

Department of Homeland Security Appropriations: FY2025 Provisions

June 28, 2024

Congressional Research Service

<https://crsreports.congress.gov>

R48126



R48126

June 28, 2024

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Department of Homeland Security Appropriations: FY2025 Provisions

Through appropriations legislation, Congress provides not only budget authority for federal agencies and departments to operate, but also legally binding direction on how that budget authority can (or cannot) be used. Sometimes enacted appropriations measures include authorizing (or “legislative”) provisions as well.

These directions may appear in three places in an appropriations act:

1. in the language of individual appropriations;
2. in administrative provisions at the end of a title; and
3. in general provisions at the end of a bill (or division, in the case of a consolidated measure).

Some of these directions directly relate to the management of budget authority enacted in the measure, while others relate to policy or operational matters. As with any facet of legislation, these provisions are not constant. Due to the passage of time or other legislative developments, a provision may require adjustment or lose its relevance. Provisions enacted in appropriations legislation are also a focus of negotiations between the parties and between the chambers during the appropriations process, so provisions can evolve through negotiations until a compromise is worked out in the final measure.

Rather than reciting the entire catalog of administrative and general provisions in the developing Department of Homeland Security (DHS) Appropriations Act, 2025, this report focuses on the substantive changes in directions provided from FY2024 to FY2025. It notes changes from the provisions in the DHS appropriations acts for FY2023 and FY2024, reflected in

- the detailed proposals for administrative and general provisions made in the Administration’s FY2025 appropriations request for DHS (although it should be noted that the request was made before the FY2024 provisions were finalized); and
- the administrative and general provisions in House-passed H.R. 8752.

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Introduction

Through appropriations legislation, Congress provides not only budget authority for federal agencies and departments to operate, but also legally binding direction on how that budget authority can (or cannot) be used. Sometimes enacted appropriations measures include authorizing (or “legislative”) provisions as well.

These directions may appear in three places in an appropriations act:

- in the language of individual appropriations;
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- in general provisions at the end of a bill (or division, in the case of a consolidated measure).

Some of these directions directly relate to the management of budget authority enacted in the measure, while others relate to policy or operational matters. As with any facet of legislation, these provisions are not constant. Due to the passage of time or other legislative developments, a provision may require adjustment or lose its relevance. Provisions are also a focus of negotiations between the parties and between the chambers during the appropriations process, so provisions typically evolve through negotiations until a compromise is reached and included in the final measure.

While other appropriations reports focus on funding levels provided in the bill, this report focuses on these administrative and general provisions under consideration in the FY2025 appropriations process for the Department of Homeland Security (DHS). It describes the substantive differences between the administrative and general provisions from those enacted in FY2023 and FY2024, as reflected in the Administration’s FY2025 budget request for DHS, and in the House-passed FY2025 DHS appropriations bill.

What to Ask for When You Don’t Know What You Have

The FY2024 general and administrative provisions for DHS were finalized in P.L. 118-47, which was enacted 12 days after the FY2025 request was made. This is the fourth time (of 22 budget cycles) that the DHS appropriations request has preceded the finalization of the of annual appropriations for the current fiscal year. In this situation, the developmental baselines for the provisions in the request before Congress (FY2025) relied on the enacted provisions from the most recently concluded fiscal year (FY2023) and the requested provisions for the current fiscal year (FY2024), rather than the enacted provisions for the current fiscal year.

- For more information on the President’s DHS budget request for FY2025, see CRS Report R48074, *DHS Budget Request Analysis: FY2025*, by William L. Painter.
- For more information on the funding levels proposed in the DHS appropriations measures for FY2025, see CRS Report R48115, *Comparing DHS Component Funding, FY2025: In Brief*, by William L. Painter.
- For more information on the administrative and general provisions in the FY2024 DHS appropriations act, see CRS Report R47663, *Department of Homeland Security Appropriations: FY2024 Provisions*, by William L. Painter.
- For more information on the current status of DHS appropriations for the current fiscal year (FY2024), see CRS Report R47688, *Department of Homeland Security Appropriations: FY2024 State of Play*, by William L. Painter.

- For information on DHS structure, component missions, and longer-term staffing and funding history, see CRS Report R47446, *The Department of Homeland Security: A Primer*, by William L. Painter.

Scope

This report focuses on administrative and general provisions included in:

- the detailed proposals for administrative and general provisions made in the Administration’s FY2025 appropriations request for DHS; and
- the administrative and general provisions in House-passed H.R. 8752.

Rather than listing all the administrative and general provisions in those proposals, this report generally uses the administrative and general provisions of the enacted DHS appropriations acts for FY2023 and FY2024 as the bases for comparison. This allows the report to illuminate the nature of certain shifts from what was current law when the request was made, as well as the current law as of the date of publication.

Structure

For each title of the bill, the report provides a list of the components funded therein. This is followed by sections analyzing the Administration’s request for FY2025, and the House Appropriations Committee-reported response. Subsections describe proposals to not include prior-year provisions, substantive changes¹ to current provisions (those enacted for FY2023 or FY2024), and new provisions added for FY2025.

Given the amount of funding provided in the title and the number of administrative provisions, the report starts with Title II, then moves to the other operational components in Title III, the support components in Title IV, and the headquarters components in Title I. The final section in the report deals with general provisions in Title V.

To avoid confusion between differing section numbers in various versions of acts and bills, sections of the FY2024 act are referred to as “FY2024 Sections,” and those of H.R. 8752 are referred to as “House Sections.”

Appendices include a glossary of abbreviations and a brief discussion of the longer-term history of the general and administrative provisions in the DHS appropriations act.

Security, Enforcement, and Investigations

Administrative Provisions (Title II)

Title II of annual DHS appropriations measures typically covers appropriations for

- U.S. Customs and Border Protection (CBP);
- U.S. Immigration and Customs Enforcement (ICE);
- the Transportation Security Administration (TSA);
- U.S. Coast Guard (USCG); and
- U.S. Secret Service (USSS).

¹ Those that would alter the practical effects of such provisions from that year.

Administration-proposed Changes²

The Administration proposed 33 administrative provisions for Title II of the FY2025 Act. Title II of the FY2024 act, passed two weeks later, ultimately included 31.³ The FY2025 request did not include two provisions that had been carried in recent DHS Appropriations Acts, proposed modifying two others compared to their current⁴ versions, and would add two new provisions.⁵

Administration-proposed Deletions

- **FY2024 Section 211:** Included since FY2018 in annual appropriations,⁶ this administrative provision delimited the use of part of CBP's Procurement, Construction, and Improvements appropriation.
 - The House-passed bill included this provision as HAC Section 211. Changes are described in the "House Appropriations Committee-Proposed Modifications" subsection below.
- **FY2024 Section 227:** Included since FY2022,⁷ this administrative provision restricted the USCG from charging a fee for inspecting certain towing vessels until the USCG determines whether the costs of towing vessel inspections done by the USCG differ from those of third-party inspectors, and adjusts its fees to reflect its costs.⁸
 - The House-passed bill did not include this provision.

The following provision was not included in the FY2025 request, but had yet to be enacted prior to the release of the request:

- **FY2024 Section 217:** This administrative provision (new in FY2024) required the ICE Chief Financial Officer to submit to the appropriations committees an obligation plan for the component within 45 days of enactment.
 - The House-passed bill included this provision as HAC Section 229.

² CRS analysis of Office of Management and Budget, *Fiscal Year 2025 Budget of the U.S. Government: Appendix*, March 11, 2024, pp. 498-499, <https://www.govinfo.gov/content/pkg/BUDGET-2025-APP/pdf/BUDGET-2025-APP.pdf> (hereinafter, *FY2025 Appendix*); P.L. 117-328, Division F; P.L. 118-47, Division C; and House Appropriations Committee (HAC)-reported H.R. 8752.

³ The text of these provisions and their descriptions can be found in the committee print of the Further Consolidated Appropriations Act, 2024. (U.S. Congress, House Appropriations Committee, Further Consolidated Appropriations Act, 2024 [Legislative Text and Explanatory Statement], committee print, prepared by Committee on Appropriations, U.S. House of Representatives, 118th Cong., 2nd sess., May 6, 2024, 55-008 (Hereinafter, "FY2024 Committee Print"); provisions on pp. 527-532, descriptions on pp. 580-582.)

⁴ In this context, "current" describes provisions that were enacted in functionally congruent forms in FY2023 (the most recent enacted version of the provision available at the time the FY2025 budget request was prepared) and FY2024 (the appropriations measure in force during consideration of the Administration's FY2025 request).

⁵ *FY2025 Appendix*, pp. 498-499.

⁶ P.L. 115-141, Div. F, Section 230. A variant of this provision was carried in P.L. 115-31, Div. F, Title VI, where direction was provided in a supplemental appropriation for CBP's Procurement, Construction, and Improvements account (131 Stat. 433).

⁷ P.L. 107-103, Div. F, Section 231.

⁸ P.L. 115-282.

Administration-proposed Modifications

The Administration proposed modifying two current administrative provisions in its request for FY2025:

- **FY2024 Section 220:** Included since FY2020, this provision required the Administrator of the TSA to submit to certain congressional committees a single report that fulfills the requirements of a Capital Investment Plan, a five-year technology investment plan, and an Advanced Integrated Passenger Screening Technologies report. The Administration proposed dropping language that had been added to the description of the Capital Investment Plan in the FY2023 act that required it to be “both constrained and unconstrained.”⁹

FY2024 Section 222: Included since FY2015, when it appeared as a provision within the U.S. Coast Guard Acquisition, Construction, and Improvements appropriation, this administrative provision requires the Coast Guard to submit a future-year capital investment plan. The parameters for that plan have been carried forward by reference since. The Administration proposed changing the reference from P.L. 114-4 to 14 U.S.C. 5102, which is the statutory requirement for a Coast Guard capital investment plan mandated by the authorizing committees. That plan, while is similar in many respects, differs in some parameters and has a different timetable for production.

The House-passed bill included neither of these modifications.

The Administration also proposed continuing a provision from FY2023 that the FY2024 act later modified:

- **FY2024 Section 218:** This provision, first carried as a proviso in the TSA Aviation Security appropriation in FY2006, blocked certain senior government officials from being exempted from passenger and baggage screening. In the FY2024 measure, it was modified to add a subsection barring the use of funds to carry out legislation modifying those passenger and screening requirements.
 - The House-passed bill included the modified provision as HAC Section 234.

Administration-proposed Additions

The Administration also proposed two new provisions, both of which had been proposed in similar form for FY2023 and FY2024 requests, yet had not been included by Congress in either enacted annual appropriations measure:

- authorization for CBP to use unobligated balances of its Procurement, Construction, and Improvement appropriations from FY2021 for other specified border management purposes; and
- authorization for DHS to transfer up to \$225 million in unobligated CBP Procurement, Construction, and Improvement appropriations from prior years to the Department of the Interior (including any agency or bureau within the Department of the Interior) or the Forest Service “for the execution of

⁹ TSA Administrator David P. Pekoske, in testimony before the House Appropriations Committee, described an unconstrained capital investment plan as one “that describes an ideal future state in which TSA is able to buy down more risk to the transportation sector with additional resources.” The text of his full testimony is available at <https://www.tsa.gov/news/press/testimony/2023/03/29/fiscal-year-2024-presidents-budget-request-transportation-security>.

environmental and other mitigation projects or activities ... related to the construction of border barriers on the southwest border.”

- Neither of these provisions were included in House-passed H.R. 8752.

Three FY2023 provisions were included in the FY2025 request, but Congress subsequently chose not to include them in the FY2024 act:

- **FY2023 Section 219:** This provision, first carried in FY2009 as a direction within the TSA Aviation Security appropriation, required TSA to award grants for deployment of explosive detection systems on the basis of “risk, the airport’s current reliance on other solutions, lobby congestion resulting in increased security concerns, high injury rates, airport readiness and increased cost effectiveness.”
- **FY2023 Section 224:** This provision allowed greater flexibility for the USCG to reprogram up to \$10 million in its Operations and Support appropriation to or from its Military Personnel funding category and between its Field Operations funding subcategories. The former flexibility was first provided in FY2014, and the latter was added in FY2022.
- **FY2023 Section 226:** This provision, included in some form since FY2010,¹⁰ initially allowed the USCG to allocate funding within its operations appropriation designated as being for “Overseas Contingency Operations / Global War on Terror” (a special budgetary designation that made it easier to provide funding under budget limitations) to be allocated among various activities without regard to the reprogramming¹¹ restrictions in the bill’s general provisions. Although the special designation fell out of use, this flexibility was maintained over the years, most recently for funding “for defense-related activities ... for enduring overseas missions in support of the global fight against terrorism.”
- None of these provisions were included in House-passed H.R. 8752.

House Appropriations Committee-proposed Changes¹²

The House Appropriations Committee proposed including 51 administrative provisions in Title II of the FY2025 act. Using the FY2024 act as a baseline for comparison, the HAC-reported bill proposed not carrying forward one provision from the FY2024 act, modifying two, and adding 21.

House Appropriations Committee-proposed Deletions

- **FY2024 Section 227:** Included since FY2022,¹³ this administrative provision restricted the USCG from charging a fee for inspecting certain towing vessels until the USCG determines whether the costs of towing vessel inspections done by the USCG differ from those of third-party inspectors, and adjusts its fees to reflect its costs.¹⁴

¹⁰ Prior to FY2018, this flexibility was included in the language of USCG’s Operating Expenses appropriation.

¹¹ Reprogramming is the action of shifting budget authority from one program, project, or activity to another.

¹² CRS analysis of HAC-reported H.R. 4367, P.L. 118-47, Division C, and HAC-reported H.R. 8752.

¹³ P.L. 107-103, Div. F, Section 231.

¹⁴ P.L. 115-282.

House Appropriations Committee-proposed Modifications

- **FY2024 Section 211:** Included in annual DHS appropriations measures since FY2018, this administrative provision has delimited the use of CBP’s annual Procurement, Construction, and Improvements (PC&I) appropriation. HAC Section 212 also added five subsections constraining the use of the provided border barrier construction funds within the appropriation to certain designs, locations, and timelines for obligation, similar to a proposal it made in the FY2024 cycle. **Table 1** compares the funding level and distribution of the appropriation from the FY2024 act, the FY2025 request, and the House Appropriations Committee-reported measure.

Table 1. CBP PC&I Appropriations Allocation in Administrative Provisions

Program, Project, or Activity	P.L. 118-47, Division C	FY2025 Request ^a	House-passed H.R. 8752
Acquisition and deployment of physical barriers	\$0	\$0	\$600,000,000
Acquisition and deployment of border technologies	283,500,000	127,398,000	300,000,000
Trade and travel assets and infrastructure	380,900,000	0	305,000,000
Facility construction and improvements	92,114,000	47,350,000	23,654,000
Integrated operations assets and infrastructure	75,983,000	85,875,000	131,419,000
Mission support and infrastructure	17,673,000	12,265,000	30,265,000
Total	\$850,170,000	\$272,888,000	\$1,390,338,000

Sources: CRS analysis of P.L. 118-47, Division C, Section 211, *DHS Budget Overview*, and H.R. 8752.

- The Administration’s request does not include statutory direction for these numbers. Rather, the breakdown shown here reflects the Administration’s plans as described in the budget justification.
- **FY2024 Section 216:** Included since FY2021, this administrative provision carried forward two prior-year administrative provisions from the FY2020 DHS appropriations act by reference: Section 216, which barred the use of information shared by the Department of Health and Human Services to detain or take steps in the removal process against a sponsor of an unaccompanied minor, potential sponsor of that minor, or member of that household (with some exceptions based on risks of exploitation); and Section 217, which that required reporting on “287(g) agreements,” under which local law enforcement works with ICE on enforcement of immigration laws. House-passed H.R. 8752 did not carry forward FY2020 Section 216.

House Appropriations Committee-proposed Additions

HAC-reported H.R. 8752 included 21 Title II administrative provisions that were not included in the previous two enacted DHS appropriations acts.

One of these would provide specific direction for DHS:

- **HAC Section 228:** Similar to an administrative provision added in an en bloc amendment at full committee markup in FY2023, this provision would direct the Secretary of DHS to allocate ICE Operations and Support appropriations to ensure the average daily population of detainees is maintained at the full capacity of all detention facilities throughout the year, and ensure that every alien on the non-detained docket is enrolled in the Alternatives to Detention Program, with mandatory GPS monitoring until their proceedings are concluded (HAC Section 228).

Another speaks more generally to the applicability of certain state and local laws:

- **HAC Section 233:** This new administrative provision declares state and local laws regarding employment or minimum compensation inapplicable to persons held in immigration-related detention.

Sixteen of these additional administrative provisions would impose restrictions on the use of funds made available in the bill to accomplish various ends. The FY2024 HAC-reported bill included eleven of these, restricting:

- Removal of existing border barriers unless they are being repaired or replaced (HAC Section 212);
- The use of CBP’s mobile application to facilitate the parole of any alien into the United States (HAC Section 213);
- Implementation of a CBP policy directive on vehicular pursuits (HAC Section 214);
- Admission of foreign students on an F or M visa if the institution the student will attend is not accredited by a nationally recognized accrediting agency or an association recognized by the Secretary of Education (HAC Section 215);¹⁵
- Parole of nationals of the People’s Republic of China into the Commonwealth of the Northern Mariana Islands for temporary visits without a visa (HAC Section 216);
- CBP from admitting into the U.S. “any aerosol-dispensing unmanned aircraft system produced or manufactured in a foreign adversary country” (HAC Section 217);¹⁶
- Reducing participation in or level of delegation of authority made under section 287(g) agreements, which permit delegation of immigration enforcement functions to state and local law enforcement (HAC Section 218).
- Implementation of policies described in two memoranda on enforcement of civil immigration law (HAC Section 224);
- Transportation of aliens unlawfully present into the U.S. interior for purposes other than the enforcement of immigration laws, except for unaccompanied alien children (HAC Section 225);

¹⁵ A similar amendment that referenced the I-20 document that provides supporting information on a student with an F or M visa status was included as Section 242 in the FY2024 HAC-reported measure.

¹⁶ A similar amendment with a slightly broader restriction was included as Section 547 in the FY2024 HAC-reported measure.

- Use of ICE funding to “pay for or facilitate an abortion,” with some exceptions, or to require a person to “perform or facilitate in any way the performance of, any abortion” (HAC Section 226); and
- Administration of hormone therapy medication or performance or facilitation of any surgery for any person in ICE custody “for the purpose of gender-affirming care” (HAC Section 227).

Five other Title II administrative provisions that were not included in the FY2024 HAC-reported measure would restrict the use of funds to:

- Develop a physical identification card for purposes of alien identification, verification of immigration status, or immigration portal access (HAC Section 230);
- Develop, pilot, or administer standards for management of the non-detained alien population or for the Alternatives to Detention Program beyond those incorporated in the Alternatives to Detention Handbook, as issued on August 16, 2017 (HAC Section 231);
- Implement policies described in a memorandum entitled “Guidelines for Enforcement Actions in or Near Protected Areas” (HAC Section 232); H.R. 8070
- Implement a Final Rule on “Shipping Safety Fairways Along the Atlantic Coast” until the Coast Guard submits a report to the appropriators on the effect of offshore wind turbines on marine navigation radar (HAC Section 243); and
- Implement a Final Rule on “Amendments to the North Atlantic Right Whale Vessel Strike Reduction Rule” or any restrictions on vessel speed related to the Rice’s whale that were not in place prior to the Biden Administration (HAC Section 244).

Three new administrative provisions were added in full committee markup of the bill by voice vote:

- **HAC Section 249:** This new provision would block the use of funds in the bill to terminate or reduce contracts for family residential detention facilities.
- **HAC Sections 250 and 251:** These new provisions would require the TRICARE military health system, which covers USCG personnel, to cover year-long prescriptions for contraceptives, and bar the USCG from implementing a cost share requirement on contraceptive pharmaceuticals and services. This would bring USCG policy in line with the TRICARE provisions in the National Defense Authorization Act that passed the House on June 14, 2024.¹⁷

House Floor Action

- When the House passed H.Res. 1316, the rule establishing the parameters for floor debate of H.R. 8752, it made in order an amendment to HAC Section 212, which would restrict the use of funds in the bill to remove physical barriers on the U.S.-Mexico border. The amendment would specify that the restriction would also include any barrier constructed by a state government. The amendment was adopted by voice vote.

¹⁷, Sections 711 and 712.

Protection, Preparedness, Response, and Recovery Administrative Provisions (Title III)

Title III of annual DHS appropriations measures currently covers appropriations for

- the Cybersecurity and Infrastructure Security Agency (CISA); and
- Federal Emergency Management Agency (FEMA).

Administration-Proposed Changes¹⁸

The Administration proposed 15 administrative provisions for Title III of the FY2025 Act.¹⁹ Title III of the FY2024 act, passed two weeks later, ultimately included 11.²⁰ The FY2025 request would modify one current provision and add three new ones, as well as continue one FY2023 provision that ultimately was not included in the FY2024 Act.

Administration-proposed Modifications

For the second fiscal year in a row the Administration proposed the following modification:

- **FY2024 Section 304:** Included since FY2017, this administrative provision required FEMA to brief the appropriations committees on the award of certain preparedness grants at least five business days prior to the public announcement of the award. In FY2023, the provision was modified to add a reduction of the FEMA Operations and Support appropriation should FEMA announce such grant awards without meeting that requirement. The Administration proposed not including the reduction, but was unsuccessful in getting that change made in the House-passed bill.

Administration-proposed Additions

Three new administrative provisions were proposed by the Administration:

- One to allow FEMA to use part funding transferred from the proposed contingency appropriation for grant programs to be used for the expenses of administering those programs;
- One to extend the availability of certain grant funds to pay valid obligations incurred during the grant program's operations in FY2020.
- One to renew and extend the authority for the Chemical Facility Anti-Terrorism Standards (CFATS) program to operate through the end of FY2025.
- None of these provisions were included in House-passed H.R. 8752.

One FY2023 provision was included in the FY2025 request, but Congress chose not to include it in the FY2024 act:

¹⁸ CRS analysis of *FY2025 Appendix*, pp. 511-512; P.L. 117-328, Division F; P.L. 118-47, Division C; and HAC-reported H.R. 8752.

¹⁹ FY2025 Appendix, pp. 511-512.

²⁰ The text of these provisions and their descriptions can be found in "FY2024 Committee Print"; provisions on pp. 536-537, descriptions on pp. 588-589.

- **FY2023 Section 304:** This administrative provision, carried only in FY2023, allowed funds provided for the Nonprofit Security Grant program not to be included in total State Homeland Security Grant Program (SHSGP) grant funding. This was important in the calculations of allocations, and because states had to make available 80% of their total SHSGP grant to state and local governments within 45 days of receiving it.
- This provision was not included in House-passed H.R. 8752.

House Appropriations Committee-proposed Changes²¹

The House Appropriations Committee proposed no substantive modifications to the Title III administrative provisions from FY2024 in H.R. 8752, and none were made through House Floor action.

Research, Development, Training, and Services Administrative Provisions (Title IV)

Title IV of annual DHS appropriations measures currently covers appropriations for

- U.S. Citizenship and Immigration Services;
- Federal Law Enforcement Training Centers (FLETC);
- the Science and Technology Directorate (S&T); and
- the Countering Weapons of Mass Destruction Office.

Administration-Proposed Changes²²

The Administration proposed eight administrative provisions for Title IV of the DHS Appropriations Act. Title IV of the FY2024 act, passed two weeks later, included seven.²³

Administration-proposed Additions

The Administration proposed adding a single Title IV administrative provision, which would postpone the sunset date for the DHS Countering Weapons of Mass Destruction Office to the end of FY2025.²⁴ The House-passed bill did not include such a provision.

House Appropriations Committee-proposed Changes²⁵

The House Appropriations Committee proposed including 13 administrative provisions in Title IV of the FY2025 act. Using the FY2024 act as a baseline for comparison, the HAC-reported bill would have added five new administrative provisions to Title IV.

²¹ CRS analysis of HAC-reported H.R. 4367, P.L. 118-47, Division C, and HAC-reported H.R. 8752.

²² CRS analysis of *FY2025 Appendix*, p. 522; P.L. 117-328, Division F; P.L. 118-47, Division C; and HAC-reported H.R. 8752.

²³ The text of these provisions and their descriptions can be found in the “FY2024 Committee Print”; provisions on pp. 590-540, descriptions on p. 594.

²⁴ *FY2025 Appendix*, p. 522.

²⁵ CRS analysis of HAC-reported H.R. 4367, P.L. 118-47, Division C, and HAC-reported H.R. 8752.

House Appropriations Committee-proposed Additions

Three of the new provisions would impose restrictions on the use of funds made available in the bill to accomplish certain ends. Two of these had appeared in the FY2024 House-passed measure, restricting:

- Implementation of a rule outlining procedures for asylum officers to consider various claims by individuals seeking to remain in the United States without valid immigration status (Section 404); and
- Issuance of employment authorization to aliens who have been convicted of a federal or state crime or had an application for asylum denied (Section 405).

A third new provision would restrict:

- Consideration of applications for H-1B visa applications from companies identified as being run by the Chinese military or their subsidiaries in the United States (Section 408).

Two other provisions provided other direction to the department:

- **HAC Section 406:** This administrative provision, similar to a series of other provisions enacted through appropriations legislation since FY2017, would allow the Secretary of Homeland Security to increase the number of H-2B visas (for temporary nonagricultural work) potentially available in FY2025. The annual statutory limit on H-2B visas is 66,000, but if fully exercised, this provision could allow up to 64,716 additional H-2B visas to be made available.²⁶
 - This provision was modified by an amendment in full committee markup to require the authority to be exercised to its maximum potential.
- **HAC Section 407:** This administrative provision would allow up to \$2,500 in USCIS fee revenues to be used for official reception and representation expenses in FY2025. The provision is similar to a provision proposed in the FY2024 House-passed measure, but not included in the FY2024 DHS appropriations act.

Two administrative provisions were added in full committee markup:

- **HAC Section 413:** This administrative provision is similar to one that the House Appropriations Committee has included since the FY2018 appropriations cycle, but has not been enacted. This provision would allow people to be admitted on H-2A visas—a program for temporary or seasonal agricultural workers—regardless of whether the agricultural work in question was temporary or seasonal.
- **HAC Section 414:** This new administrative provision would bar implementation of an “asylum program fee” by USCIS on non-immigrant worker visas.

House Floor Action

- When the House passed H.Res. 1316, the rule establishing the parameters for floor debate of H.R. 8752, it included a self-executing amendment that struck HAC Sections 406 and 413, replacing them with the original text of HAC Section 406, which conformed with the language adopted in the Further Consolidated

²⁶ For more information on H-2B visa policy, see CRS Report R44306, *The H-2B Visa and the Statutory Cap*, by Andorra Bruno.

Appropriations Act, 2024.²⁷ No other modifications were made to the Title IV administrative provisions through House Floor action.

Departmental Management, Intelligence, Situational Awareness and Oversight Administrative Provisions (Title I)

Title I of annual DHS appropriations measures currently covers appropriations for

- the Office of the Secretary and Executive Management;
- the Management Directorate;
- Intelligence, Analysis, and Situational Awareness; and
- the Office of Inspector General.

Administration-Proposed Changes²⁸

The Administration proposed six administrative provisions for Title I of the FY2025 Act.²⁹ Title I of the FY2024 act, passed two weeks later, ultimately included six.³⁰ Although there was no net change in the number of provisions, the Administration's request did not include two provisions that had been carried in recent DHS Appropriations Acts, included a long-standing provision that had not been included in the FY2024 act, and added one new provision.

Administration-proposed Deletions

- **FY2024 Section 105:** Carried since FY2022, this administrative provision required the Under Secretary for Management to provide a quarterly briefing to the appropriations committees on DHS's major acquisition programs,³¹ as well as copies of each acquisition memorandum as they are approved. The requirement would have covered all acquisition programs costing more than \$300 million over their lifecycle on the DHS Master Acquisition Oversight List.³² All such programs from the point that a program manager had begun to review approaches to meeting a capability need to full operational capability were to be included, including those programs removed from the list in the preceding quarter. In FY2023, additional parameters were added for the cost estimates. The Administration unsuccessfully proposed not including this provision in the FY2024 act, and it was included in the FY2025 HAC-reported bill as well.

²⁷ P.L. 118-47, Div. G, Sec. 105.

²⁸ CRS analysis of *FY2025 Appendix*, p. 474; P.L. 117-328, Division F; P.L. 118-47, Division C; and HAC-reported H.R. 8752.

²⁹ *FY2025 Appendix*, p. 474.

³⁰ The text of these provisions and their descriptions can be found in the "FY2024 Committee Print"; provisions on pp. 520-523, descriptions on p. 566.

³¹ The Office of Management and Budget (OMB) defines a major acquisition as "a capital project that requires special management attention because of its: (1) importance to an agency's mission; (2) high development, operating, or maintenance costs; (3) high risk; (4) high return; or (5) significant role in the administration of an agency's programs, finances, property, or other resources."

³² A list of all DHS major acquisitions developed by the DHS Office of Program Accountability and Risk Management.

- **FY2024 Section 106:** Carried since FY2022, this administrative provision required reporting from the DHS Under Secretary for Management to the appropriations committees before DHS could obligate money from the act for pilot or demonstration programs. To trigger the reporting, the program would need to use more than 10 full-time equivalents (FTE) or \$5 million, with some exceptions provided for IT contract work and programs specifically directed by Congress. The provision was included in the FY2025 HAC-reported bill as Section 106.

Administration-proposed Additions

The Administration also proposed a new general provision to establish a “Department of Homeland Security Southwest Border Contingency Operations Fund,” through which the Secretary could provide CBP, ICE, and FEMA up to \$4.7 billion in total emergency-designated appropriations, contingent on the cumulative number of migrant encounters at the border each quarter.³³ The Administration first proposed this provision for the FY2024 act, but was unsuccessful in securing its inclusion.

One long-standing provision was included in the FY2025 request, but Congress chose not to include it in the FY2024 act:

- **FY2023 Section 103:** This provision, carried since a FY2007 supplemental appropriations measure,³⁴ required DHS to link any and all award fees in their contracts to specific successful acquisition outcomes. The provision was not included in the House-passed bill.

House Appropriations Committee-proposed Changes³⁵

The House Appropriations Committee proposed no substantive modifications of the Title I administrative provisions, and none were made through House Floor action.

General Provisions (Title V)

As noted earlier, Title V of the annual DHS appropriations act has historically contained general provisions, the impact of which may reach across the government, apply to the entire department, affect multiple components, or focus on a single activity. Title V often includes provisions that make additional appropriations and others that make rescissions—cancellations of previously provided but unobligated budget authority. They reduce the net budget authority provided by the bill, lowering its “score” against budget allocations and statutory budget limits. Traditionally, they are found at the end of Title V of the DHS Appropriations Act. As they are distinct in form and function from the policy provisions of Title V, those provisions are addressed separately at the end of the section.

Some Provisions Are More General Than Others

³³ For more details on this proposal, see CRS Report R48074, *DHS Budget Request Analysis: FY2025*, by William L. Painter, p. 4 on the type of appropriation, and p. 6 on the triggers.

³⁴ P.L. 110-28, §3502, after which it was picked up as a general provision in FY2008 annual appropriations measure (P.L. 110-161, §556) and moved to an administrative provision in FY2017 (P.L. 115-31, §104).

³⁵ CRS analysis of *FY2025 Appendix*, p. 474; P.L. 117-328, Division F; P.L. 118-47, Division C; and HAC-reported H.R. 8752.

There are general provisions not included in this report that affect DHS; their effect is so broad they cover the entire federal government. Title VII of the Financial Services and General Government Appropriations Act includes these broad general provisions, which address a range of issues.

Administration-Proposed Changes³⁶

The Administration proposed 38 general provisions for the FY2025 act.³⁷ Title V of the FY2024 act, passed two weeks later, ultimately included 51.³⁸ (Four of these did not apply to the Department, but instead provided technical corrections to unrelated matters.)

The Administration's request did not include five provisions that had been carried in recent DHS Appropriations Acts, modified one current provision, and proposed adding one.

Administration-proposed Deletions

The Administration sought to remove five general provisions that appeared in both the FY2023 and FY2024 DHS appropriations acts:

- **FY2024 Section 531:** This general provision required the DHS Under Secretary for Management to submit an unfunded requirements list to the appropriations committees for any activities funded as a part of the defense budget function. A similar general provision has appeared in DHS annual appropriations acts beginning in FY2021.³⁹ The Administration has unsuccessfully sought removal of this provision since its enactment.
- **FY2024 Section 532:** This general provision required reporting to certain congressional committees and leadership on providing, extending, or terminating protection under any authority for former or retired federal officials or employees. A similar general provision has appeared in DHS annual appropriations acts beginning in FY2021.⁴⁰ The Administration has unsuccessfully sought removal of this provision since its enactment.
- **FY2024 Section 534:** This general provision required the Administration to identify discretionary offsets when legislatively unauthorized fee increase proposals are made in the budget request to support current activities, despite the prospective nature of those additional revenue sources. A similar general provision has appeared in DHS annual appropriations acts beginning in FY2017.⁴¹ The Administration has unsuccessfully sought removal of this provision since the FY2022 budget request.
- **FY2024 Section 537:** This general provision prohibited the use of funds for the transfer or release of certain individuals detained at U.S. Naval Station Guantanamo Bay, Cuba, into or within the United States. A similar general

³⁶ CRS analysis of *FY2025 Appendix*, pp. 522-525; P.L. 117-328, Division F; P.L. 118-47, Division C; and HAC-reported H.R. 8752.

³⁷ *FY2025 Appendix*, pp. 522-525.

³⁸ The text of these provisions and their descriptions can be found in the "FY2024 Committee Print"; provisions on pp. 540-555, descriptions on pp. 594-599.

³⁹ P.L. 116-260, Div. F, Section 537.

⁴⁰ P.L. 116-260, Div. F, Section 542.

⁴¹ P.L. 115-31, Div. F, Section 532.

provision has appeared in DHS annual appropriations acts beginning in FY2012.⁴² The Administration has unsuccessfully sought removal of this provision since the FY2022 budget request.

- **FY2024 Section 538:** This general provision, new in FY2023, required the Secretary to develop and share bimonthly estimates on noncitizens anticipated to arrive at the U.S.-Mexico border, and use those estimates to inform policymaking and budget processes. The FY2024 enacted version added that those estimates should be included in supplemental appropriations requests, not just annual appropriations requests, and that if they were not included, transfer and reprogramming authority would be restricted until such estimates are provided to the appropriations committees. The Administration has unsuccessfully sought removal of this provision since the FY2024 budget request.

Three general provisions that were new in the FY2024 act were not included in the Administration's FY2025 request: one was a one-time provision, but two others could be repeated in future acts.

- **FY2024 Section 539:** This one-time general provision modified the authorization for the DHS Nonrecurring Expenses Fund, which had been established in the FY2022 act to help fund DHS information technology and facilities improvements through reuse of unobligated balances of expired appropriations. It required the passage of the full-year appropriation measure for DHS before resources in the fund could be used in a given year, and required advance notification to the appropriations committees for the use of fund resources. As it was a one-time amendment, it would not need to be reiterated after enactment. This provision was not included in House-passed H.R. 8752.
- **FY2024 Section 540:** This new general provision required the Secretary of Homeland Security to make an alternatives analysis and a cost-benefit analysis before requesting assistance from the Department of Defense for border security operations, and a report to the appropriations committees on the same. It also requires quarterly reports on the assistance provided and operational impacts. This provision was included without substantive change in House-passed H.R. 8752 as HAC Section 539.
- **FY2024 Section 541:** This new general provision allows Operations and Support appropriations to DHS components to be used for necessary expenses of providing an employee emergency back-up care program. This provision was included without substantive change in House-passed H.R. 8752 as HAC Section 539.

Administration-Proposed Modifications

The Administration proposed one modification to a general provision carried in FY2023 and FY2024:

- **FY2024 Section 533:** This general provision restricts the ability of DHS agencies from submitting projects to the board of the DHS Technology Modernization Fund, unless the appropriations committees are notified and receive a copy of the proposal, as well as how the proposed project funding would relate to the existing

⁴² P.L. 112-74, Div. D, Section 541. The provision was also carried in the Full-Year Continuing Appropriations Act, 2010 (P.L. 112-10, Div. B) as Section 1112.

funding requested through appropriations. The Administration's proposed modification specifies that the responsibility for the reporting lies with the agency Chief Information Officer. House-passed H.R. 8752 did not include this modification, but continued the provision as Section 533.

In addition, the FY2024 measure made a change in a long-standing provision that had not been anticipated in the FY2025 request:

- **FY2024 Section 503:** The FY2024 act included modifications to subsection (d) restricting the Administration's ability to reprogram or transfer funds between appropriations. The new restrictions bar such moves for either changing funding levels for grant programs or creating a program, project, or activity not approved by Congress in the enactment of the annual appropriations act. House-passed H.R. 8752 maintained the same language as was enacted for FY2024.

Administration-proposed Additions

The Administration proposed one new general provision: The Administration sought the ability to transfer up to 5% of any appropriation into the "Information Technology Modernization Fund" for DHS that was authorized under the National Defense Authorization Act for Fiscal Year 2018.⁴³ The Biden Administration first proposed this provision in its FY2022 budget request.

The Administration's FY2025 request also included two provisions that would not be included in the FY2024 enacted measure:

- **FY2023 Section 510:** In FY2023, this section was an explicit inclusion of a restriction on the use of funds to pay the salary of a person acting as a contracting officer's representative or in a similar role if they have not completed training for said role. In prior years, this had been included by reference to a prior appropriations act.⁴⁴
- **FY2023 Section 521:** This general provision, carried in the DHS annual appropriations act since FY2010,⁴⁵ barred DHS from entering into a contract if it did not meet the requirements of the Federal Property and Administrative Services Act of 1949, 10 U.S.C. Chapter 137, and the Federal Acquisition Regulation, unless it was authorized in statute.
- House-passed H.R. 8752 did not include either of these provisions.

House Appropriations Committee-proposed Changes⁴⁶

The House Appropriations Committee proposed including 52 general provisions in Title V of the FY2025 measure, including two rescission provisions. Using the FY2024 act as a baseline for comparison, HAC-reported H.R. 8752 did not carry forward one non-rescissions provision related to DHS (noted above), three other one-time provisions that offset part of the discretionary cost of the measure (FY2024 Sections 544, 546, and 547), and four provisions unrelated to DHS. The measure included eight additional general provisions, plus one to create a "spending reduction account."

⁴³ P.L. 115-91, Div. A, Title X, Section 1077(b)(1).

⁴⁴ P.L. 110-161, Div. E, Section 520.

⁴⁵ P.L. 111-83, Section 570.

⁴⁶ CRS analysis of HAC-reported H.R. 4367, P.L. 118-47, Division C, and HAC-reported H.R. 8752.

House Appropriations Committee-proposed Additions

- **HAC Section 542:** This general provision, also proposed as Section 549 in the FY2024 House-passed measure, would block to use of funds to inspect a contracted ICE detention facility more than once within a six-month period.
- **HAC Section 543:** This general provision, also proposed as Section 544 in the FY2024 House-passed measure, would prohibit the use of funds to implement a rule related to “Circumvention of Lawful Pathways.”
- **HAC Section 544:** This general provision, functionally similar to Section 540 of the FY2024 House-passed measure, would bar the use of funds for a Disinformation Governance Board at DHS, or “any other entities carrying out similar activities” related to misinformation.
- **HAC Section 545:** This general provision, added in an en bloc amendment in full committee markup as Section 543 in the FY2024 House-passed measure, would prohibit the use of funds to classify any communication by a U.S. person as “mis-, dis-, or mal-information” or partnering with organizations that in any way recommend that private companies in any way censor, prohibit, or obstruct lawful and constitutionally protected speech of a U.S. person on social media platforms. The provision furthermore would direct the removal from federal service any officer or employee funded by this act who carries out such actions.
- **HAC Section 546:** This general provision, also proposed as Section 545 in the FY2024 House-passed measure, would bar the use of funds to implement, administer, enforce, or carry out the DHS Equity Action Plan, two executive orders related to advancing racial equity and support for underserved communities, one Executive order related to diversity, equity, inclusion, and accessibility in the federal workforce, or “any program, project or activity that promotes or advances Critical Race Theory or any concept associated with Critical Race Theory.”
- **HAC Section 547:** This general provision, added in an en bloc amendment in full committee markup as Section 543 in the FY2024 House-passed measure, would prohibit the use of funds to take a discriminatory action against a person on the basis of their beliefs regarding the definition of marriage as being between one man and one woman.
- **HAC Section 548:** This new general provision would bar the use of funds to allow officials of a country designated as a state sponsor of terrorism within the past three years to “observe, tour, visit, or confer” with DHS employees.

One general provision was added to the bill in full committee markup:

- **HAC Section 549:** This provision’s stated intent is to block any DHS grant funding for “sanctuary cities,” defined in this amendment as any subdivision of a state that
 1. Has in place any kind of policy that limits any government official or entity from communicating with the Immigration and Naturalization Service regarding that citizenship or immigration status of any individual; or
 2. Has in place “any law, policy, or procedure” that “hinders the federal government from enforcing... immigration laws.”

House Floor Action

When the House passed H.Res. 1316, the rule establishing the parameters for floor debate of H.R. 8752, it made in order amendments that would have added 21 general provisions to the bill, 19 of which would bar the use of funds for specific activities. Of the general provision amendments that were made in order, 15 were adopted. Many of these were also adopted on the House Floor in the FY2024 cycle, but were not enacted, including those barring the use of funds to:

- Pay the salary of DHS Secretary Mayorkas;
- Implement, administer, or enforce the following Executive Orders:
 - E.O. 13990, “Protecting the Public Health and Environment and Restoring Science to Tackle the Climate Crisis”;⁴⁷
 - E.O. 14008, “Tackling the Climate Crisis at Home and Abroad”;⁴⁸
 - E.O. 14013, “Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change on Migration,” Section 6;⁴⁹
 - E.O. 14019, “Promoting Access to Voting,” except for sections 7, 8, and 10;⁵⁰
 - E.O. 14030, “Climate-Related Financial Risk”;⁵¹
 - E.O. 14057, “Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability”;⁵²
 - E.O. 14082, “Implementation of the Energy and Infrastructure Provisions of the Inflation Reduction Act of 2022”;⁵³ and
 - E.O. 14096, “Revitalizing Our Nation’s Commitment to Environmental Justice for All”;⁵⁴
- Implement any COVID-19 mask mandate;⁵⁵
- Develop or implement any DHS Environmental Justice Strategy;⁵⁶ and
- Implement a “Remain-in-Texas” policy.

⁴⁷ For the text of the Executive Order, see <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-protecting-public-health-and-environment-and-restoring-science-to-tackle-climate-crisis/>.

⁴⁸ For the text of the Executive Order, see <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/>.

⁴⁹ For the text of the Executive Order, see <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/04/executive-order-on-rebuilding-and-enhancing-programs-to-resettle-refugees-and-planning-for-the-impact-of-climate-change-on-migration/>.

⁵⁰ For the text of the Executive Order, see <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/03/07/executive-order-on-promoting-access-to-voting/>.

⁵¹ For the text of the Executive Order, see <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/05/20/executive-order-on-climate-related-financial-risk/>.

⁵² For the text of the Executive Order, see <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/12/08/executive-order-on-catalyzing-clean-energy-industries-and-jobs-through-federal-sustainability/>.

⁵³ For the text of the Executive Order, see <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/09/12/executive-order-on-the-implementation-of-the-energy-and-infrastructure-provisions-of-the-inflation-reduction-act-of-2022/>.

⁵⁴ For the text of the Executive Order, see <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/04/21/executive-order-on-revitalizing-our-nations-commitment-to-environmental-justice-for-all/>.

⁵⁵ The FY2025 House section is slightly broader than the two FY2024 provisions (House Sections 560, barring funds for a TSA mask mandate on travelers, and 562, barring funds for a face mask mandate on DHS employees).

⁵⁶ For information on the DHS Environmental Justice Program, see <https://www.dhs.gov/dhs-and-environmental-justice>.

Another such general provision adopted on the House Floor last year that was also adopted in the FY2025 cycle would restrict the salary of the Director of U.S. Citizenship and Immigration Services to \$1.

Other new general provisions added through House Floor action would restrict the use of funds to:

- Implement COVID-19-era guidance reducing the hours of certain Northern Border Ports of Entry;
- Finalize any rule or regulation with an annual effect on the economy of \$100 million or more;
- Partner with the State Department to establish Safe Mobility Offices;⁵⁷
- Purchase electric vehicles;
- Fund the TSA's Inclusion Action Committee;⁵⁸
- Administer, implement or enforce the "Memorandum on the Deferred Enforced Departure for Certain Palestinians," issued on February 14, 2024;⁵⁹ and
- Compensate the Department of Veterans Affairs for processing medical claims on behalf of ICE-detained individuals.

Rescission Provisions (and Others Reducing the Score of the Act)

Five separate general provisions were included in the FY2024 appropriations measure that reduced the overall discretionary "score" of the act. In all, these provisions reduced the overall discretionary score of the FY2024 act by almost \$1.7 billion. By comparison, the FY2023 act had \$394 million in rescissions.

For FY2025, the Administration proposed one such general provision, canceling \$204 million in current unobligated appropriations from previously provided appropriations in two different DHS accounts. A parallel provision in the FY2024 act rescinded \$239 million from 22 different DHS accounts.

House-passed H.R. 8752 included two general provisions rescinding funds. The first, HAC Section 549, rescinds \$600 million in unobligated border barrier construction funds that would have expired at the end of FY2025. This budget authority is essentially appropriated anew in Title II for the same purpose, and as a result, would be available for obligation until the end of FY2029. Section 550 would rescind \$154 million from the DHS Nonrecurring Expenses Fund.

Like the Administration's FY2025 request, House-passed H.R. 8752 did not include rescissions of expiring operations and support appropriations, rescissions of funds from other supplemental measures, offsets for appropriations from dedicated funds, or rescissions from other departments to offset the cost of the measure.

⁵⁷ For information on the Safe Mobility Initiative, see CRS In Focus IF12538, *U.S. Efforts to Manage Western Hemisphere Migration Flows*, by Clare Ribando Seelke and Peter J. Meyer; and <https://www.state.gov/refugee-admissions/safe-mobility-initiative/>.

⁵⁸ The Inclusion Action Committee is an advisory committee within TSA. For information on the Committee, see https://www.tsa.gov/sites/default/files/inclusion_action_committee_report.pdf, and Justin Doubleday, "TSA Hiring DEI Chief to Help Tackle Lack of Diversity Among Senior Ranks," May 30, 2022, <https://federalnewsnetwork.com/hiring-retention/2022/05/tsa-hiring-dei-chief-to-help-tackle-lack-of-diversity-among-senior-ranks/>.

⁵⁹ For the text of the memorandum, see <https://www.whitehouse.gov/briefing-room/presidential-actions/2024/02/14/memorandum-on-the-deferred-enforced-departure-for-certain-palestinians/>.

One amendment was adopted on the House Floor that reduced the Operations and Support appropriation for the Office of the Secretary and Executive Management by \$10 million and put the budget authority in the “Spending Reduction Account” in Section 552.

Appendix A. Glossary of Abbreviations

Glossary

CBP	U.S. Customs and Border Protection
CISA	Cybersecurity and Infrastructure Security Agency
CRS	Congressional Research Service
DHS	U.S. Department of Homeland Security
FEMA	Federal Emergency Management Agency
FLETC	Federal Law Enforcement Training Centers
HAC	House Appropriations Committee
ICE	U.S. Immigration and Customs Enforcement
OIG	Office of Inspector General
OMB	Office of Management and Budget
OSEM	Office of the Secretary and Executive Management
O&S	Operations and Support
PC&I	Procurement, Construction, and Improvements
R&D	Research and Development
S&T	Science and Technology Directorate
TSA	Transportation Security Administration
USCG	U.S. Coast Guard
USSS	U.S. Secret Service

Appendix B. Evolution of Administrative and General Provisions in the DHS Appropriations Act

The structure of the annual DHS appropriations act has evolved significantly since its initial development in the FY2004 cycle.

Initial appropriations structures were not consistent across the bill, and departmental reorganizations shifted parts and responsibilities across the department. Even so, some of the original general provisions from the FY2004 act are included in the current annual appropriations act.

The overall structure of the department stabilized with the FY2008 act, and for a decade, the structure of the bill was relatively stable from year to year. With the enactment of the FY2017 act, two major changes occurred: a common appropriations structure was applied over almost all of the DHS components; and directive language was shifted from individual appropriations provisos and some Title V General Provisions into groups of “administrative provisions” at the end of each title. The structure of the bill has remained relatively consistent since.

The following appendix looks at each of these years—FY2004, as the first year; FY2008, as the year of significant reorganization; and FY2017, as the first year of the Common Appropriations Structure and administrative provisions—to highlight where many of the long-standing provisions of the DHS appropriations act originated.

The First DHS Appropriations Act: FY2004

The first annual appropriations measure for DHS was passed by Congress a week before the beginning of its fiscal year. Initial budget justification materials presented to Congress were minimal, but the bill moved relatively quickly and passed with near-unanimity.

While the titles of the DHS appropriations measure have changed slightly, and several components have been reorganized, the general structure of the titles of the measure has remained consistent:

- **Title I—Departmental Management and Operations**—headquarters functions;
- **Title II—Security, Enforcement, and Investigations**—law enforcement operational components;
- **Title III—Preparedness and Recovery**—FEMA and related functions;
- **Title IV—Research and Development, Training, Assessments, and Services**—specialized components; and
- **Title V—General Provisions.**

Appropriations Titles I-IV

Within the first four titles, however, component appropriations were structured differently. New components, like DHS headquarters and management functions, and the U.S. Visitor and Immigrant Status Indicator Technology project received single appropriations. Others, like the U.S. Coast Guard, received appropriations in structures paralleling what they had received in FY2003. New major components—U.S. Customs and Border Protection and Immigration and Customs Enforcement—generally followed the structure of legacy Customs Service appropriations.

These appropriations included direction to the individual components through provisos within the statement of appropriations themselves, rather than as administrative or general provisions. Some of these were statutory directions to use certain amounts for certain activities, such as facilities improvements, while others were prohibitions on the use of funds, such as prohibitions on construction of border checkpoints. Some appropriations were withheld until certain conditions were met, such as providing a spend plan to the appropriations committees that met certain parameters. Administrative provisions were included in some appropriations measures at the time, often providing direction across multiple appropriations, but no such provisions appeared in the initial DHS appropriations act.

In what was standard practice for the time, rescissions, or cancellation of previously appropriated budget authority, were included immediately after the statement of appropriations for the target account.

General Provisions

Twenty-one general provisions were included in the initial DHS appropriations act, and eight continue to be carried forward each year as general provisions in the annual act:

- **FY2004 Section 501**—Budget authority provided by the act is not available after the fiscal year unless the bill specifically provides for it (FY2024 Section 501);
- **FY2004 Section 502**—Budget authority provided in prior acts for activities funded in this act may be transferred to and merged with funds in the applicable accounts (FY2024 Section 502);
- **FY2004 Section 503**—Establishes parameters for reprogrammings and transfers of budget authority in the bill (a modified version continued as FY2024 Section 503);
- **FY2004 Section 504**—Authorizes continued availability of up to 50% of unobligated salaries and expenses balances at the end of the fiscal year to be used in the following fiscal year (FY2024 Section 505);
- **FY2004 Section 508**—Deems funding for intelligence programs to be authorized until an intelligence authorization act for the fiscal year was signed into law (a modified version continued as FY2024 Section 506);
- **FY2004 Section 510**—Requires advance notice of grant awards (an expanded version continued as FY2024 Section 507);
- **FY2004 Section 511**—Blocks other agencies from building new federal law enforcement training facilities separate from existing ones without prior approval of the appropriations committees (FY2024 Section 508);
- **FY2004 Section 516**—Requires certain construction projects to have an approved prospectus to be funded (FY2024 Section 509); and
- **FY2004 Section 518**—No funds in the bill may be used in contravention of the Buy American Act (a modified version continued as FY2024 Section 511).

Several of these general provisions were one-time provisions that provided authorizations or restrictions beyond FY2004, or converted structure and functions of formerly independent components into DHS functions.

- **FY2004 Section 505**—Provided flexibility for DHS to use certain funds for specific types of purchases “in fiscal year 2004 and thereafter, unless otherwise provided”;⁶⁰
- **FY2004 Section 506**—Made the FEMA “Working Capital Fund” account available to DHS, and renamed it as “Department of Homeland Security Working Capital Fund”;
- **FY2004 Section 507**—Made the FEMA “Bequests and Gifts” account available to DHS, and renamed it as “Department of Homeland Security, Gifts and Donations”;
- **FY2004 Section 513**—Required customs declarations to ask “whether the passenger had been in the proximity of livestock”;
- **FY2004 Sections 514 and 515**—Blocked funding for certain DHS actions that would prevent enforcement of certain laws against forced child labor,⁶¹ or allow goods made with such labor to be brought into the country; and
- **FY2004 Section 520**—Authorized the Secretary to charge fees to pay for credentialing transportation workers.

Others provided direction to the department or its components:

- **FY2004 Section 509**—Directed FLETC to establish an accrediting body for assessing federal law enforcement training programs, facilities, and instructors;⁶²
- **FY2004 Section 512**—Required the Director of FLETC to ensure all its facilities are operated at optimal capacity;
- **FY2004 Section 517**—Blocked regulations requiring airport sponsors to provide space or services to TSA without compensation other than for security checkpoints;
- **FY2004 Section 519**—Blocked deployment of a particular passenger prescreening system until GAO reported to Congress that the system met certain thresholds; and
- **FY2004 Section 521**—Directed the Secretary to get certified systems to inspect and screen air cargo on passenger aircraft, and until such systems were online, to use the known shipper program to prevent high-risk cargo from being carried on passenger planes.

The Post-Katrina DHS Appropriations Act: FY2008

After several years of reorganization, and the refocusing of departmental priorities through the Post Katrina Emergency Management Reform Act (PKEMRA), the structure of DHS and its funding had shifted.

The DHS Appropriations Act, 2008, was enacted in a different fashion than its predecessors. The FY2004 act was a stand-alone measure, signed into law on the first day of the fiscal year. Each of

⁶⁰ Future appropriations measures restated some of these authorities in different fashions: therefore, these should not be considered enduring authorities.

⁶¹ As defined under section 307 of the Tariff Act of 1930 (19 U.S.C. §1307).

⁶² This body, the Federal Law Enforcement Training Accrediting Board, was established, and has continued to receive direction from the administrative provisions under Title IV in the Department of Homeland Security Appropriations Act.

the next three years, the bill was enacted as a stand-alone measure within the first month of the fiscal year. The FY2008 act was signed into law as a division of a consolidated appropriations measure almost three months into the fiscal year. Some observers note this as an indicator of increasing challenges in passing the measure.

Appropriations Titles I-IV

The FY2008 Act included several components that had not appeared in the first DHS appropriations act, as well as a reconstituted FEMA. New components are noted below, but the general structure of the titles of the measure remained, with slight changes to the names of Titles III and IV:

- **Title I—Departmental Management and Operations**—headquarters functions, now including specific appropriations for the Office of the Chief Financial Officer, the Office of the Chief Information Officer, Analysis and Operations, and Office of the Federal Coordinator of Gulf Coast Rebuilding;
- **Title II—Security, Enforcement, and Investigations**—law enforcement operational components;
- **Title III—Protection, Preparedness, Response and Recovery**—the new National Protection and Programs Directorate, the Office of Health Affairs, and the reconstituted FEMA;
- **Title IV—Research and Development, Training, and Services**—specialized components, including the Domestic Nuclear Detection Office;⁶³ and
- **Title V—General Provisions**

The structure of direction through appropriations provisos remained unchanged. However, rescissions now were included in the general provisions in Title V, in part because the evolved structure of the appropriations themselves did not necessarily align with the desired rescissions, which by their nature, come from prior year accounts.

General Provisions—Title V

Seventy-three general provisions were included in the FY2008 DHS appropriations act. They included several sections of significant length making changes to the *U.S. Code*, including legislation on the secure handling of ammonium nitrate (Section 563), modifications to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Section 564), and modifications to the International Registered Traveler Program (Section 565). In addition, a sixth title was included in the act, containing the “Border Infrastructure and Technology Modernization Act of 2007.”

Several other general provisions that are still part of the current structure of the DHS appropriations act appeared in FY2008:

- **FY2008 Section 514**—Barred funding in the bill from being used to amend the Oath of Allegiance (FY2024 Section 512);
- **FY2008 Section 515**—Blocked funding for privatization of certain jobs at USCIS (a modified version appears in the FY2024 act as Section 402);

⁶³ The Information Analysis and Infrastructure Protection Directorate, which had appeared in this title in FY2004, was reorganized into Analysis and Operations and the National Protection and Programs Directorate, and no longer appeared in this title in the FY2008 Act.

- **FY2008 Section 526**—Required a monthly budget and staffing report (a modified version appears in the FY2024 act as Section 102);
- **FY2008 Section 529**—Classifies FLETC instructor staff positions as inherently governmental functions (FY2024 Section 407);
- **FY2008 Section 537**—Blocks alteration of operations withing the Civil Engineering Program of the Coast Guard absent prior legislative authorization (a modified version appears in the FY2024 act as Section 225);
- **FY2008 Section 539**—Blocked obligation of funding from DHS headquarters accounts for grants or contracts not awarded under full and open competition, with some exceptions, which require reporting (a modified version appears in the FY2024 act as Section 101, requiring reporting on such contract awards);
- **FY2008 Section 541**—Blocked the use of funding for “any position designated as a Principal Federal Official” for Stafford Act-declared incidents (a modified version appears in the FY2024 act as Section 530);
- **FY2008 Section 546**—Blocked the Secretary’s authority to reorganize the Department under Section 872 of the Homeland Security Act (FY2024 Section 513);
- **FY2008 Section 548**—Blocked reductions of the Coast Guard’s Operations Systems Center mission or its staffing levels (a modified version appears in the FY2024 act as Section 223);
- **FY2008 Section 549**—Blocked funding for privatization of certain jobs at USCG National Vessel Documentation Center (FY2024 Section 224);
- **FY2008 Section 558**—Blocked CBP from preventing private individuals from importing certain prescription drugs for their personal use (FY2024 Section 205); and
- **FY2008 Section 567**—Blocked the use of funds “for planning, testing, piloting, or developing a national identification card” (FY2024 Section 514).

The Common Appropriations Structure DHS Appropriations Act: FY2017

When DHS was established in 2003, components of other agencies were brought together over a matter of months, in the midst of ongoing budget cycles. Rather than developing a new structure of appropriations for the entire department, Congress and the Administration continued to provide resources through existing account structures when possible.

At the direction of Congress, in 2014 DHS began to work on a new Common Appropriations Structure (CAS), which would standardize the format of DHS appropriations across components. This would be the most significant restructuring of DHS appropriations since its establishment. In an interim report in 2015, DHS noted that operating with “over 70 different appropriations and over 100 Programs, Projects, and Activities ... has contributed to a lack of transparency, inhibited comparisons between programs, and complicated spending decisions and other managerial decision-making.”⁶⁴

⁶⁴ Office of the Chief Financial Officer, *A Common Appropriations Structure for DHS: FY2016 Crosswalk*, U.S. Department of Homeland Security, February 2, 2015, p. 2.

After several years of work and negotiations with Congress, DHS made its first budget request in the CAS for FY2017, and implemented it while operating under the continuing resolutions funding the department in October 2016.⁶⁵ Part of the restructuring of the appropriations included the addition of administrative provisions, shifting instructions that had been included in language of specific appropriations or in general provisions into sections at the end of each title. **Table B-1** shows total general provisions and administrative provisions for the last ten enacted DHS appropriations acts.

Table B-1. Tally of General and Administrative Provisions, FY2015-FY2024

(Annual appropriations measures)

Fiscal Year	General Provisions	Administrative Provisions				Total
	Title V	Title I	Title II	Title III	Title IV	
2015	78					78
2016	75					75
2017	44	8	28	12	9	101
2018	45	7	31	8	8	99
2019	40	6	31	9	8	94
2020	40	5	36	7	7	95
2021	42	6	35	11	7	101
2022	48	8	36	11	8	111
2023	49	8	36	11	7	111
2024	51	6	31	11	7	106

Source: CRS analysis of enacted DHS appropriations.

Note: Administrative provisions first appeared in DHS annual appropriations in the FY2017 act (P.L. 115-56, Division F).

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⁶⁵ The Coast Guard, due to limitations of its financial management system, did not implement the system until FY2019.

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