

Department of Homeland Security Appropriations: FY2026 Provisions

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Department of Homeland Security Appropriations: FY2026 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.

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, where multiple bills are combined in one).

Some of these directions directly relate to the management of budget authority enacted in the measure, while others relate to policy or operational matters. Sometimes enacted appropriations measures include authorizing (or “legislative”) provisions as well.

As with any legislation, these provisions are not unchanging. 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 a focus of negotiations between the parties and between the chambers during the appropriations process, and may evolve until a compromise is reached in the final measure.

Rather than reciting the entire catalog of the nearly 150 administrative and general provisions in the Department of Homeland Security (DHS) Appropriations Act, 2026 (H.R. 4213, 119th Congress), this report focuses on the substantive changes in directions provided from the FY2025 current law baseline, which was established by the FY2025 full-year continuing resolution (CR) in P.L. 119-4. The CR carried forward, with some exceptions, the terms and conditions laid out in the DHS Appropriations Act, 2024 (P.L. 118-47, Division C). This report discusses potential changes from that baseline, as reflected in the

- detailed proposals for administrative and general provisions made in the Administration’s FY2026 Budget Appendix outlining the appropriations request for DHS; and
- administrative and general provisions in House Appropriations Committee (HAC)-reported H.R. 4213, as well as amendments approved by the House of Representatives during floor consideration.

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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.

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

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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, where multiple bills are combined in one).

Some of these directions directly relate to the management of budget authority enacted in the measure, while others relate to policy or operational matters. Sometimes enacted appropriations measures include authorizing (or “legislative”) provisions as well.

As with any legislation, these provisions are not unchanging. 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 a focus of negotiations between the parties and between the chambers during the appropriations process, and may evolve until a compromise is reached 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 FY2026 appropriations process for the Department of Homeland Security (DHS). It describes the substantive changes in administrative and general provisions from the FY2025 current law baseline that are reflected in the Administration’s FY2026 budget request for DHS, and in the House Appropriations Committee (HAC)-reported FY2026 DHS appropriations bill.

Provisions Under a Full-Year Continuing Resolution

On March 15, 2025, President Donald J. Trump signed the Full-Year Continuing Appropriations Act (P.L. 119-4, Division A) into law. This was the second fiscal year in DHS’s history for which its appropriations were provided under the terms of a continuing resolution (CR) for the entire year—the first being FY2011.

Full-Year Continuing Resolutions in General

Under a full-year CR, there is no accompanying conference report to provide direction to the department on program allocations, the use of funding or other matters. Instead, the language of the measure is the sole set of instructions provided. In the first section of a CR, Congress typically directs that funding be provided at the same level, under the same authorities, and under the same conditions as were being provided in annual appropriations measures and other legislation that are specified in an early section of the CR (this is referred to in this report as the “baseline”).¹ Later sections of the measure may provide specific exceptions to that guidance. Absent those specific changes, the appropriations provisos, administrative provisions, and general provisions from those baseline measures remain in effect.

¹ See, for example, P.L. 119-4, Division A, Section 1101(a).

DHS and the FY2025 Full-Year Continuing Resolution

For the most part, the baseline for DHS’s continuing appropriations outlined in P.L. 119-4, Title I, is the Department of Homeland Security Appropriations Act, 2024 (the Further Consolidated Appropriations Act, 2024; P.L. 118-47, Division C), with a few changes: the last four general provisions are not included, while four provisions from a later division are (P.L. 118-47, Division G).² P.L. 119-4, Title VII, includes specific changes to that baseline, commonly referred to as “anomalies.”

Some of these changes are beyond the scope of matters typically discussed in this report. For example, Section 1701 makes changes to appropriations levels for several accounts from the baseline levels.

Scope and Methodology

This report focuses on administrative and general provisions included in the

- detailed proposals for administrative and general provisions made in the Administration’s FY2026 Budget Appendix, outlining the appropriations request for DHS; and

administrative and general provisions in House Appropriations Committee-reported H.R. 4213 (119th Congress), as well as amendments approved by the House of Representatives during floor consideration.

Rather than listing all the administrative and general provisions considered, this report uses the administrative and general provisions of the enacted DHS Appropriations Act, 2024,³ as a basis for comparison, and notes changes from that starting point. These generally represent the current terms and conditions under which appropriations were provided for DHS in FY2025, under the terms of the full-year continuing resolution in P.L. 119-4.

For each title of the bill, this report provides a list of the components funded in the title and a tally of provisions included in the DHS Appropriations Act, 2024. This is followed by sections analyzing the Administration proposal for FY2026, and House Appropriations Committee-reported H.R. 4213. Subsections describe excluded prior-year provisions, substantive changes to provisions carried forward from FY2025 (ones that would alter the practical effects of the prior year’s provisions), and new provisions.

Given the amount of funding provided and the number of administrative provisions, this 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 of this report deals with general provisions in Title V.

Section numbers often differ across the various versions of acts and bills. To avoid confusion between years and versions, the sections of the FY2024 act that were carried forward into FY2025 are referred to as “FY2025 Sections,” and those of H.R. 4213 (for FY2026) are referred to as “HAC Sections.”

² These four additional provisions relate to extensions of the authorization for the National Flood Insurance program and certain immigration programs. Discussion of these provisions can be found in CRS Report R48517, *Section-by-Section Summary of the Full-Year Continuing Appropriations Act, 2025 (Division A of P.L. 119-4)*, coordinated by Drew C. Aherne.

³ P.L. 118-47., Div. C.

Appendices include a glossary of abbreviations, a summary of changes in appropriations language in the measure, 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)⁴

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).

Administration-Proposed Changes

Title II of the FY2024 act had included 31 administrative provisions, all but one of which was in effect for FY2025 under the terms of the FY2025 full-year CR.⁵ The Trump Administration proposed 23 administrative provisions for Title II of the FY2026 Act. The Administration's FY2026 request did not include nine of the provisions from the FY2024 act, proposed modifying three (compared to the versions in effect for FY2025), and would add one new administrative provision to the title.

Administration-Proposed Deletions

The Administration proposed deleting nine provisions:

FY2025 Section 207: Included since FY2014 in annual appropriations,⁶ this administrative provision restricted DHS from studying or implementing a border crossing fee at land ports of entry.

FY2025 Section 209: Included in some form since FY2019 in annual appropriations,⁷ this administrative provision restricted the use of funds to build border fencing in five geographic areas, as well as historic cemeteries.

FY2025 Section 210: Included in an FY2019 border security supplemental,⁸ and since FY2020 in annual appropriations,⁹ this administrative provision restricted the ability of DHS to reduce vetting operations at existing locations unless specifically authorized by law.

⁴ CRS analysis of Office of Management and Budget, Fiscal Year 2026 Budget of the U.S. Government: Appendix, May 30, 2025, pp. 498-499, <https://www.govinfo.gov/content/pkg/BUDGET-2025-APP/pdf/BUDGET-2025-APP.pdf> (hereinafter, FY2025 Appendix); P.L. 119-4, Division A; P.L. 118-47, Division C; and House Appropriations Committee (HAC)-reported H.R. 4213.

⁵ P.L. 119-4, Section 1705 “muted” Sec. 227 of the FY2024 act. The section in question was a restriction on the USCG’s collection of certain fees for the inspection of towing vessels.

⁶ It first appeared as a proviso in CBP’s annual Salaries and Expenses appropriation (P.L. 113-76), then as an administrative provision beginning in FY2017 (P.L. 115-31, Div. F, Sec 208).

⁷ P.L. 116-6, Div. A, Sec. 231.

⁸ P.L. 116-26, Sec. 305.

⁹ P.L. 116-93, Div. D, Sec. 211.

FY2025 Section 211: Included since FY2018 in annual appropriations,¹⁰ this administrative provision delimited the use of part of CBP's Procurement, Construction and Improvements (PC&I) appropriation.

FY2025 Section 212: Included since FY2015 in annual appropriations measures,¹¹ this administrative provision barred DHS from continuing a delegation of immigration law enforcement authority if the DHS Office of Inspector General (OIG) determines that the terms of the underlying agreement governing the delegation have been materially violated.

FY2025 Section 223: Included since FY2008 in annual appropriations measures,¹² this administrative provision barred the use of funds to reduce the USCG Operations Systems Center's mission or its staffing levels.

FY2025 Section 224: Included since FY2008 in annual appropriations measures,¹³ this administrative provision barred the use of funds in the bill to contract out the work of the National Vessel Documentation Center.

FY2025 Section 225: Included in some form since FY2007 in annual appropriations measures,¹⁴ this administrative provision allowed funds to be used to alter operations in the USCG Civil Engineering Program, but barred the reduction of operations within any civil engineering unit except as specifically authorized in a subsequently enacted law.

FY2025 Section 227: Included since FY2022,¹⁵ this administrative provision restricted the USCG from charging a fee for inspecting certain towing vessels until the USCG determined whether the costs of towing vessel inspections done by the USCG differed from those of third-party inspectors, and adjusted its fees to reflect its costs.¹⁶ This provision had essentially been "deactivated" by Section 1705 of the year-long CR.

Administration-Proposed Modifications

FY2025 Section 213: Included in some form since FY2009 in annual appropriations,¹⁷ this administrative provision restricted the ability of ICE to continue detention service contracts with a given facility if it failed the attain a median score on its two most recent overall performance

¹⁰ 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).

¹¹ It first appeared as a proviso in the FY2015 ICE Salaries and Expenses annual appropriation (P.L. 114-4), then as an administrative provision beginning in FY2017 (P.L. 115-31, Div. F, Sec. 210).

¹² It first appeared as a general provision in the FY2008 DHS appropriations act (P.L. 110-161, Div. E, Sec. 548), then as an administrative provision beginning in FY2017 (P.L. 115-31, Div. F, Sec. 220).

¹³ It first appeared as a general provision in the FY2008 DHS appropriations act (P.L. 110-161, Div. E, Sec. 549), then as an administrative provision beginning in FY2017 (P.L. 115-31, Div. F, Sec. 221).

¹⁴ It first appeared as a general provision in the FY2007 DHS appropriations act (P.L. 109-295, Sec. 552), as a complete restriction on the use of funds to alter or reduce operations within the Civil Engineering Program until the appropriations committees approved a plan for such changes. A general provision in a supplemental appropriations measure altered the restriction, barring the use of funds for such changes until enactment of a law authorizing them, and indicating that the restriction applied to funds provided in "this or any other Act" (P.L. 110-28, Sec. 6403). In the FY2009 DHS annual appropriations measure the language changes to specifically allow alteration of operations, but not reduction of operations within any unit until specifically authorized by a subsequent act (P.L. 110-329, Div. D, Sec. 524). It became an administrative provision in FY2017 (P.L. 115-31, Div. F, Sec. 222).

¹⁵ P.L. 117-103, Div. F, Section 231.

¹⁶ P.L. 115-282.

¹⁷ The provision first appeared as a proviso in the FY2009 ICE Salaries and Expenses appropriation (P.L. 110-329), then as an administrative provision starting in FY2017 (P.L. 115-31, Div. F, Sec. 211).

evaluations. The Trump Administration proposed changing the provision to allow the contracts to continue, but limit new intakes at the given facility. The Administration also proposed allowing the restriction to be lifted if ICE took the necessary steps to bring the facility into compliance and submitted an evaluation report to the DHS appropriations subcommittees.

FY2025 Section 216: Included since FY2021, this administrative provision carries 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 required reporting on “287(g) agreements,” under which local law enforcement works with ICE on enforcement of immigration laws.

The Trump Administration proposed not carrying forward the reference to FY2020 Section 216.

FY2025 Section 220: Included since FY2020, this administrative provision requires 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 within a certain amount of time. The Trump 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.”¹⁸

Administration-Proposed Addition

Proposed Section 223: The Administration proposed restoring an administrative provision that would provide greater flexibility for the USCG to reprogram certain funds: up to \$10 million each in its Operations and Support appropriation to or from its Military Personnel category and between its Field Operations funding subcategories. The former flexibility was first provided in FY2014, and the latter was added in FY2022.¹⁹ The provision did not appear in the FY2024 DHS appropriations act.

House Appropriations Committee-Proposed Changes

HAC-reported H.R. 4213 included 43 administrative provisions in Title II: dropping four provisions from the FY2024 act, substantively changing one, and including sixteen provisions that had not been included in the FY2024 act.

House Appropriations Committee-Proposed Deletions

The four administrative provisions not carried forward in HAC-reported H.R. 4213 were among the nine not included in the Administration’s FY2026 request:

- FY2024 Section 223, regarding the USCG Operations Systems Center;

¹⁸ The Biden Administration had made a similar proposal in its FY2024 and FY2025 requests.

¹⁹ The Military Personnel flexibility was the final proviso under the USCG Operating Expenses appropriation in P.L. 113-76. It became an administrative provision in FY2017 (P.L. 115-31, Div. F, Sec. 219). The Field Operations flexibility first appeared in the FY2022 act (P.L. 117-103, Div. Sec. 224).

- FY2024 Section 225, regarding the USCG National Vessel Documentation Center;
- FY2024 Section 226, regarding the USCG Civil Engineering Program; and
- FY2024 Section 227, regarding USCG collection of towing vessel inspection fees.

The other five FY2024 provisions not requested by the Administration were included in the HAC-reported H.R. 4213.

House Appropriations Committee-Proposed Modifications

FY2025 Section 211: Included in annual DHS appropriations measures since FY2018, this administrative provision has delimited the use of CBP’s annual PC&I appropriation. While the Administration proposed not including this provision, HAC-reported H.R. 4213 included it as Section 211, directing the \$898 million appropriation into five activities, adding radiological detection systems that had been funded through the Office of Countering Weapons of Mass Destruction (see **Table 1**). Previous programs for acquisition and deployment of physical barriers and facility construction and improvements were not included, as those activities were designated for funding through the reconciliation package.²⁰

Table 1. CBP Procurement, Construction and Improvements Appropriation Allocation in Administrative Provisions

Program, Project or Activity	FY2025 Full-Year CR	FY2026 Annual Appropriations Request	HAC-Reported H.R. 4213
Acquisition and deployment of border technologies	\$283,500,000	\$243,798,000	\$346,000,000
Trade and travel assets and infrastructure	380,900,000	137,000,000	300,000,000
Facility construction and improvements	92,114,000	252,000,000	—
Integrated operations assets and infrastructure	75,983,000	122,491,000	182,400,000
Mission support and infrastructure	17,673,000	10,473,000	32,000,000
Radiological detection systems	—	—	37,718,000
Total	\$850,170,000	\$765,762,000	\$898,118,000

Source: CRS analysis of H.Rept. 119-173 and U.S. Customs and Border Protection Procurement, Construction and Improvements FY2026 Congressional Justification, p. CBP-PC&I-4.

Notes: “—” represents a zero value.

²⁰ P.L. 119-21 included \$46.55 billion for border barrier construction (Sec. 90001) and \$5.0 billion for CBP facilities (Sec. 90002).

House Appropriations Committee-Proposed Additions

Of the sixteen administrative provisions included in HAC-reported H.R. 4213, seven of these had been proposed in the HAC-reported DHS appropriations bill for FY2025:

HAC Section 213: Restricts the use of funds to parole nationals of the People’s Republic of China into the Commonwealth of the Northern Mariana Islands for temporary visits without a visa (this had been added in an en bloc amendment at the FY2025 full committee markup).

HAC Section 214: Restricts CBP’s use of funds to admit into the United States “any aerosol-dispensing unmanned aircraft system produced or manufactured in a foreign adversary country.”²¹

HAC Section 215: Restricts the use of funds to reduce the participation in the 287(g) program, under which local law enforcement works with ICE on enforcement of immigration laws, or diminishing the delegation of law enforcement authority involved, except if the DHS OIG finds the terms of the agreement underlying the delegation have been violated (an exception spelled out in the next section of the measure and described above as FY2025 Section 212) which had been proposed for deletion by the Administration, but was retained in the HAC-reported bill.

HAC Section 221: Restricts the use of funds to transport unlawfully present aliens into the U.S. interior for purposes other than the enforcement of immigration laws, except for unaccompanied alien children.

HAC Section 222: Restricts the 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 223: Restricts the use of funds in the bill for 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 224: Directs the Secretary of DHS to allocate ICE Operations and Support (O&S) appropriations to maintain the maximum average daily population of detainees throughout the fiscal year, and to ensure “every alien on the non-detained docket is enrolled into the Alternatives to Detention Program with mandatory GPS monitoring throughout the duration of all applicable immigration proceedings.”

Four other administrative provisions were included for the first time in the House-passed FY2025 DHS appropriations bill:

HAC Section 212: Restricts the use of funds to admit 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.²²

HAC Section 226: Restricts ICE’s use of funds to develop a physical identification card for purposes of alien identification, verification of immigration status, or immigration portal access.

HAC Section 227: Declares state and local laws regarding employment or minimum compensation inapplicable to persons held in immigration-related detention.

²¹ A similar amendment with a slightly broader restriction was included in the bill’s general provision as Section 547 in the FY2024 HAC-reported measure.

²² 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.

HAC Section 237: Restricts the use of funds to enforce vessel speed restrictions related to the North Atlantic right whale or the Rice's whale that were not in place before the Biden Administration.

Five proposed administrative provisions were new for FY2026:

HAC Section 228: Restricts the use of funds to execute an inspection of an ICE-contracted detention facility except for compliance with the National Detention Standards for Non-Dedicated Facilities, as revised in 2019, if the facility is subject to those standards.

HAC Section 229: Restricts the use of funds to reduce the presence of ICE enforcement attachés at U.S. embassies or consulates. Such reductions may be made in cases when the secretary provides a written explanation of why the work of the attaché undermines U.S. foreign policy interests in that country, or if the country ceases collaboration on relevant law enforcement activities.

HAC Section 233: Changes an annual reporting requirement on the disposition of money left at TSA airport checkpoints into an annual briefing requirement.

HAC Section 242: Requires the secretary to ensure a policy on the treatment of pregnant women, new and/or nursing mothers, and infants “or substantively similar standards of treatment developed in consultation with maternal and pediatric health providers and experts” are in effect and implemented “to safeguard the health, safety, and rights of pregnant individuals in [CBP] custody.”

HAC Section 243: Restricts the use of ICE funds, “in carrying out any civil immigration enforcement activities under the immigration laws,” to detain or deport U.S. citizens.

Protection, Preparedness, Response, and Recovery Administrative Provisions (Title III)²³

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 Changes

Title III of the FY2024 act had included eleven administrative provisions, all which were carried forward by the FY2025 full-year CR. The Trump Administration proposed nine such provisions for Title III of the FY2026 Act. The FY2026 request did not include three provisions that had been carried forward, would modify one, and add one.

Administration-Proposed Deletions

FY2025 Section 303: Included in some form since FY2004 (the first annual DHS appropriations act), this administrative provision provided a timeline for the application process for several preparedness grants funded through FEMA's Federal Assistance appropriation. The original provision, a proviso in the State and Local Programs appropriation for the Office for Domestic

²³ CRS analysis of Office of Management and Budget, Fiscal Year 2026 Budget of the U.S. Government: Appendix, May 30, 2025, pp. 498-499, <https://www.govinfo.gov/content/pkg/BUDGET-2025-APP/pdf/BUDGET-2025-APP.pdf> (hereinafter, FY2025 Appendix); P.L. 119-4, Division A; P.L. 118-47, Division C; and House Appropriations Committee (HAC)-reported H.R. 4213.

Preparedness, required the agency to meet a timeline for formula-based grants and law enforcement terrorism prevention grants.²⁴

FY2025 Section 307: Included in some form in DHS appropriations legislation since the FY2011 full-year CR,²⁵ this administrative provision waives certain requirements of the Staffing for Adequate Fire and Emergency Response grant program.²⁶ After FY2015, this provision did not appear for two years, but returned in FY2018, allowing, but not requiring, FEMA to grant waivers of requirements that such grants:

- be used to hire additional, new firefighters,
- meet a certain level of cost sharing,
- only be provided for a limited period of time,
- not be allowed to supplant other nonfederal funding, and
- include requirements that recipients maintain a certain level of funding for fire services and emergency response (also known as “maintenance of expenditure” or “maintenance of effort”).

FY2025 Section 309: Included since FY2021, this administrative provision allows FEMA to grant waivers of the matching and maintenance of expenditure requirements of the Assistance to Firefighters Grant Program.²⁷ These waivers are usually granted for communities facing economic hardship.

Administration-Proposed Modifications

FY2025 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 Trump Administration proposed not including the reduction clause.²⁸

Administration-Proposed Addition:

Proposed Section 309: This new administrative provision would extend the requirements of the State and Local Cybersecurity Grant Program, which currently expire at the end of FY2025, through FY2026.

²⁴ Appropriations language became more specific as to grant funding levels over time, and the direction to (what had become) FEMA took on its current general structure in the FY2012 act (P.L. 112-74). The proviso became an administrative provision in the FY2017 act (P.L. 115-31, Sec. 304).

²⁵ P.L. 112-10, Sec. 1633.

²⁶ Waivers of Staffing for Adequate Fire and Emergency Response (SAFER) Act requirements first appeared in the American Recovery and Reinvestment Act of 2009 (P.L. 111-5, Section 603), waiving matching requirements for grants. A legislative history of the waiver provisions is available in CRS Report RL33375, *Staffing for Adequate Fire and Emergency Response: The SAFER Grant Program*, by Lennard G. Kruger and Jill C. Gallagher.

²⁷ 15 U.S.C. §2229. The language broadens existing waiver authority already provided in subsection (k).

²⁸ The Biden Administration proposed a similar change in FY2025, which was not adopted.

House Appropriations Committee-Proposed Changes

HAC-reported H.R. 4213 included 12 administrative provisions in Title III: retaining all the administrative provisions in the title from the FY2024 act, substantively changing none of them, and including one provision that had not been included in the FY2024 act.

House Appropriations Committee-Proposed Addition

HAC Section 312: This new administrative provision, adopted as an amendment in the full committee markup, would amend the Predisaster Hazard Mitigation section²⁹ of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (hereinafter “the Stafford Act”).³⁰ It would change the authorization to require (rather than allow) the establishment of a predisaster hazard mitigation program, and make several adjustments to the program’s statutory authorities.

Research, Development, Training, and Services Administrative Provisions (Title IV)³¹

Title IV of annual DHS appropriations measures currently covers appropriations for

- U.S. Citizenship and Immigration Services (USCIS);
- Federal Law Enforcement Training Centers (FLETC);
- the Science and Technology Directorate (S&T); and
- the Countering Weapons of Mass Destruction Office.³²

Administration-Proposed Changes

The Trump Administration proposed seven administrative provisions for Title IV of the FY2026 Act, making no substantive changes from the FY2024 act.

House Appropriations Committee-Proposed Changes

HAC-reported H.R. 4213 included 16 administrative provisions in Title IV: dropping one provision from the FY2024 act, substantively changing none of the others, and including nine provisions that had not been included in the FY2024 act.

House Appropriations Committee-Proposed Deletions

FY2025 Section 403: This administrative provision, first appearing in the FY2022 act,³³ allowed USCIS to collect and use the biometric data taken at USCIS Application Support Centers that are overseen virtually by USCIS personnel using appropriate technology.

²⁹ Section 203, or 42 U.S.C. §5133.

³⁰ 42 U.S.C. section §5121 *et seq.*

³¹ CRS analysis of Office of Management and Budget, Fiscal Year 2026 Budget of the U.S. Government: Appendix, May 30, 2025, pp. 498-499, <https://www.govinfo.gov/content/pkg/BUDGET-2025-APP/pdf/BUDGET-2025-APP.pdf> (hereinafter, FY2025 Appendix); P.L. 119-4, Division A; P.L. 118-47, Division C; and House Appropriations Committee (HAC)-reported H.R. 4213.

³² The FY2026 budget request proposed eliminating this component, and the House Appropriations Committee-reported bill endorsed that action.

³³ P.L. 107-113, Division F, Section 404.

House Appropriations Committee-Proposed Additions

Four new Title IV administrative provisions were included in the House bill before full committee markup:

HAC Section 403: This administrative provision, also included in the House-passed version of the FY2024 DHS appropriations act,³⁴ would restrict the use of funds for issuance of employment authorization to aliens whose applications for asylum have been denied, or who were convicted of a federal or state crime while their application was pending.

HAC Section 404: This new administrative provision would limit the amount of fee revenue USCIS could use for official reception and representation expenses in FY2026 to \$2,500.

HAC Section 405: This new administrative provision would bar companies identified as a Chinese military company operating in the United States, or their subsidiaries, from sponsoring H-1B workers.

HAC Section 410: This new administrative provision bars the implementation of an asylum program fee from a final rule promulgated in 2024.³⁵

Two sections were added in full committee markup through an en bloc amendment:

HAC Section 411: This new administrative provision restricts the ability of an immigration officer to make a determination that an alien has a credible fear of persecution under immigration law unless, taking into account the credibility of the statements made by the alien in support of their claim and such other facts that are known to the officer, “the alien more likely than not could establish eligibility for asylum ... and it is more likely than not that the statements made by, and on behalf of, the alien in support of the alien’s claim are true.” This restriction essentially makes the credible fear of persecution standard more restrictive: current law defines the finding of a “credible fear of persecution” as there being a “significant possibility” that the alien could establish eligibility for asylum (rather than “more likely than not”) and does not speak directly to the truthfulness of “statements made by, and on behalf of, the alien in support of the alien’s claims.”

HAC Section 412: This new administrative provision restricts the ability of an immigration officer to make a determination that an alien has a credible fear of persecution or to grant asylum to any alien if the alien transited a third country en route to the United States unless:

- the alien demonstrates they applied for protection from persecution or torture in each transit country and received a final denial in each country; or
- the alien demonstrates they were a victim of a “severe form of trafficking” and as a result could not apply for protection from persecution in each transit country; or
- the countries the alien transited were not parties to the U.N. Convention or Protocol on the status of refugees or the U.N. Convention against Torture.

Four sections were added in full committee as part of an en bloc immigration amendment with sponsorship from Members of both parties:

HAC Section 413: This new administrative provision provides that employers who received labor certification under the H-2B temporary nonagricultural worker program in each of the past five fiscal years shall be eligible to bring in cap-exempt H-2B workers in FY2026 for the highest

³⁴ H.R. 4367 (118th Congress), Section 405.

³⁵ 88 Fed. Reg. 6194.

number of H-2B positions for which they received labor certification in any one of those five years.

HAC Section 414: This administrative provision directs that for purposes of the H-2A temporary agricultural worker program, work performed on agricultural operations (defined to include the production and marketing of agricultural commodities and livestock) shall be considered temporary or seasonal work.

HAC Section 415: This new administrative provision bars the implementation of changes to the H-2A and H-2B visa programs outlined in a final rule promulgated in 2024.³⁶

HAC Section 416: This new administrative provision would amend the Immigration and Nationality Act to create a program to provide visas for carnival or circus workers.

Departmental Management, Intelligence, Situational Awareness and Oversight Administrative Provisions (Title I)³⁷

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 OIG.

Administration-Proposed Change

The Trump Administration proposed five administrative provisions for Title I of the FY2026 Act. Title I of the FY2024 Act had included six such provisions. The FY2026 request did not include one of the Title I provisions that had been carried forward, and did not propose modifying or adding any others.

Administration-Proposed Deletion

FY2025 Section 106: Carried since FY2022, this administrative provision required the DHS Under Secretary for Management to report to the appropriations committees on new pilot or demonstration programs before DHS could obligate money from the act for them. 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.

House Appropriations Committee-Proposed Change

HAC-reported H.R. 4213 included seven administrative provisions in Title I: not dropping or substantively changing any provisions carried forward from the FY2024 act, and adding one Title I administrative provision.

³⁶ 89 Fed. Reg. 103202.

³⁷ CRS analysis of Office of Management and Budget, Fiscal Year 2026 Budget of the U.S. Government: Appendix, May 30, 2025, pp. 498-499, <https://www.govinfo.gov/content/pkg/BUDGET-2025-APP/pdf/BUDGET-2025-APP.pdf> (hereinafter, FY2025 Appendix); P.L. 119-4, Division A; P.L. 118-47, Division C; and House Appropriations Committee (HAC)-reported H.R. 4213.

House Appropriations Committee-Proposed Addition

HAC Section 107: This new administrative provision would bar the use of funds by the DHS Office of Intelligence and Analysis from

- conducting an interview with anyone with a pending criminal case without the consent of the interviewee after they have consulted with counsel;
- intelligence collection targeting journalists in the performance of journalistic functions; or
- conducting an interview for intelligence collection with a United States person absent a reasonable belief based on fact and circumstances that the person may possess significant foreign intelligence.

This new administrative provision would effectively continue a restriction put in place for FY2025 by the Intelligence Authorization Act for Fiscal Year 2025.³⁸

General Provisions (Title V)³⁹

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

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 Changes

The FY2024 act had included 51 general provisions, 47 of which were carried forward by the FY2025 full-year CR.⁴⁰ The Trump Administration proposed 34 such provisions for the FY2026 act. The FY2026 request did not include 13 provisions that had been carried forward (as well as the four that were specifically excepted from the CR), proposed modifying two (compared to the versions in effect for FY2025), and would add no new provisions.

³⁸ P.L. 118-159, Division F, Section 6303.

³⁹ CRS analysis of Office of Management and Budget, Fiscal Year 2026 Budget of the U.S. Government: Appendix, May 30, 2025, pp. 498-499, <https://www.govinfo.gov/content/pkg/BUDGET-2025-APP/pdf/BUDGET-2025-APP.pdf> (hereinafter, FY2025 Appendix); P.L. 119-4, Division A; P.L. 118-47, Division C; and House Appropriations Committee (HAC)-reported H.R. 4213.

⁴⁰ Several of the anomalies that affected DHS in the FY2025 full-year CR were similar in structure and function to previous general provisions. The structure and function of the CR does not distinguish between what might otherwise be considered administrative or general provisions. Therefore, CR sections are not included in the tally of DHS provisions.

Administration-Proposed Deletions

FY2025 Section 527: This general provision, which first appeared in the FY2019 DHS appropriations act in a slightly different form,⁴¹ prevents DHS from blocking oversight visits to immigration detention facilities by Members of Congress or their designated staff.

FY2025 Section 531: This general provision, which first appeared in DHS annual appropriations acts in FY2021,⁴² 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.

FY2025 Section 533: This general provision, which first appeared in DHS annual appropriations acts in FY2022,⁴³ requires DHS components applying to the Technology Modernization Fund for resources to provide information to the appropriations committees on their proposals, and for the Technology Modernization Fund to report as well, including copies of the proposal and interagency agreements, as well as plans for repayment.

FY2025 Section 534: This general provision, first included in the FY2017 DHS appropriations act,⁴⁴ 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.

FY2025 Section 537: This general provision, first included in the FY2012 DHS appropriations act,⁴⁵ 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.

FY2025 Section 538: This general provision, first included in the FY2023 DHS appropriations act,⁴⁶ 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.

FY2025 Section 540: This general provision, new in the FY2024 DHS appropriations act, required alternatives and cost-benefit analyses before the Secretary of DHS could request assistance from the Department of Defense for border security operations, as well as required reporting to appropriations committees on the support requested, the analyses, and the operational impact on DHS operations.

FY2025 Section 542: This general provision, new in the FY2024 DHS appropriations act, required \$5 million to be transferred to ICE Operations and Support for necessary operations of the Blue Campaign, a national anti-human-trafficking initiative.

Five general provisions included in the FY2024 act with rescissions and score-reducing directions were specifically not carried forward by the FY2025 full-year CR:

FY2024 Section 543: rescissions of emergency funding;

⁴¹ P.L. 116-6, Section 532.

⁴² P.L. 115-31, Division F, Section 544.

⁴³ P.L. 117-103, Division F, Section 539.

⁴⁴ P.L. 115-31, Division F, Section 532.

⁴⁵ P.L. 112-74, Division 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.

⁴⁶ P.L. 117-328, Division F, Section 545.

FY2024 Section 544: rescissions of unobligated balances of operations and support appropriations that were extended by Section 505 of the DHS appropriations act rather than expiring;

FY2024 Section 545: rescission of nonrecurring expenses funding; and

FY2024 Sections 546 and 547: rescissions of various DHS and non-DHS funding and repurposing of unobligated balances to offset costs.

FY2024 Sections 548-551 included technical fixes to other enacted legislation unrelated to DHS, and were not carried forward in the FY2025 request.

Administration-Proposed Modifications

FY2025 Section 503: This section is one of the original general provisions included in the annual DHS appropriations bill since FY2004.⁴⁷ The administration proposed removing restrictions on transfers (moving budget authority between appropriations) and reprogrammings (changing the distribution of budget authority between programs, projects, and activities (PPAs) within an appropriation) that were added in the FY2024 act. The additional restrictions prevented the use of transfers or reprogrammings to change grant program funding levels or to create new PPAs not approved by Congress.⁴⁸ The Administration also proposed that any funds transferred to an “immigration emergency fund” established in 1986⁴⁹ remain available until expended—unlike most DHS funds, which are only available for one to five years. Such transfers have been authorized from DHS periodically since an FY2010 supplemental appropriations measure.⁵⁰

FY2025 Section 513: This general provision first appeared in FY2007, and bars the use of funds to carry out departmental reorganization under Section 872 of the Homeland Security Act,⁵¹ unless explicitly authorized by Congress. In FY2022, an exception was included in the provision to allow a specific reorganization of certain functions that had been under the Countering Weapons of Mass Destruction Office. The Administration proposed an exception to allow for the complete dismantling of that office and transferring its functions and resources to other elements of DHS.

House Appropriations Committee-Proposed Changes

HAC-reported H.R. 4213 included 51 general provisions: dropping nine general provisions that had been included in the FY2024 appropriations act, substantively changing five, and adding ten that had not been included in the FY2024 act.

House Appropriations Committee-Proposed Deletions

FY2025 Section 539: This general provision was a one-time amendment of the authorization of the DHS Nonrecurring Expenses Fund, which had been established in the FY2022 DHS appropriations act to help fund DHS information technology and facilities improvements through reuse of unobligated balances of expired appropriations.⁵² It required the passage of the full-year

⁴⁷ P.L. 108-90, Section 503.

⁴⁸ P.L. 118-47, Division C, Section 503(d)(2) and (d)(3).

⁴⁹ P.L. 99-603, Section 113.

⁵⁰ P.L. 111-212, Section 601. The provision first appeared in an annual appropriations measure for DHS in the FY2011 full-year CR (P.L. 112-10, Section 1654).

⁵¹ 6 U.S.C. 452.

⁵² P.L. 117-103, Div. F, Section 538.

appropriation measure for DHS before resources in the fund could be used in a given year, and require advance notification to the appropriations committees for the use of fund resources. As the amendment was made in FY2024, this provision would have no further effect.

FY2025 Sections 543-551: As the Administration had requested, these rescissions, offsets and one-time technical fixes were not included in the HAC-reported bill.

House Appropriations Committee-Proposed Modifications

HAC Section 503: HAC-reported H.R. 4213 included a modified version of FY2025 Section 503, which would reduce the transferrable percentage of an appropriation from 5% to 2.5%, and the percentage by which an appropriation could be increased by transfer from 10% to 5%. It did not include the modification suggested by the Administration.

HAC Section 505: This general provision allows for half the unobligated balances of operations and support appropriations (which would usually expire at the end of the fiscal year) to continue to be available for obligation or reprogramming. HAC-reported H.R. 4213 would move the deadline for reprogramming expired balances of operations and support appropriations from June 30, 2027, to June 15, 2027.

HAC Section 513: HAC-reported H.R. 4213 included the Administration's proposed modification for this limitation on the Secretary's departmental reorganization authority.

HAC Section 527: This general provision, which prevents DHS from blocking oversight visits to immigration detention facilities by Members of Congress or their designated staff, includes two slight modifications that would allow for inspection of any facility used to "hold ... aliens," as well as those used to "detain, or otherwise house aliens,"⁵³ and that such oversight visits could be made at "any facility" rather than just those operated by or for DHS.

HAC Section 538: This general provision, which requires DHS reporting to Congress on the projected noncitizen arrivals at the southwest border, was proposed for elimination by the Administration. A modified version of the provision was included in HAC-reported H.R. 4213, and would require more frequent reports on estimates of border arrivals, going from bimonthly to monthly, and broadening the geographic scope of the reported information from the southwest border to the southern border.

House Appropriations Committee-Proposed Additions

Most of the ten new HAC-reported general provisions would impose restrictions on the use of any of the funds made available by the bill, in order to prevent DHS from taking certain actions.

However, two did not:

HAC Section 548: This general provision would provide \$3 million for reimbursing local law enforcement and emergency response costs for protection activities associated with a Presidential residence. While this provision last appeared in the FY2022 DHS appropriations act, this activity received \$300 million in P.L. 119-21.

HAC Section 551: This general provision, which has appeared in several prior HAC-reported DHS appropriations measures, would create a "spending reduction account."

⁵³ This modification of language is significant because the language used in DHS law enforcement policies is specific, and reportedly has been used to restrict congressional oversight visits. For example, policies at times refer to facilities housing aliens as "holding rooms" as opposed to "detention facilities," and policies related to unaccompanied children refer to "shelters" or "housing" but not "holding rooms" or "detention facilities."

Five of the added general provisions restricting the use of funds were included in the House-passed FY2025 DHS appropriations measure:

HAC Section 542: This general provision bars funding for establishing a Disinformation Governance Board at DHS, or “any other entities carrying out similar activities” related to misinformation.

HAC Section 543: This general provision bars funding for classifying 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. Furthermore, the provision would direct the removal from federal service any officer or employee funded by this act who carries out such actions.

HAC Section 544: This general provision bars funding for taking a “discriminatory action” (defined in the section) against a person on the basis of their beliefs regarding the definition of marriage as being between one man and one woman.

HAC Section 545: This general provision bars DHS funding for any political subdivision of a state that has in place any kind of policy that limits any government official or entity from communicating with DHS regarding the citizenship or immigration status of any individual; or has in place “any law, policy, or procedure” that “hinders the federal government from enforcing the immigration laws.”

HAC Section 546: This general provision bars funding for “diversity, equity, and inclusion initiatives, training, programs, offices, officers, policies, or any program, project, or activity that promotes or advances Critical Race Theory, or any concept associated with Critical Race Theory.” This is a simplification of FY2024 Section 546, which barred funding for a range of Biden Administration plans, Executive Orders, and programs, projects, and activities.

Three of the added general provisions restricting the use of funds in HAC-reported H.R. 4213 were new in FY2026:

HAC Section 547: This new general provision bars the use of funds to procure computers, printers, or videoconferencing services from companies in which the People’s Republic of China has any ownership stake. An identical provision appears in several other HAC-reported FY2026 appropriations measures.

HAC Section 549: This new general provision bars the use of funds in contravention of the First, Fourth, Fifth, and Sixth Amendments to the Constitution.

HAC Section 550: This new general provision bars the use of funds to restrict people recording or documenting immigration enforcement activities, provided they do not interfere with the activities.

Appendix A. Glossary of Abbreviations

Glossary	
Acronym	Meaning
CAS	Common Appropriations Structure
CBP	U.S. Customs and Border Protection
CISA	Cybersecurity and Infrastructure Security Agency
CR	Continuing Resolution
CRS	Congressional Research Service
DHS	U.S. Department of Homeland Security
DRF	Disaster Relief Fund
FEMA	Federal Emergency Management Agency
FLETC	Federal Law Enforcement Training Centers
FTE	Full-Time Equivalents
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
SAC	Senate Appropriations Committee
TSA	Transportation Security Administration
USCG	U.S. Coast Guard
USSS	U.S. Secret Service

Appendix B. Proposed Changes to Appropriations Language

Although administrative and general provisions provide most of the direction to DHS in the appropriations measure, if the language of the appropriations themselves changes, it may have an effect on the way the department does its business. From FY2024 to the FY2026 process, a handful of such changes were proposed.

From the Administration's Request

Title II

U.S. Customs and Border Protection

Operations and Support (O&S): Proposes dropping transfers to FEMA for the Shelter and Services Program and to the Bureau of Indian Affairs for repairing roads on reservations used by the U.S. Border Patrol.

U.S. Immigration and Customs Enforcement

Procurement, Construction, and Improvements (PC&I): Proposes three-year funding for this account, rather than a mixture of three-year and five-year funding.⁵⁴

U.S. Coast Guard

O&S: Proposes dropping language making \$20 million of the funding available for obligation for three years.

Research and Development (R&D): Proposes dropping “maintenance, rehabilitation, lease, and operation of facilities and equipment” as an explicitly acceptable use of the appropriation.

Title III

Cybersecurity and Infrastructure Security Agency

R&D: Proposes zeroing out the appropriation.

Federal Emergency Management Agency

Federal Assistance (FA): Proposes several changes:

- Removing the set-aside for the Tribal Homeland Security Grant Program Security Grant program;

⁵⁴ Appropriations are generally available for obligation for a certain period of time, usually from one to five years. After that time, the appropriation is “expired,” and no longer available for obligation, except in special circumstances. For example, most Operations and Support appropriations are “one-year” money, expiring at the end of the fiscal year for which they were provided. For additional information, see CRS In Focus IF12329, *Expiration and Cancellation of Unobligated Funds*, by Taylor N. Riccard.

- Removing the requirement of an even split in the Nonprofit Security Grant Program between high-risk urban areas and other areas;
- Adding a 25% non-federal cost share for each grant awarded under the State Homeland Security Grant Program, Urban Area Security Initiative, Public Transportation Security Assistance, Railroad Security Assistance, and Over-the-Road Bus Security Assistance programs; and
- Eliminating funding for Regional Catastrophic Preparedness Grants, the Emergency Food and Shelter Program, and the Next Generation Warning System.

Disaster Relief Fund (DRF): Proposes authorizing a \$3 million transfer from the DRF to the Disaster Assistance Direct Loan Program Account to pay the administrative expenses of the Community Disaster Loan Program.

Title IV

U.S. Citizenship and Immigration Services

O&S: Proposes removing funding for Refugee and International Operations Programs and backlog reduction, as well as a limitation on the use of funded for official reception and representation expenses.

FA: Proposes zeroing out the appropriation.

Countering Weapons of Mass Destruction Office

O&S, PC&I, R&D, and FA: Proposes zeroing out the appropriations.

Title I

Office of the Secretary and Executive Management

O&S: Proposes dropping a proviso that would withhold \$5 million until DHS submits responses to all questions for the record on the budget submission from hearings held before July 1.

PC&I: Proposes zeroing out the appropriation.

FA: Proposes zeroing out the appropriation.

Management Directorate

O&S: Proposes dropping “vehicle modernization” as an explicitly acceptable use of the appropriation.

From HAC-reported H.R. 4213

Title II

U.S. Customs and Border Protection

O&S: Proposes dropping transfers to FEMA for the Shelter and Services Program.

U.S. Immigration and Customs Enforcement

PC&I: Proposes three-year funding for this account, rather than a mixture of three-year and five-year funding.

U.S. Secret Service

PC&I: Proposes a mixture of three-year and five-year funding for this account, rather than just three-year funding.

Title III

Cybersecurity and Infrastructure Security Agency

R&D: Proposes zeroing out the appropriation.

Title IV

U.S. Citizenship and Immigration Services

O&S: Proposes removing funding for Refugee and International Operations Programs and backlog reduction, as well as a limitation on the use of funded for official reception and representation expenses.

FA: Proposes zeroing out the appropriation.

Countering Weapons of Mass Destruction Office

O&S, PC&I, R&D, and FA: Proposes zeroing out the appropriations.

Title I

Office of the Secretary and Executive Management:

FA: Proposes zeroing out the appropriation.

Management Directorate:

O&S: Proposes dropping “vehicle modernization” as an explicitly acceptable use of the appropriation.

Appendix C. 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 after the last wave of secretarial 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.⁵⁵

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 USCG, received appropriations in structures paralleling what they had received in FY2003. New

⁵⁵ P.L. 108-90, P.L. 110-161, and P.L. 115-31, respectively.

major components—CBP and ICE—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”;⁵⁶
- **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,⁵⁷ 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;⁵⁸
- **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 it is 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

⁵⁶ Future appropriations measures restated some of these authorities in different fashions: therefore, these should not be considered enduring authorities.

⁵⁷ As defined under section 307 of the Tariff Act of 1930 (19 U.S.C. §1307).

⁵⁸ 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;⁵⁹ 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);

⁵⁹ 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 USCG 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 USCG’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.”⁶⁰

⁶⁰ 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 2016.⁶¹ 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 C-1** shows total general provisions and administrative provisions for the last ten enacted DHS appropriations acts.

Table C-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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⁶¹ The Coast Guard, due to limitations of its financial management system, did not implement the system until FY2019.

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