agency—15.8%

Summary of Activity Impacts (As Presented in the September 26, 2023 Plan)⁸

Brief summary of significant agency activities that will continue during a lapse:

- Activities necessary by law, the Constitution, or necessary for Safety of Human Life or Protection of Property
- Maintaining law enforcement operations, including drug interdiction and irregular migration management
- Continuing passenger processing and cargo inspection functions at ports of entry
- Providing the protective functions of the U.S. Secret Service
- Maintaining counterterrorism watches or intelligence gathering or dissemination in support of terrorist threat warnings
- Retaining minimal personnel to maintain telecommunications necessary for excepted activities
- Disaster Relief Fund activities
- Fee-funded activities such as those funded by the Immigration Examinations Fee Account

Brief summary of significant agency activities that will cease during a lapse:

- Planning (such as strategic, business, or budgetary activities)
- Research and development activities
- Most policy functions, administrative, as well as programmatic, unless those functions are justified by an exception
- Auditing
- Most regulatory, legislative, public affairs, and intergovernmental affairs unless those functions are justified by an exception
- Training and development not deemed an excepted activity

In a fact sheet released by DHS on September 28, 2023, the department noted that 72% of its workforce would be required to work without pay, including 41,000 USCG military personnel who would be unable to apply for interim support programs (like unemployment compensation) while their pay is delayed.

Aside from pay impacts, other potential consequences highlighted by DHS included:

⁷ U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), Transportation Security Administration (TSA), U.S. Coast Guard (USCG), U.S. Secret Service (USSS), Cybersecurity and Infrastructure Security Agency (CISA), Federal Emergency Management Agency (FEMA), and U.S. Citizenship and Immigration Services (USCIS).

⁸ U.S. Department of Homeland Security, "Procedures Related to a Lapse in Appropriations," September 26, 2023, pp. 3-4.

- Delays in grant awards and potential delays in drawdowns of awarded grants;
- Reduced cybersecurity and critical infrastructure support;
- Partial stoppage of basic and advance training at the Federal Law Enforcement Training Centers;
- Potential delays in deployment of new security screening technology to airports;
- Delays in long-term disaster relief due to continued shortages of Disaster Relief Fund resources; and
- Delays in hiring and onboarding new staff.⁹

DHS Appropriations Timing

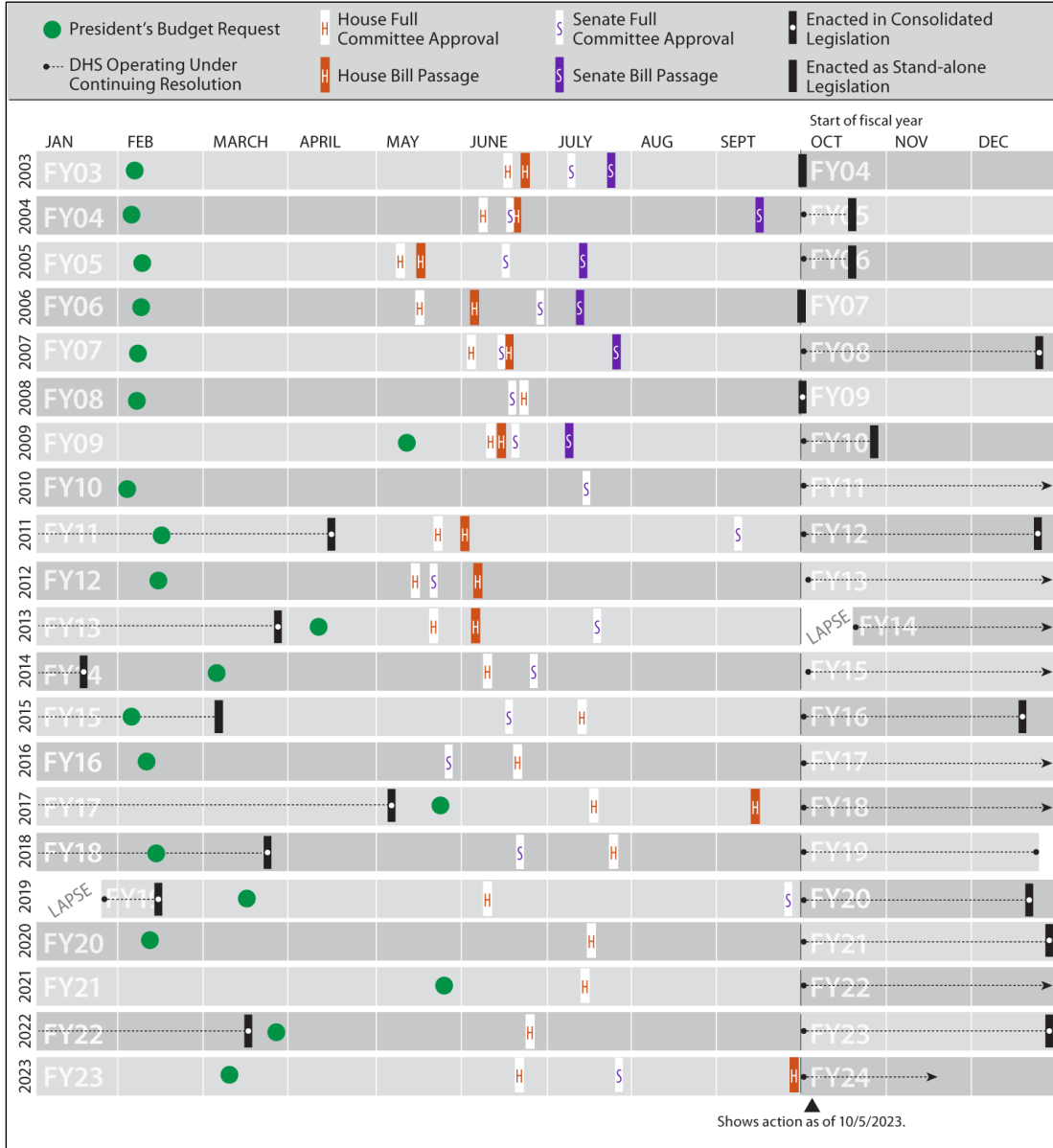
Figure 2 shows a history of the timing of the annual Department of Homeland Security Appropriations Act, since its first development in 2003 (for FY2004). Tracked actions include

- the release of the budget request (green dot);
- full committee markups and passage of the House and Senate versions of the bill (orange and purple bars, respectively); and
- ultimate enactment of the measure (black bar).

Dotted lines show the months covered by CRs. Unshaded, white gaps indicate lapses in annual appropriations.

⁹ U.S. Department of Homeland Security, Office of Public Affairs, “FACT SHEET: Impact of a Government Shutdown on the DHS Workforce,” September 28, 2023, <https://www.dhs.gov/news/2023/09/28/fact-sheet-impact-government-shutdown-dhs-workforce>.

Figure 2. DHS Appropriations Process Timing, FY2004-FY2024
(As of October 5, 2023)



Source: CRS analysis of presidential budget request release dates and legislative action from Congress.gov.

Notes: Final action on annual appropriations for FY2011, FY2013-FY2015, FY2017-FY2019, and FY2022 occurred after the beginning of the new calendar year. The FY2019 lapse began in December 2018, and a three-day lapse in January of FY2018 and an hours-long lapse in February of that same year are not displayed due to limitations of scale.

The FY2024 DHS Appropriations Process

Advance Supplemental Appropriations

On November 15, 2021, the Infrastructure Investment and Jobs Act (IIJA) was signed into law as P.L. 117-58. Division J of the IIJA included a number of supplemental appropriations, including a total of \$7.96 billion for DHS in Title V. Four appropriations received \$6.1 billion of that total, with \$1.22 billion available in FY2022, and \$4.88 billion to be made available incrementally from FY2022 through FY2026, through a process known as advance appropriations.¹⁰ \$1.32 billion of those advance appropriations become available in FY2024.

Table 1 lists DHS accounts with advance appropriations provided by P.L. 117-58, and includes a breakdown of amounts coming available each fiscal year, with FY2024 highlighted.

Table 1. Accounts with Supplemental and Advance Appropriations for DHS in the Infrastructure Investment and Jobs Act (P.L. 117-58)

(emergency-designated budget authority, in thousands of dollars)

Component / Appropriation / PPA	Total Provided	FY2022	FY2023	FY2024	FY2025	FY2026
Cybersecurity and Infrastructure Security Agency (CISA)						
Cybersecurity Response and Recovery Fund	100,000	20,000	20,000	20,000	20,000	20,000
Federal Emergency Management Agency (FEMA)						
Federal Assistance						
Section 205 Grants (for establishing hazard mitigation revolving loan funds)	500,000	100,000	100,000	100,000	100,000	100,000
Grants For Cybersecurity and Critical Infrastructure	1,000,000	200,000	400,000	300,000	100,000	0
Disaster Relief Fund (for Building Resilient Infrastructure and Communities grants)	1,000,000	200,000	200,000	200,000	200,000	200,000
National Flood Insurance Fund	3,500,000	700,000	700,000	700,000	700,000	700,000
TOTAL ADVANCE APPROPRIATIONS	6,100,000	1,220,000	1,420,000	1,320,000	1,120,000	1,020,000

Source: P.L. 117-58, Division J, Title V.

Notes: PPA = program, project, or activity. Division J, Title V also included \$1.86 billion in accounts and PPAs that did not receive advance appropriations, and thus are not shown in **Table 1**.

¹⁰ For more information on advance appropriations, see CRS Report R43482, *Advance Appropriations, Forward Funding, and Advance Funding: Concepts, Practice, and Budget Process Considerations*, by Jessica Tollestrup and Megan S. Lynch.

President's Budget Request

On March 9, 2023, the Biden Administration released its annual budget request for FY2024, including a \$103.18 billion budget request for DHS. By the Congressional Budget Office's (CBO's) initial estimation, the request included \$60.37 billion in adjusted net discretionary appropriations and \$20.26 billion in disaster relief-designated funds.¹¹ The adjusted net discretionary appropriations request was \$0.31 billion less than was enacted in annual appropriations for DHS in FY2023, but also included a request for up to \$4.7 billion in contingent emergency-designated supplemental appropriations to deal with activities at the U.S.-Mexico border.

For additional analysis of the content of the FY2024 budget request for DHS, see CRS Report R47496, *DHS Budget Request Analysis: FY2024*.

House Action

On June 21, 2023, the House Committee on Appropriations (HAC) marked up H.R. 4367, its version of the Department of Homeland Security Appropriations Act, 2024. H.Rept. 118-123 was filed on June 27, 2023, providing additional direction to DHS, and including minority party views. HAC-reported H.R. 4367 included \$62.79 billion in adjusted net discretionary budget authority. This was \$2.40 billion above the level requested by the Administration (leaving aside the Administration's \$4.70 billion emergency contingency appropriations request, which was not funded in the HAC-reported bill), and \$2.09 billion above the FY2023 enacted level of annual appropriations.

On September 26, 2023, the House Rules Committee reported out H.Res. 723. This rule, which covered three other appropriations bills as well, made in order 80 amendments to H.R. 4367. The House took up the bill on September 27, 2023. Before final disposition of the last four amendments and motion to recommit, a second rule (H.Res. 730) addressing consideration of H.R. 4367 was passed, with a self-executing amendment that struck two provisions and added a third—a provision carried in prior years' consolidated appropriations measures regarding raising the limit on the number of H-2A visas issued to accommodate returning workers.¹² Ultimately, 50 of the amendments made in order were adopted, all by voice vote, including 23 in an en bloc amendment. A motion to recommit the bill to the House Appropriations Committee failed on a party-line vote of 210-218, and the bill passed the House 220-208 on September 28, 2023.

Senate Committee Action

On July 27, 2023, the Senate Committee on Appropriations (SAC) marked up S. 2625, its version of the Department of Homeland Security Appropriations Act, 2024. S.Rept. 118-56 was filed the same day. SAC-reported S. 2625 included \$57.08 billion in adjusted net discretionary budget authority. This was \$3.31 billion less than the level requested by the Administration, and \$3.63 billion below the FY2023 enacted level of annual appropriations. However, the Senate bill also included \$4.3 billion in emergency-designated appropriations distributed across nine components. While this would be \$400 million less than the Administration's proposed emergency-designated

¹¹ This total evolved over the course of the process, owing in part to the changes in unobligated balances available for rescission. Any analyses in this report refer to CBO's estimates as outlined in the detail table at the end of H.Rept. 118-123.

¹² See P.L. 117-328, Div. O, Sec. 303.

contingency funding, this budget authority would result in a net increase of \$0.67 billion from the enacted annual level for FY2023.

Continuing Resolution

Proposed Anomalies and Authorization Extensions for FY2024

On August 31, 2023, the Biden Administration released technical assistance documents providing guidance to lawmakers on funding and legislative adjustments it considers necessary to avoid disruptions to a range of public services in the event of a short-term CR running through mid-December, 2023.¹³ The request included two adjustments to the rate of spending allowed under the CR to accommodate certain situations:¹⁴

- potential disaster activity (allowing accelerated apportionment of CR funding to support the disaster response and recovery efforts under the Stafford Act);¹⁵ and
- increased operational costs (allowing apportionment at a rate to maintain adequate staffing levels to support transportation security screening operations).¹⁶

A list of authorization issues was included as well, which either the Administration deemed necessary for inclusion in a CR if not enacted first, or that the Administration did not object to being included in the CR.

Nine such items were included in the list of issues:¹⁷

- Extension of the authority for enforcement of Chemical Facility Anti-Terrorism Standards (CFATS), which had expired on July 27, 2023;¹⁸
- Extension of the authorization for the National Cybersecurity Protection System (NCPS), which defends federal agencies from known cyberthreats;¹⁹
- Extension of the authority for the National Flood Insurance Program to issue new policies;²⁰
- Extension of the waiver of foreign residence requirements for physicians working in underserved areas (also known as the “Conrad State 30” Program);²¹
- Extension of authorization for the E-Verify employment eligibility verification program;²²

¹³ FY2024 CR Appropriations Issues, p. 3. https://www.crs.gov/products/Documents/FY2024_CR_anomalies_list/pdf/FY2024_CR_anomalies_list.pdf.

¹⁴ FY2024 CR Appropriations Issues, pp. 15-16. https://www.crs.gov/products/Documents/FY2024_CR_anomalies_list/pdf/FY2024_CR_anomalies_list.pdf.

¹⁵ A similar anomaly has been included in every CR starting in FY2018.

¹⁶ While this general type of anomaly has been requested before, this is the first time one has specifically and narrowly addressed transportation security screening.

¹⁷ FY2024 CR Authorization Issues, p. 2. https://www.crs.gov/products/Documents/FY2024_CR_authorization_provisions/pdf/FY2024_CR_authorization_provisions.pdf

¹⁸ 6 U.S.C. §621 note; see also Cybersecurity and Infrastructure Security Agency, “Chemical Facility Anti-Terrorism Standards (CFATS),” <https://www.cisa.gov/resources-tools/programs/chemical-facility-anti-terrorism-standards-cfats>.

¹⁹ 6 U.S.C. §1525(a); expires at the end of FY2023; last extended through P.L. 117-328, Division O, Title I.

²⁰ 42 U.S.C. §4016(a) and §4026; expires at the end of FY2023; last extended through P.L. 117-328, Division AA, Title IX.

²¹ 8 U.S.C. §1182 note; expires at the end of FY2023; last extended through P.L. 117-328, Division O, Title III.

²² 8 U.S.C. §1324a note; expires at the end of FY2023; last extended through P.L. 117-328, Division O, Title III.

- Extension of authority to grant special immigrant status to religious workers other than ministers;²³
- Providing authority to raise the cap on H-2B visas;²⁴
- Extension of the authorization of the Countering Weapons of Mass Destruction Office of DHS—unlike other authorizations, the Office’s authorization included a specific sunset date;²⁵ and
- Extension of authorization of overtime pay for Secret Service personnel performing protective services duty (the existing authority expires December 31, 2023).²⁶

Continuing Resolution Enacted

On September 31, 2023, a continuing resolution (P.L. 118-15) was enacted to cover the first several weeks of FY2024, expiring after November 17, 2023, or the enactment of annual appropriations, whichever happens first.

The measure uses elements of the FY2023 consolidated appropriations act (P.L. 117-328) as its basis for a rate for operations, including:

- Division F (the DHS Appropriations Act, 2023);
- Division N, Title VI, Section 2602 (additional resources for customs and immigration inspections through the Immigration User Fee Account); and
- Division O, Title III (extension of several immigration elements).

Section 129 of the measure included an emergency-designated supplemental appropriation of \$16 billion for the Disaster Relief Fund (DRF). Unlike the continuing appropriations provided under Section 101, this appropriation will not expire when the continuing resolution either lapses or is superseded by annual appropriations under the terms of Section 106.²⁷

The CR included three other sections related to DHS:

- **Section 128—DRF Accelerated Apportionment:** Section 128 provides that amounts made available by Section 101 for the DRF may be apportioned at a rate for operations necessary to carry out response and recovery activities under the Stafford Act.²⁸ This anomaly ensures that funding would be available to support the federal government’s disaster response and recovery activities associated with disasters and emergency declarations in the event the DRF’s existing unobligated balances are spent down while the CR is in effect. Similar anomalies have been enacted via continuing appropriations measures each year since FY2018.²⁹

²³ 8 U.S.C. § 1101(a)(27)(C)(ii); expires at the end of FY2023; last extended through P.L. 117-328, Division O, Title III.

²⁴ 8 U.S.C. § 1184 note; expires at the end of FY2023; last extended through P.L. 117-328, Division O, Title III.

²⁵ December 21, 2023, per 6 U.S.C. § 591(e).

²⁶ 5 U.S.C. § 5547 note; last extended through P.L. 116-269.

²⁷ The supplemental appropriation is technically FY2023 budget authority, but as it is designated as an emergency requirement and available until expended, the fiscal year of the appropriation is an accounting technicality.

²⁸ 42 U.S.C. § 5121 et seq.

²⁹ FY2024 CR Appropriations Issues, pp. 15-16. https://www.crs.gov/products/Documents/FY2024_CR_anomalies_list/pdf/FY2024_CR_anomalies_list.pdf. Prior accelerated apportionments were provided by (continued...)

P.L. 115-56, Division D, §129; P.L. 115-245, Division C, §124; P.L. 116-59, §133; P.L. 116-159, §145; P.L. 117-43, §133; and P.L. 117-80, Division A, §135.

- **Section 130—Extension of the National Flood Insurance Program:** Section 130 extends the borrowing authority for the NFIP, as well as the authority to issue new flood insurance policies. Similar extensions have been enacted in CRs since FY2018, but CRs have been used intermittently as vehicles for temporary extensions of NFIP authorities since 1998.³⁰
- **Section 131—National Cybersecurity Protection System Extension:** Section 131 extends the authorization for the National Cybersecurity Protection System (NCPS), which authorizes multiple activities by DHS to help defend federal agencies from cyberthreats. Initially provided under the Federal Cybersecurity Enhancement Act of 2015,³¹ the authority included a specific termination seven years after enactment. This authority was extended to the end of FY2023 in the Consolidated Appropriations Act, 2023.³²

Author Information

William L. Painter
Specialist in Homeland Security and Appropriations

Disclaimer

This document was prepared by the Congressional Research Service (CRS). CRS serves as nonpartisan shared staff to congressional committees and Members of Congress. It operates solely at the behest of and under the direction of Congress. Information in a CRS Report should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS's institutional role. CRS Reports, as a work of the United States Government, are not subject to copyright protection in the United States. Any CRS Report may be reproduced and distributed in its entirety without permission from CRS. However, as a CRS Report may include copyrighted images or material from a third party, you may need to obtain the permission of the copyright holder if you wish to copy or otherwise use copyrighted material.

³⁰ For additional information on what expiration of the program might mean, see CRS Insight IN10835, *What Happens If the National Flood Insurance Program (NFIP) Lapses?*, by Diane P. Horn.

³¹ P.L. 114-113, Division N, Subtitle B.

³² P.L. 117-328, Division O, Title I, Section 101.