



# Homeland Security Department: FY2011 Appropriations

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## Summary

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

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

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

Congress has not enacted the 12 regular appropriations bills for FY2011. As a result, two FY2011 interim continuing resolutions have become law: P.L. 111-242 (124 Stat. 2607) and P.L. 111-290 (124 Stat. 3063). The initial CR, P.L. 111-242, extends funding for the 12 outstanding regular bills at generally FY2010-enacted spending levels. It also continued funding from October 1, 2010, through December 3, 2010. The second CR, P.L. 111-290, extended this expiration date through December 18, 2010.

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

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

## Contents

|   |    |
|---|----|
| Most Recent Developments .....                                    | 1  |
| Continuing Resolutions .....                                      | 1  |
| Senate-Reported S. 3607 .....                                     | 1  |
| President’s FY2011 Budget Request Submitted .....                 | 1  |
| Note on Most Recent Data .....                                    | 2  |
| Background .....  | 2  |
| Department of Homeland Security .....                             | 2  |
| 302(a) and 302(b) Allocations .....                               | 3  |
| Budget Authority, Obligations, and Outlays .....                  | 4  |
| Discretionary and Mandatory Spending .....                        | 4  |
| Offsetting Collections .....                                      | 5  |
| Appropriations for the Department of Homeland Security .....      | 5  |
| DHS Appropriations Trends .....                                   | 5  |
| Summary of DHS Appropriations .....                               | 6  |
| Title I: Departmental Management and Operations .....             | 9  |
| President’s FY2011 Request .....                                  | 10 |
| Senate-Reported S. 3607 .....                                     | 11 |
| Personnel Issues .....  | 13 |
| Analysis and Operations .....                                     | 15 |
| President’s FY2011 Request .....                                  | 16 |
| Senate-Reported S. 3607 .....                                     | 17 |
| Title II: Security, Enforcement, and Investigations .....         | 17 |
| Customs and Border Protection .....                               | 21 |
| President’s FY2011 Request .....                                  | 21 |
| Senate-Reported S. 3607 .....                                     | 23 |
| Issues for Congress .....   | 23 |
| Immigration and Customs Enforcement .....                         | 26 |
| President’s FY2011 Request .....                                  | 26 |
| Senate-Reported S. 3607 .....                                     | 27 |
| Issues for Congress .....   | 27 |
| Transportation Security Administration .....                      | 29 |
| President’s FY2011 Request .....                                  | 29 |
| Senate-Reported S. 3607 .....                                     | 31 |
| Issues for Congress .....   | 32 |
| United States Coast Guard .....                                   | 36 |
| President’s FY2011 Request .....                                  | 36 |
| Senate Reported S. 3607 .....                                     | 37 |
| Issues for Congress .....   | 37 |
| United States Secret Service .....                                | 39 |
| President’s FY2011 Request .....                                  | 40 |
| Senate-Reported S. 3607 .....                                     | 40 |
| Issues for Congress .....   | 41 |
| Title III: Protection, Preparedness, Response, and Recovery ..... | 44 |
| Federal Emergency Management Agency .....                         | 47 |
| President’s FY2011 Request .....                                  | 47 |

|   |    |
|---|----|
| Senate-Reported S. 3607 .....   | 48 |
| Issues for Congress .....   | 48 |
| Office of Health Affairs.....   | 54 |
| President’s FY2011 Request.....   | 54 |
| Senate Reported S. 3607 .....   | 55 |
| Issues for Congress .....   | 55 |
| National Protection and Programs Directorate .....                            | 55 |
| Management and Administration.....  | 56 |
| President’s FY2011 Request.....   | 56 |
| Senate-Reported S. 3607 .....   | 57 |
| Issues for Congress .....   | 57 |
| Federal Protective Service.....   | 57 |
| President’s FY2011 Request.....   | 58 |
| Senate-Reported S. 3607 .....   | 58 |
| Issue for Congress.....   | 59 |
| U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) .....       | 60 |
| President’s FY2011 Request.....   | 60 |
| Senate-Reported S. 3607 .....   | 60 |
| Issues for Congress .....   | 60 |
| Infrastructure Protection and Information Security .....                      | 61 |
| President’s FY2011 Request.....   | 61 |
| Senate-Reported S. 3607 .....   | 63 |
| Issues for Congress .....   | 64 |
| Title IV: Research and Development, Training, Assessments, and Services ..... | 65 |
| U.S. Citizenship and Immigration Services.....                                | 67 |
| President’s FY2011 Request.....   | 67 |
| Senate-Reported S. 3607 .....   | 68 |
| Issues for Congress .....   | 68 |
| Federal Law Enforcement Training Center .....                                 | 69 |
| President’s FY2011 Request.....   | 69 |
| Senate-Reported S. 3607 .....   | 70 |
| Science and Technology .....  | 70 |
| President’s FY2011 Request.....   | 70 |
| Senate-Reported S. 3607 .....   | 71 |
| Issues for Congress .....   | 71 |
| Domestic Nuclear Detection Office.....  | 73 |
| President’s FY2011 Request.....   | 73 |
| Senate-Reported S. 3607 .....   | 74 |
| Issues for Congress .....   | 74 |

## **Tables**

|   |   |
|---|---|
| Table 1. Legislative Status of Homeland Security Appropriations ..... | 2 |
| Table 2. FY2011 302(b) Discretionary Allocations for DHS .....        | 3 |
| Table 3. DHS Appropriations, FY2003-FY2010 .....                      | 5 |
| Table 4. DHS: Summary of Appropriations .....                         | 7 |
| Table 5. Title I: Departmental Management and Operations.....         | 9 |

|  |    |
|--|----|
| Table 6. Office of the Chief Human Capital Officer Appropriations .....                        | 14 |
| Table 7. Title II: Security, Enforcement, and Investigations .....                             | 18 |
| Table 8. CBP Salaries and Expenses Account Detail .....  | 22 |
| Table 9. ICE Salaries and Expenses Account Detail .....  | 27 |
| Table 10. TSA Gross Budget Authority by Budget Activity .....                                  | 30 |
| Table 11. Coast Guard Operating (OE) and Acquisition (ACI) Sub-account Detail .....            | 36 |
| Table 12. FY2010 Enacted and FY2011 Budget Authority for the U.S. Secret Service .....         | 41 |
| Table 13. Title III: Protection, Preparedness, Response, and Recovery .....                    | 45 |
| Table 14. Budget Authority for State and Local Programs .....                                  | 50 |
| Table 15. FY2009 Budget Activity for NPPD Management and Administration<br>Appropriation ..... | 57 |
| Table 16. Budget Authority for Infrastructure Protection and Information Security .....        | 63 |
| Table 17. Title IV: Research and Development, Training, Assessments, and Services .....        | 66 |
| Table 18. USCIS Budget Account Detail .....  | 68 |
| Table 19. Directorate of Science and Technology, Accounts and Activities .....                 | 71 |
| Table 20. Domestic Nuclear Detection Office, Accounts and Activities .....                     | 73 |
| Table B-1. Federal Homeland Security Funding by Agency, FY2002-FY2011 .....                    | 79 |

## **Appendixes**

|  |    |
|--|----|
| Appendix A. FY2010 Supplemental Appropriations ..... | 76 |
| Appendix B. DHS Appropriations in Context .....      | 78 |

## **Contacts**

|                                  |    |
|----------------------------------|----|
| Author Contact Information ..... | 80 |
|----------------------------------|----|

## **Most Recent Developments**

### **Continuing Resolutions**

Congress did not enact the FY2011 DHS appropriation act by the end of FY2010; therefore, Congress completed and the President signed the Continuing Appropriations Act, 2011 (H.R. 3081, P.L. 111-242) on September 30, 2010 (also known as the continuing resolution (CR)). This act generally extends funding for the FY2011 DHS appropriation bill at the FY2010 enacted spending levels, through December 3, 2010.

Congress has not enacted the 12 regular appropriations bills for FY2011. As a result, two FY2011 interim continuing resolutions have become law: P.L. 111-242 (124 Stat. 2607) and P.L. 111-290 (124 Stat. 3063). The initial CR, P.L. 111-242, extends funding for the 12 outstanding regular bills at generally FY2010-enacted spending levels. It also continued funding from October 1, 2010, through December 3, 2010. The second CR, P.L. 111-290, extended this expiration date through December 18, 2010.

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### **Senate-Reported S. 3607**

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### **President's FY2011 Budget Request Submitted**

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

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**Table I. Legislative Status of Homeland Security Appropriations**

| Subcommittee Markup |        | House Committee Report | House Passage | Senate Committee Report | Senate Passage | Conference Report Approval |        | P.L. |
|---------------------|--------|------------------------|---------------|-------------------------|----------------|----------------------------|--------|------|
| House               | Senate |                        |               | S.Rept. 111-222         |                | House                      | Senate |      |
| 6/24                | 7/14   |                        |               | 7/15                    |                |                            |        |      |
| (VV)                | (VV)   |                        |               | (17-12)                 |                |                            |        |      |

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

**Note on Most Recent Data**

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

**Background**

This report describes the President’s FY2011 request for funding for DHS programs and activities, as submitted to Congress on February 1, 2010. It compares the enacted FY2010 amounts to the request for FY2011, and tracks legislative action and congressional issues related to the FY2011 DHS appropriations bills with particular attention paid to discretionary funding amounts. The report does not follow specific funding issues related to mandatory funding—such as retirement pay—nor does the report systematically follow any legislation related to the authorization or amendment of DHS programs.

**Department of Homeland Security**

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

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

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

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

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

### **302(a) and 302(b) Allocations**

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

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

**Table 2. FY2011 302(b) Discretionary Allocations for DHS**  
(budget authority in billions of dollars)

| FY2010<br>Comparable | FY2011 Request<br>Comparable | FY2011 House<br>Allocation | FY2011 Senate<br>Allocation | FY2011 Enacted<br>Comparable |
|----------------------|------------------------------|----------------------------|-----------------------------|------------------------------|
| 43.9                 | 45.0                         |                            | 45.2                        |                              |

**Source:** CRS analysis of the *FY2011 DHS Congressional Budget Justifications*, and S.Rept. 111-222.

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



## Budget Authority, Obligations, and Outlays

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

Budget authority is established through appropriations acts or direct spending legislation and determines the amounts that are available for federal agencies to spend. The Antideficiency Act<sup>1</sup> prohibits federal agencies from obligating more funds than the budget authority that was enacted by Congress. Budget authority may also be indefinite, as when Congress enacts language providing “such sums as may be necessary” to complete a project or purpose. Budget authority may be available on a one-year, multi-year, or no-year basis. One-year budget authority is only available for obligation during a specific fiscal year; any unobligated funds at the end of that year are no longer available for spending. Multi-year budget authority specifies a range of time during which funds can be obligated for spending; no-year budget authority is available for obligation for an indefinite period of time.

Obligations are incurred when federal agencies employ personnel, enter into contracts, receive services, and engage in similar transactions in a given fiscal year. Outlays are the funds that are actually spent during the fiscal year.<sup>2</sup> Because multi-year and no-year budget authorities may be obligated over a number of years, outlays do not always match the budget authority enacted in a given year. Additionally, budget authority may be obligated in one fiscal year but spent in a future fiscal year, especially with certain contracts.

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

## Discretionary and Mandatory Spending

Gross budget authority, or the total funds available for spending by a federal agency, may be composed of discretionary and mandatory spending. Discretionary spending is not mandated by existing law and is thus appropriated yearly by Congress through appropriations acts. The Budget Enforcement Act of 1990<sup>3</sup> defines discretionary appropriations as budget authority provided in annual appropriation acts and the outlays derived from that authority, but it excludes appropriations for entitlements. Mandatory spending, also known as direct spending, consists of budget authority and resulting outlays provided in laws other than appropriation acts and is typically not appropriated each year. However, some mandatory entitlement programs must be appropriated each year and are included in the appropriations acts. Within DHS, the Coast Guard retirement pay is an example of appropriated mandatory spending.

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<sup>1</sup> U.S.C. §§1341, 1342, 1344, 1511-1517.

<sup>2</sup> Appropriations, outlays, and account balances for government treasury accounts can be viewed in the end of year reports published by the U.S. Treasury titled *Combined Statement of Receipts, Outlays, and Balances of the United States Government*. The DHS portion of the report can be accessed at <http://fms.treas.gov/annualreport/cs2005/c18.pdf>.

<sup>3</sup> P.L. 101-508, Title XIII.

## Offsetting Collections<sup>4</sup>

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

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

## Appropriations for the Department of Homeland Security

### DHS Appropriations Trends

**Table 3** presents DHS Appropriations, as enacted, for FY2003 through the FY2011 request. The appropriation amounts are presented in current dollars and are not adjusted. The amounts shown in **Table 3** represent enacted amounts at the time of the start of the next fiscal year's appropriation cycle (with the exception of FY2009). Thus, the amount shown for FY2003 is the enacted amount shown in the House committee report attached to the FY2004 DHS Appropriations bill. FY2008 is from the Joint Explanatory Statement for Division E of P.L. 110-161, and FY2009, FY2010, and FY2011 are from the FY2011 *DHS Congressional Budget Justifications*.

**Table 3. DHS Appropriations, FY2003-FY2010**

(budget authority in millions of dollars)

| FY2003              | FY2004              | FY2005              | FY2006 | FY2007              | FY2008              | FY2009 | FY2010 | FY2011 Request |
|---------------------|---------------------|---------------------|--------|---------------------|---------------------|--------|--------|----------------|
| 29,069 <sup>a</sup> | 30,175 <sup>b</sup> | 30,554 <sup>c</sup> | 31,679 | 35,311 <sup>d</sup> | 38,817 <sup>e</sup> | 41,205 | 43,944 | 44,990         |

**Sources:** FY2003 and FY2004 enacted taken from H.Rept. 108-169; FY2005 enacted taken from H.Rept. 109-79; FY2006 enacted taken from H.Rept. 109-476; FY2007 appropriation amounts are from the H.Rept. 110-181; and FY2008 enacted amounts are from Division E of P.L. 110-161, and tables in the Joint Explanatory Statement

<sup>4</sup> Prepared with assistance from Bill Heniff Jr., Analyst in American National Government.

for Division E, published in the Congressional Record, December 17, 2007, pp. H16107-H16121 (incorporating amendments to the budget request). FY2009 enacted taken from the DHS Joint Explanatory Statement as submitted in the Congressional Record, and in the House- and Senate-enrolled version of H.R. 2638, and FY2010 enacted amounts are from the conference report to H.R. 2892, H.Rept. 111-298, and P.L. 111-83.

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

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

## Summary of DHS Appropriations

**Table 4** is a summary table comparing the enacted total for FY2010 to the request for, and congressional action on the FY2011 appropriations.

**Table 4. DHS: Summary of Appropriations**

(budget authority in millions of dollars)

| Operational Component   | FY2010 Appropriation |                     |                   |               | FY2011 Appropriation |                     |                        |                |
|---|----------------------|---------------------|-------------------|---------------|----------------------|---------------------|------------------------|----------------|
|   | FY2010 Enacted       | FY2010 Supplemental | FY2010 Rescission | FY2010 Total  | FY2011 Request       | FY2011 House-Passed | FY2011 Senate-Reported | FY2011 Enacted |
| <b>Title I: Departmental Operations</b>                           |                      |                     |                   |               |                      |                     |                        |                |
| Departmental Operations   | 803                  |                     |                   | 803           | 1,271                |                     | 837                    |                |
| Analysis and Operations   | 335                  |                     |                   | 335           | 348                  |                     | 340                    |                |
| Office of the Inspector General                                   | 114                  |                     |                   | 114           | 130                  |                     | 133                    |                |
| <b>Subtotal: Title I</b>  | <b>1,252</b>         |                     |                   | <b>1,252</b>  | <b>1,749</b>         |                     | <b>1,310</b>           |                |
| <b>Title II: Security, Enforcement, and Investigations</b>        |                      |                     |                   |               |                      |                     |                        |                |
| Customs and Border Protection                                     | 10,127               | 306                 | 100               | 10,333        | 9,809                |                     | 9,917                  |                |
| Immigration and Customs Enforcement                               | 5,437                | 80                  |                   | 5,517         | 5,524                |                     | 5,551                  |                |
| Transportation Security Administration                            | 5,259                |                     |                   | 5,259         | 5,729                |                     | 5,674                  |                |
| U.S. Coast Guard  | 9,903                |                     |                   | 9,903         | 9,867                |                     | 10,401                 |                |
| U.S. Secret Service   | 1,483                |                     |                   | 1,483         | 1,570                |                     | 1,576                  |                |
| <b>Net subtotal: Title II</b>                                     | <b>32,209</b>        |                     |                   | <b>32,495</b> | <b>32,499</b>        |                     | <b>33,119</b>          |                |
| Total fee collections   | 4,020                |                     |                   | 4,020         | 4,112                |                     | 4,067                  |                |
| <b>Gross subtotal: Title II</b>                                   | <b>36,229</b>        |                     |                   | <b>36,515</b> | <b>36,611</b>        |                     | <b>37,186</b>          |                |
| <b>Title III: Protection, Preparedness, Response and Recovery</b> |                      |                     |                   |               |                      |                     |                        |                |
| National Protection & Programs Directorate                        | 1,318                |                     |                   | 1,318         | 2,362                |                     | 2,375                  |                |
| Office of Health Affairs  | 139                  |                     |                   | 139           | 213                  |                     | 155                    |                |

| Operational Component  | FY2010 Appropriation |                     |                   |               | FY2011 Appropriation |                     |                        |                |
|--|----------------------|---------------------|-------------------|---------------|----------------------|---------------------|------------------------|----------------|
|  | FY2010 Enacted       | FY2010 Supplemental | FY2010 Rescission | FY2010 Total  | FY2011 Request       | FY2011 House-Passed | FY2011 Senate-Reported | FY2011 Enacted |
| Federal Emergency Management Administration                                    | 7,129                |                     |                   | 7,129         | 7,294                |                     | 7,562                  |                |
| <b>Net subtotal: Title III</b>   | <b>8,586</b>         |                     |                   | <b>8,586</b>  | <b>8,754</b>         |                     | <b>8,977</b>           |                |
| Total fee collections  | 1,115                |                     |                   | 1,115         | 1,115                |                     | 1,115                  |                |
| <b>Gross subtotal: Title III</b>   | <b>9,701</b>         |                     |                   | <b>9,701</b>  | <b>9,869</b>         |                     | <b>10,092</b>          |                |
| <b>Title IV: Research and Development, Training, Assessments, and Services</b> |                      |                     |                   |               |                      |                     |                        |                |
| Citizenship and Immigration Services   | 224                  |                     |                   | 224           | 386                  |                     | 172                    |                |
| Federal Law Enforcement Training Center  | 283                  | 8                   |                   | 291           | 278                  |                     | 274                    |                |
| Science and Technology   | 1,006                |                     |                   | 1,006         | 1,018                |                     | 1,010                  |                |
| Domestic Nuclear Detection Office  | 384                  |                     |                   | 384           | 306                  |                     | 323                    |                |
| <b>Net subtotal: Title IV</b>  | <b>1,897</b>         |                     |                   | <b>1,905</b>  | <b>1,988</b>         |                     | <b>1,779</b>           |                |
| Total fee collections  | 2,636                |                     |                   | 2,636         | 2,427                |                     | 2,427                  |                |
| <b>Gross subtotal: Title IV</b>  | <b>4,533</b>         |                     |                   | <b>4,541</b>  | <b>4,415</b>         |                     | <b>4,206</b>           |                |
| Rescissions  | -                    |                     |                   | 0             | -                    |                     |                        |                |
| <b>Gross DHS budget authority</b>  | <b>51,715</b>        | <b>394</b>          | <b>100</b>        | <b>52,009</b> | <b>52,644</b>        |                     | <b>52,794</b>          |                |
| Total fee collections  | 7,771                |                     |                   | 7,771         | 7,654                |                     | 7,609                  |                |
| <b>Net DHS budget authority</b>  | <b>43,944</b>        | <b>394</b>          | <b>100</b>        | <b>44,238</b> | <b>44,990</b>        |                     | <b>45,185</b>          |                |

**Source:** CRS Analysis of the FY2011 DHS Congressional Budget Justifications, the FY2011 DHS Budget in Brief, and S.Rept. 111-222.

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

## Title I: Departmental Management and Operations<sup>5</sup>

Title I covers the general administrative expenses of DHS. It includes the Office of the Secretary and Executive Management (OS&EM), which is comprised of the immediate Office of the Secretary and 13 entities that report directly to the Secretary; the Under Secretary for Management (USM) and its components, such as the offices of the Chief Administrative Officer, Chief Human Capital Officer, and Chief Procurement Officer; the Office of the Chief Financial Officer (OCFO); the Office of the Chief Information Officer (OCIO); the Analysis and Operations Office (AOO); the Office of the Federal Coordinator for Gulf Coast Rebuilding (OFCGCR); and the Office of the Inspector General (OIG). New Title I accounts for FY2011 are DHS Headquarters Consolidation and the National Special Security Event (NSSE) State and Local Reimbursement Fund. **Table 5**, below, shows Title I appropriations for FY2010 and the President's request for FY2011.

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

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

<sup>5</sup> Prepared by Barbara L. Schwemle, Analyst in American National Government, Government and Finance Division.

| Operational Component  | FY2010 Appropriation     |              |              |              | FY2011 Appropriation |                     |                        |                |
|--|--------------------------|--------------|--------------|--------------|----------------------|---------------------|------------------------|----------------|
|  | FY2010 Enacted           | FY2010 Supp. | FY2010 Resc. | FY2010 Total | FY2011 Request       | FY2011 House-Passed | FY2011 Senate-Reported | FY2011 Enacted |
| DHS Headquarters Consolidation                                     | -                        |              |              | -            | 363                  |                     | 0                      |                |
| National Special Security Event State and Local Reimbursement Fund | -                        |              |              | -            | 20                   |                     | 0                      |                |
| Office of the Inspector General                                    | 114                      |              |              | 114          | 130                  |                     | 133                    |                |
| <b>Net Budget Authority: Title I</b>                               | <b>1,252<sup>a</sup></b> |              |              | <b>1,252</b> | <b>1,749</b>         |                     | <b>1,310</b>           |                |

**Source:** CRS Analysis of the *FY2011 DHS Congressional Budget Justifications*, the *FY2011 DHS Budget in Brief*, and S.Rept. 111-222.

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

- a. Does not include a \$16 million transfer of funds from FEMA's Disaster Relief account.

### President's FY2011 Request

FY2011 request compared to the FY2010 enacted appropriations was as follows: OS&EM, \$157 million, an increase of \$9 million (+6.1%); USM, \$267 million, an increase of \$13 million (+5.1%); OCFO, \$66 million, an increase of \$5 million (+8.2%); OCIO, \$398 million, an increase of \$60 million (+17.7%); AOO, \$348 million, an increase of \$13 million (+3.9%); OFCGCR, no funding, a decrease of \$2 million; and OIG, \$130 million, an increase of \$16 million (+14%). As for the two new accounts for FY2011, the DHS Headquarters Consolidation request was \$363 million and the National Special Security Event State and Local Reimbursement Fund request was \$20 million.

The total FY2011 request for Title I accounts that were funded in FY2010 was \$1,366 million. This represents an increase of \$114 million (+9.1%) over the FY2010 total. The total FY2011 request for all Title I accounts was \$1,749 million. This represents an increase of \$497 million (+39.7%) over the FY2010 total.<sup>6</sup>

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

<sup>6</sup> FY2011 DHS Justifications, Departmental Management and Operations, pp. DMO-2–DMO-3.

Information Technology Services (requesting \$56 million), Infrastructure and Security Activities (requesting \$186 million), and National Security Systems (requesting \$74 million).<sup>7</sup> The next largest increase would occur in the OIG (requesting \$130 million and 665 FTEs, up from \$114 million and 632 FTEs in FY2010). Within OIG, a program increase of \$4 million and 9 FTEs is requested for Audit, Inspections, and Investigations to fund planned audits on TSA international in-bound flight initiatives, best practices with international partners, and the Secure Flight Program. Reviews and evaluations of TSA's in-line baggage screening system, the paperless boarding pass, TSA Worker Identification Credentials, and the procurement and deployment of new screening technology are also planned.<sup>8</sup> An FY2011 funding request for the OFCGCR is not requested because the office closed on March 31, 2010.

The new DHS Headquarters Consolidation account is expected to provide DHS, the Office of Management and Budget (OMB), and Congress "with improved visibility of the ongoing efforts for establishing a central DHS facility" and "facilitate better reporting and overall management of the program" by DHS. The \$363 million being requested for FY2011 is to support both the consolidation of mission support elements that are not relocating to the St. Elizabeths Campus and the consolidation of the department's headquarters to that Campus. There are no FTEs attached to this account.<sup>9</sup>

Another new account, the NSSE State and Local Reimbursement Fund, will be administered by the Office of Operations Coordination and Planning. Among events that have been designated as NSSEs in the past have been presidential inaugurations, presidential nominating conventions, major sports events, major international meetings, presidential funerals, and world economic summits. The requested \$20 million appropriation for the fund will be used to reimburse state and local governments for the actual costs associated with increased security measures for unplanned NSSEs.<sup>10</sup> There are no FTEs attached to this account.

### **Senate-Reported S. 3607**

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

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

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<sup>7</sup> FY2011 DHS Justifications, Office of the Chief Information Officer, p.OCIO-8.

<sup>8</sup> FY2011 DHS Justifications, Office of Inspector General, pp. OIG-5 and OIG-11.

<sup>9</sup> FY2011 DHS Justifications, DHS HQ Consolidation, pp. HQ-3-HQ-4.

<sup>10</sup> FY2011 DHS Justifications, National Special Security Event State and Local Reimbursement Fund, pp. NSSE-1-NSSE-2.



including the status of National Capital Planning Commission approvals, the project schedule, and any deviation from the plans described in the FY2011 budget justification.<sup>11</sup>

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

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

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

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

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<sup>11</sup> S.Rept. 111-222, p. 148.

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

- The committee believes that “to avoid corruption and misconduct it is imperative that all agents, especially new hires, receive comprehensive training in ethics and public integrity.” The committee provides the OIG with additional funding of \$3 million to conduct integrity investigations and directs the IG to submit a plan, developed in coordination with CBP and ICE, for the expenditure of these funds within 90 days after the act's enactment.<sup>12</sup>

A general provision at Section 516 of S. 3607, as reported, requires the CFO “to submit monthly budget execution and staffing reports within 45 days after the close of each month.”<sup>13</sup>

## **Personnel Issues**

The Office of the Chief Human Capital Officer (OCHCO) manages and administers human resources at DHS and includes the Office of Human Capital (OHC). The OCHCO “establishes policy and procedures” and provides “oversight, guidance, and leadership within the Department” for the various functions under human capital management. These functions are policy and programs, learning and development, executive resources, human capital business systems, headquarters human resources management services, and business support and operations. The OCHCO reports to the Under Secretary for Management. The OHC implements the Human Capital Operational Plan and is organized around the initiatives of talent management, performance culture, learning and development, and service excellence.<sup>14</sup> The Human Resources Information Technology (HRIT) program “is to merge and modernize the DHS HRIT infrastructure to provide flexibility and the management information that will allow DHS to continuously evolve in response to changing business, legislative and economic” circumstances.<sup>15</sup>

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

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<sup>12</sup>Ibid., pp. 9, 21-22, 24, 26, and 28.

<sup>13</sup> Ibid., p. 145.

<sup>14</sup> FY2011 DHS Justifications, Departmental Management and Operations, Under Secretary for Management, pp. USM-4 and USM-49.

<sup>15</sup> Ibid., p. USM-15.

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

| Account                                   | FY2010<br>Enacted | FY2011<br>Request | FY2011<br>House-<br>Passed | FY2011<br>Senate-<br>Reported | FY2011<br>Enacted |
|---|-------------------|-------------------|----------------------------|-------------------------------|-------------------|
| Salaries and Expenses CHCO                | 25                | 25                |                            | 25                            |                   |
| Human Resources Information<br>Technology | 17                | 17                |                            | 14                            |                   |
| Total                                     | 42                | 42                |                            | 39                            |                   |

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

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

### *Personnel and the President's FY2011 Request*

According to the DHS Justifications, the FY2011 budget requested \$25 million (rounded)<sup>16</sup> and 108 full-time equivalent (FTE) employees for the OCHCO.<sup>17</sup> The requested funding is \$474,000 less than the \$25 million (rounded) provided for FY2010. The number of FTEs would increase by 19, from 89 to 108, for FY2011. The appropriation requested for HRIT for FY2011 was \$17 million (rounded), the same amount as the funding authorized for FY2010. The FTEs for this account for FY2011 would be 25.<sup>18</sup>

The OCHCO funding for FY2011 would be used for, among other initiatives, continued efforts to improve diversity across DHS and particularly in the executive ranks, to develop and implement a comprehensive leader development program across the department, to enhance the Candidate Development Program for the Senior Executive Service, and to aggressively expand outreach to former military personnel to meet the Secretary's goal of having 50,000 veterans employed by DHS. Human capital policies, programs, practices, and staffing will be consolidated to make them more efficient.<sup>19</sup>

For FY2011, the HRIT program will fund and deploy TALENTLink to the U.S. Coast Guard and U.S. Customs and Immigration Service. TALENTLink is an automated system for recruiting and staffing across DHS that will streamline the department's hiring process.<sup>20</sup>

### *Personnel and the Senate-Reported S. 3607*

The Senate committee recommended an appropriation of \$39 million (rounded amount) for the OCHCO, that is \$3 million less than the President's request. Of the total, \$14 million (rounded) is

<sup>16</sup> Salaries and benefits (\$18 million, rounded) and purchases from government accounts (\$4 million, rounded) make-up 88% of the total of \$25 million. Purchases from government accounts include costs for purchases from other federal government agencies or accounts that are not otherwise classified.

<sup>17</sup> FY2011 DHS Justifications, Departmental Management and Operations, Under Secretary for Management, p. USM-11.

<sup>18</sup> Ibid., p. USM-15.

<sup>19</sup> Ibid., pp. USM-14-USM-15.

<sup>20</sup> Ibid., pp. USM-16 and USM-18.

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

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

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

## **Analysis and Operations<sup>21</sup>**

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

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<sup>21</sup> Prepared by Mark A. Randol, Specialist in Domestic Intelligence and Counterterrorism, Domestic Social Policy Division.

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

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

In 2008, former Secretary Chertoff established the Office of Operations Coordination and Planning (OPS), built on the foundation of the former Office of Operations Coordination. OPS supports Departmental and interagency crisis and contingency planning and operations to support the Secretary of Homeland Security in his/her role as the principal Federal official for domestic incident management.<sup>22</sup>

### **President's FY2011 Request**

The FY2011 request for the Analysis and Operations (AOO) account is \$348 million, an increase of nearly \$13 million (+3.9 %) over the enacted FY2010 amount. It should be noted that funds included in this account support both the Office of Intelligence and Analysis (I&A) and the Office of Operations Coordination and Planning (OPS). I&A is responsible for managing the DHS intelligence enterprise and for collecting, analyzing, and sharing intelligence information for and among all components of DHS, and with the state, local, tribal, and private sector homeland security partners. As a member of the intelligence community, I&A's budget is part of the National Intelligence Program, a classified program document. OPS develops and coordinates

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<sup>22</sup> According to Homeland Security Presidential Directive (HSPD)-5, *Management of Domestic Incidents*, (2003): "To prevent, prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies, the United States Government shall establish a single, comprehensive approach to domestic incident management.... The Secretary of Homeland Security is the principal Federal official for domestic incident management."

departmental and interagency operations plans and manages the National Operations Center, the primary 24/7 national-level hub for domestic incident management, operations coordination, and situational awareness, fusing law enforcement, national intelligence, emergency response, and private sector information.

### **Senate-Reported S. 3607**

Senate-Reported S. 3607 includes \$340 million for AOO. This is an increase of nearly \$5 million (1.4%) above the FY2010-enacted level but a decrease of nearly \$8 million (2.2%) from the Administration's request for FY2011. S. 3607 stipulates that none of the funds provided in this or any other Act shall be available to commence operations of the National Immigration Information Sharing Operation or any follow-on entity until the Secretary certifies that such program complies with all existing laws, including all applicable privacy and civil liberties standards, the Comptroller General of the United States notifies the Committees on Appropriations of the Senate and the House of Representatives and the Secretary that the Comptroller has reviewed such certification, and the Secretary notifies the Committees on Appropriations of the Senate and the House of Representatives of all funds to be expended on operations of the National Immigration Information Sharing Operation or any follow-on entity pursuant to section 503 of this act. In S.Rept. 111-222, the committee requires the Department's Chief Intelligence Officer to submit an expenditure plan for FY2011 no later than 60 days after the date of enactment of this act and outlines what information should be included in that expenditure plan. Also in S.Rept. 111-222, the committee directs I&A to brief the committee quarterly on progress in placing DHS intelligence professionals in state and local fusion centers [SLFC] and outlines what information should be included in those briefings.

## **Title II: Security, Enforcement, and Investigations**

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

**Table 7. Title II: Security, Enforcement, and Investigations**

(budget authority in millions of dollars)

| Operational Component                                   | FY2010 Appropriation |              |              | FY2011 Appropriation |                |                     |                        |                |
|---|----------------------|--------------|--------------|----------------------|----------------|---------------------|------------------------|----------------|
|   | FY2010 Enacted       | FY2010 Supp. | FY2010 Resc. | FY2010 Total         | FY2011 Request | FY2011 House-Passed | FY2011 Senate-Reported | FY2011 Enacted |
| <b>Customs &amp; Border Protection</b>                  |                      |              |              |                      |                |                     |                        |                |
| Salaries and expenses                                   | 8,065                | 254          |              | 8,319                | 8,208          |                     | 8,291                  |                |
| Automation modernization                                | 422                  |              |              | 422                  | 348            |                     | 348                    |                |
| Air and Marine Interdictions                            | 520                  | 32           |              | 552                  | 503            |                     | 524                    |                |
| Border Security Fencing, Infrastructure, and Technology | 800                  | 14           | 100          | 714                  | 574            |                     | 574                    |                |
| Facilities Management (Construction)                    | 320                  | 6            |              | 326                  | 176            |                     | 180                    |                |
| Fee accounts <sup>a</sup>                               | 1,317                |              |              | 1,317                | 1,365          |                     | 1,365                  |                |
| <b>Gross total</b>                                      | <b>11,444</b>        |              |              | <b>11,650</b>        | <b>11,174</b>  |                     | <b>11,282</b>          |                |
| <b>Offsetting collections</b>                           | <b>-1,317</b>        |              |              | <b>-1,317</b>        | <b>-1,365</b>  |                     | <b>-1,365</b>          |                |
| <b>Net total</b>  | <b>10,127</b>        |              |              | <b>10,333</b>        | <b>9,809</b>   |                     | <b>9,917</b>           |                |
| <b>Immigration &amp; Customs Enforcement</b>            |                      |              |              |                      |                |                     |                        |                |
| Salaries and expenses                                   | 5,344                | 80           |              | 5,424                | 5,440          |                     | 5,467                  |                |
| Federal Protective Services (FPS)                       |                      |              |              | 0                    |                |                     | 0                      |                |
| Automation & infrastructure modernization               | 90                   |              |              | 90                   | 85             |                     | 85                     |                |
| Construction  | 5                    |              |              | 5                    |                |                     | 0                      |                |
| Fee accounts <sup>b</sup>                               | 305                  |              |              | 305                  | 311            |                     | 311                    |                |
| <b>Gross total</b>                                      | <b>5,742</b>         |              |              | <b>5,822</b>         | <b>5,835</b>   |                     | <b>5,862</b>           |                |
| <b>Offsetting FPS fees</b>                              |                      |              |              | <b>0</b>             | <b>0</b>       |                     | <b>0</b>               |                |
| <b>Offsetting collections</b>                           | <b>-305</b>          |              |              | <b>-305</b>          | <b>-311</b>    |                     | <b>-311</b>            |                |
| <b>Net total</b>  | <b>5,437</b>         |              |              | <b>5,517</b>         | <b>5,524</b>   |                     | <b>5,551</b>           |                |

| Operational Component                                      | FY2010 Appropriation |              |              | FY2011 Appropriation |                |                     |                        |                |
|--|----------------------|--------------|--------------|----------------------|----------------|---------------------|------------------------|----------------|
|  | FY2010 Enacted       | FY2010 Supp. | FY2010 Resc. | FY2010 Total         | FY2011 Request | FY2011 House-Passed | FY2011 Senate-Reported | FY2011 Enacted |
| <b>Transportation Security Administration</b>              |                      |              |              |                      |                |                     |                        |                |
| Aviation security (gross funding)                          | 5,214                |              |              | 5,214                | 5,560          |                     | 5,491                  |                |
| Surface Transportation Security                            | 111                  |              |              | 111                  | 138            |                     | 138                    |                |
| Transportation Threat Assessment and Credentialing         | 220                  |              |              | 220                  | 215            |                     | 188                    |                |
| Transportation Security Support                            | 1,002                |              |              | 1,002                | 1,052          |                     | 1,048                  |                |
| Federal Air Marshals                                       | 860                  |              |              | 860                  | 950            |                     | 950                    |                |
| Aviation security capital fund <sup>c</sup>                | 250                  |              |              | 250                  | 250            |                     | 250                    |                |
| <b>Gross total</b>   | <b>7,657</b>         |              |              | <b>7,657</b>         | <b>8,165</b>   |                     | <b>8,065</b>           |                |
| <b>Offsetting collections</b>                              | <b>-2,100</b>        |              |              | <b>-2,100</b>        | <b>-2,186</b>  |                     | <b>-2,100</b>          |                |
| <b>Credentialing/Fee accounts<sup>d</sup></b>              | <b>-48</b>           |              |              | <b>-48</b>           |                |                     | <b>-41</b>             |                |
| <b>Aviation security capital fund (mandatory spending)</b> | <b>-250</b>          |              |              | <b>-250</b>          | <b>-250</b>    |                     | <b>-250</b>            |                |
| <b>Net total</b>   | <b>5,259</b>         |              |              | <b>5,259</b>         | <b>5,729</b>   |                     | <b>5,674</b>           |                |
| <b>U.S. Coast Guard</b>                                    |                      |              |              |                      |                |                     |                        |                |
| Operating expenses   | 6,564                |              |              | 6,564                | 6,651          |                     | 6,971                  |                |
| Environmental compliance & restoration                     | 13                   |              |              | 13                   | 13             |                     | 13                     |                |
| Reserve training   | 134                  |              |              | 134                  | 136            |                     | 136                    |                |
| Acquisition, construction, & improvements                  | 1,536                |              |              | 1,536                | 1,381          |                     | 1,583                  |                |
| Alteration of bridges                                      | 4                    |              |              | 4                    | -              |                     | 4                      |                |
| Research, development, tests, & evaluation                 | 25                   |              |              | 25                   | 20             |                     | 28                     |                |
| Retired pay (mandatory, entitlement)                       | 1,361                |              |              | 1,361                | 1,401          |                     | 1,401                  |                |



| Operational Component   | FY2010 Appropriation |              |              | FY2011 Appropriation |                |                     |                        |                |
|---|----------------------|--------------|--------------|----------------------|----------------|---------------------|------------------------|----------------|
|   | FY2010 Enacted       | FY2010 Supp. | FY2010 Resc. | FY2010 Total         | FY2011 Request | FY2011 House-Passed | FY2011 Senate-Reported | FY2011 Enacted |
| Health care fund contribution                                 | 266                  |              |              | 266                  | 265            |                     | 265                    |                |
| <b>Gross total</b>  | <b>9,903</b>         |              |              | <b>9,903</b>         | <b>9,867</b>   |                     | <b>10,401</b>          |                |
| <b>U.S. Secret Service</b>                                    |                      |              |              |                      |                |                     |                        |                |
| Salaries and expenses   | 1,479                |              |              | 1,479                | 1,566          |                     | 1,572                  |                |
| Acquisition, construction, improvements, and related expenses | 4                    |              |              | 4                    | 4              |                     | 4                      |                |
| <b>Gross total</b>  | <b>1,483</b>         |              |              | <b>1,483</b>         | <b>1,570</b>   |                     | <b>1,576</b>           |                |
| <b>Gross Budget Authority: Title II</b>                       | <b>36,229</b>        | <b>386</b>   | <b>100</b>   | <b>36,515</b>        | <b>36,611</b>  |                     | <b>37,186</b>          |                |
| <b>Offsetting collections:</b>                                | <b>-4,020</b>        |              |              | <b>-4,020</b>        | <b>-4,112</b>  |                     | <b>-4,067</b>          |                |
| <b>Net Budget Authority: Title II</b>                         | <b>32,209</b>        | <b>386</b>   | <b>100</b>   | <b>32,495</b>        | <b>32,499</b>  |                     | <b>33,119</b>          |                |

**Source:** CRS Analysis of the *FY2011 DHS Congressional Budget Justifications*, the *FY2011 DHS Budget in Brief*, and S.Rept. 111-222.

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

- a. Fees include COBRA, Land Border, Immigration Inspection, Immigration Enforcement, and Puerto Rico.
- b. Fees include Exam, Student Exchange and Visitor Fee, Breached Bond, Immigration User, and Land Border.
- c. Aviation Security Capital Fund, used for installation of Explosive Detection Systems at airports.
- d. Fees include TWIC, HAZMAT, Registered Traveler, and Alien Flight School Checks.

## Customs and Border Protection<sup>23</sup>

CBP is responsible for security at and between ports-of-entry along the border. Since September 11, 2001, CBP's primary mission is to prevent the entry of terrorists and the instruments of terrorism. CBP's ongoing responsibilities include inspecting people and goods to determine if they are authorized to enter the United States; interdicting terrorists and instruments of terrorism; intercepting illegal narcotics, firearms, and other types of contraband; interdicting unauthorized travelers and immigrants; and enforcing more than 400 laws and regulations at the border on behalf of more than 60 government agencies. CBP is comprised of the inspection functions of the legacy Customs Service, Immigration and Naturalization Service (INS), and the Animal and Plant Health Inspection Service (APHIS); the Office of Air and Marine Interdiction, now known as Office of Air and Marine (OAM); and the U.S. Border Patrol (USBP). See **Table 7** for account-level detail for all of the agencies in Title II, and **Table 8** for sub-account-level detail for CBP Salaries and Expenses (S&E) for FY2010 and FY2011.

### President's FY2011 Request

The Administration requested an appropriation of \$11,174 million in gross budget authority for CBP for FY2011, amounting to a \$270 million (or 2.3%) decrease from the enacted FY2010 level of \$11,444 million. The Administration requested \$9,809 million in net budget authority for CBP in FY2011, which amounts to a \$318 million decrease from the net FY2010 appropriation of \$10,127 million. The request includes the following changes:

- Increase of \$27 million for the Data Center consolidation effort;
- Increase of \$25 million for Intellectual Property Rights (IPR) enforcement;
- Increase of \$10 million to fund 103 Intelligence Analysts;
- Reduction of \$74 million to reduce Office of Information Technology (OIT) support;
- Reduction of \$28 million derived from not sustaining FY2010 initiatives including, \$20 million from Office of Air and Marine (OAM) personnel enhancements, \$5 millions from Cyber Security, and \$3 million from the API/PNR program;
- Reduction of \$15 million for Border Patrol Premium Pay and Agent Staffing;
- Reduction of \$4 million for human resource reductions;
- Reduction of \$24 million to the Office of Training and Development (OTD);
- Reduction of \$17 million for the Secure Freight Initiative (SFI);
- Reduction of \$12 million for the Customs-Trade Partnership Against Terrorism (C-TPAT);

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<sup>23</sup> Prepared by Jennifer E. Lake, Analyst in Domestic Security, and Chad C. Haddal, Analyst in Immigration Policy, Domestic Social Policy Division.

- Reduction of \$4.4 million to terminate United States Postal Service (USPS) leases;
- Elimination of the CBP Explosive Detector Dog program (\$400,000);
- Reduction of \$51 million for the Container Security Initiative (CSI);
- Reduction of \$25 million for the Western Hemisphere Travel Initiative (WHTI);
- Reduction of \$20 million for the Foreign Language Award Program (FLAP);
- Reductions of \$158 million for the Border Security, Fencing, Infrastructure, and Technology (BSFIT) program, including \$135 million for Development and Deployment, and \$23 million for Program Management;
- Reduction to base funding for Automation Modernization account of \$75 million in funding for the Automated Commercial Environment (ACE)/International Trade Database System (ITDS);
- Reduction to base funding of \$44 million to the Construction and Facilities Management Account, and a cancellation of nearly \$100 million in previously appropriated non-expended funds;
- Reduction to base funding for Air and Marine Interdiction funding of \$14 million, and programmatic reduction of \$3 million for planned logistics and management systems upgrades.

**Table 8. CBP Salaries and Expenses Account Detail**

(budget authority in millions of dollars)

| Activity   | FY2010<br>Enacted | FY2011<br>Request | FY2011<br>House-<br>Passed | FY2011<br>Senate-<br>Reported | FY2011<br>Enacted |
|--|-------------------|-------------------|----------------------------|-------------------------------|-------------------|
| <b>Headquarters Management and Administration</b>                        | <b>1,418</b>      | <b>1,414</b>      |                            | <b>1,431</b>                  |                   |
| <b>Border Security Inspections and Trade Facilitation @ POE</b>          | <b>2,750</b>      | <b>2,913</b>      |                            | <b>2,973</b>                  |                   |
| Inspections, Trade & Travel Facilitation @ POE                           | 2,262             | 2,509             |                            | 2,544                         |                   |
| Container Security Initiative (CSI)/ International Cargo Screening (ICS) | 162               | 83                |                            | 103                           |                   |
| Other International Programs   | 11                | 11                |                            | 11                            |                   |
| C-TPAT   | 63                | 50                |                            | 55                            |                   |
| FAST/NEXUS/SENTRI  | 11                | 11                |                            | 11                            |                   |
| Inspection and Detection Technology                                      | 154               | 155               |                            | 155                           |                   |
| Systems for Targeting  | 33                | 32                |                            | 32                            |                   |
| National Targeting Center  | 26                | 36                |                            | 36                            |                   |
| Training at POE  | 25                | 21                |                            | 21                            |                   |
| <b>Harbor Maintenance Fee</b>  | <b>3</b>          | <b>3</b>          |                            | <b>3</b>                      |                   |
| <b>Border Security and Control Between POE</b>                           | <b>3,587</b>      | <b>3,583</b>      |                            | <b>3,573</b>                  |                   |

| Activity  | FY2010<br>Enacted | FY2011<br>Request | FY2011<br>House-<br>Passed | FY2011<br>Senate-<br>Reported | FY2011<br>Enacted |
|---|-------------------|-------------------|----------------------------|-------------------------------|-------------------|
| Border Security and Control Between<br>POE      | 3,535             | 3,547             |                            | 3,537                         |                   |
| Training Between the POE                        | 52                | 36                |                            | 36                            |                   |
| <b>Air and Marine Operations -<br/>Salaries</b> | <b>310</b>        | <b>298</b>        |                            | <b>314</b>                    |                   |
| <b>CBP Salaries and Expenses Total:</b>         | <b>8,065</b>      | <b>8,208</b>      |                            | <b>8,291</b>                  |                   |

**Source:** CRS Analysis of the *FY2011 DHS Congressional Budget Justifications*, the *FY2011 DHS Budget in Brief*, and S.Rept. 111-222.

**Notes:** Amounts may not strictly accord with budgetary documents due to rounding. FY2010 amounts do not include FY2010 supplemental appropriations.

### Senate-Reported S. 3607

Senate-reported S. 3607 would provide \$11,282 million in gross budget authority for CBP for FY2011, amounting to \$108 million (or 1%) more than was requested by the Administration, and a \$162 million, or 1%, decrease from the enacted FY2010 level of \$11,444 million. Senate-reported S. 3607 included \$9,917 million in net budget authority for CBP for FY2010, amounting to a \$108 million increase over the Administration’s request and a \$110 million decrease from the FY2010-enacted level of \$10,127 million.

### Issues for Congress

Issues that Congress could consider during the FY2011 appropriations cycle include funding for and deployment of the Secure Border Initiative (SBI) technologies known as SBInet; Border Patrol agents hiring and staffing levels; and the declining request for appropriations for some cargo security initiatives.

### *Border Patrol Reductions*

For FY2011, CBP submitted two budget requests: (1) the original budget request, and (2) a revised budget request that made adjustments to the request for Border Patrol staffing and premium pay. While the most recent version of the FY2011 budget request only includes a reduction of \$15 million to Border Patrol premium pay, the original FY2011 budget request included a proposed reduction of premium pay of \$31 million and a reduction 181 U.S. Border Patrol (USBP) Agents. This reduction would have reduced the number of USBP Agents from 20,163 in FY2010 to 19,983 in FY2011. Several members of Congress expressed concern over this reduction and which geographic areas would have had their staffing levels reduced.<sup>24</sup> Prior to the revised budget request, in testimony before the Senate Homeland Security and Governmental Affairs Committee, DHS Secretary Napolitano stated that there would be no reductions of Agent numbers at the southwest border and the Department would continue to meet its staffing

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

obligations at the northern border.<sup>25</sup> Subsequently, CBP revised its premium pay reduction request, and removed language on Border Patrol Agent reductions altogether.<sup>26</sup> Senate-reported S. 3607 includes bill language that would mandate a floor of not less than 20,370 Border Patrol agents onboard throughout FY2011.

### ***Fencing, Infrastructure, and Technology***

The Administration requested \$574 million for the deployment of SBInet<sup>27</sup> related technologies and infrastructures in FY2011, a decrease of \$226 million over the FY2010 enacted level of \$800 million. Within the FY2011 request, the Administration is proposing to allocate \$336 million for developing and deploying additional technology and infrastructure solutions to the southwest border. An additional \$169 million is requested for operations and maintenance of the cameras, sensors, and tactical infrastructure (TI) fencing. CBP states that the 670 miles of pedestrian and vehicle fencing along the southwest border are largely completed. The management and deployment of SBInet, however, has come under scrutiny. The Government Accountability Office (GAO) noted that the Border Patrol was not consulted early enough in the process of developing the technology solutions that would be used by SBInet, and that this fact combined with some challenges relating to the integration of the technologies deployed by Boeing led to an eight month delay in the initial pilot program's deployment in Tucson Sector.<sup>28</sup> Secretary Napolitano has ordered a department-wide assessment of the SBInet technology project, but continues to support the deployment of border supervision and protection technologies.<sup>29</sup> Oversight of the SBInet program's continuing deployment of technology at the border, including whether DHS is on track to meet its goals, may be an issue of concern to Congress as it considers the FY2011 request. Senate-reported S. 3607 would match the Administration's funding request.

### ***International Cargo Screening Funding Reductions***

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

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<sup>25</sup> Ibid.

<sup>26</sup> U.S. Customs and Border Protection, *Congressional Budget Justifications* (Revised), p. CBP S&E -4.

<sup>27</sup> SBInet is the technological and infrastructure component of the Secure Border Initiative (SBI), a multifaceted approach to securing the border. In its FY2007 budget submission, DHS asserted that it had "developed a three-pillar approach under the SBI that will focus on controlling the border, building a robust interior enforcement program, and establishing a Temporary Worker Program." *DHS FY2007 Justification*, p. CBP S&E 4.

<sup>28</sup> Testimony of GAO Director of Homeland Security and Justice Issues Richard Stana, in U.S. Congress, Committee on Appropriations, Subcommittee on Homeland Security, *DHS Has Taken Actions to Strengthen Border Security Programs and Operations, But Challenges Remain*, 110<sup>th</sup> Cong., 2<sup>nd</sup> Sess., March 6, 2009.

<sup>29</sup> U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *The Homeland Security Department's Budget Submission for Fiscal Year 2011*, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., February 24, 2010.

The SFI is characterized as a “three-pronged approach to enhance supply chain security.”<sup>30</sup> The three prongs of this approach are the International Container Security project (ICS); the project to acquire data elements to improve risk-based targeting of containers, known as the Security Filing (SF) or “10+2”; and the efforts to identify and acquire technology to enhance cargo scanning and risk assessment capabilities.<sup>31</sup>

The ICS is the component of the strategy whereby all U.S.-bound maritime containers are subject to an integrated scan (image and radiation detection) at the participating overseas port before being loaded on the U.S.-bound vessel. In FY2010 ICS was fully operational and scanning 100% of U.S.-bound containers at the Port of Southampton in the United Kingdom, the Port of Qasim in Pakistan, and at Puerto Cortes in Honduras.<sup>32</sup> The President’s FY2011 request proposes a reduction of nearly \$17 million for ICS. This reduction would be achieved by changing the protocols at three ICS ports (Honduras, Southampton, and Korea) from ICS protocols (100% integrated scanning of cargo) to CSI protocols (integrated scanning of only high risk containers). It is notable that two of the three ports that would be changing protocol, Southampton and Honduras, were fully operational under ICS protocols in FY2010. ICS operations at Port Qasim in Pakistan and in Salalah, Oman, would remain constant under the FY2011 request.

In addition to reductions in funding for the ICS program, the President’s FY2011 budget also proposes a \$58 million reduction to the CSI program. CSI is a program by which CBP stations CBP officers in foreign ports to target high-risk containers for inspection before they are loaded on U.S.-bound ships. CSI is operational in 58 ports for FY2010. According to the *FY2011 Congressional Budget Justifications*, the proposed \$58 million reduction in CSI funding will be achieved by changing CSI’s operational posture from one in which CBP Officers are on the ground in foreign ports, to a remote posture whereby the targeting and selection of high risk containers are done at the National Targeting Center-Cargo (NTC-C). For FY2011 CBP plans to phase out physical operations at 54 of the 58 existing CSI ports. It should be noted that the FY2011 request does not contain a programmatic increase in funds for the NTC-C.

The FY2011 request includes nearly \$37 million for NTC, a \$10 million increase over the FY2010 enacted amount. More than \$9 million of this increase represents a realignment of 65 positions that were originally appropriated in the 2007 War Supplemental and incorrectly annualized under Inspections, Trade, and Travel Facilitation rather than under NTC. This increase has no programmatic impact. In light of this, and the fact that CBP reports that in FY2010 CSI “screened over 80 percent of the volume of maritime containers destined for the U.S.,”<sup>33</sup> Congress might be interested in the degree to which the NTC-C is positioned to support the increase in workload that will result from the proposed changes to CSI without additional resources. Congress may also wish to examine the impact the proposed changes will have on the security of U.S.-bound containers arriving in the U.S. from CSI ports. Of possible further interest to Congress is the degree to which these proposed reductions represent a change in cargo security strategy from one focused on ‘pushing out the borders’ and moving towards congressionally mandated 100% scanning to a remote posture focused on high-risk shipments.

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<sup>30</sup> DHS, *FY2011 Congressional Budget Justifications*, p. CBP-SE-37.

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*, p. CBP-S&E-24.

<sup>33</sup> *Ibid.*, CBP-S&E-37.

The Senate Appropriations Committee noted in S.Rept. 111-222 that it strongly supports programs that effectively support and promote the strategies of “pushing out the borders” and layered border security.<sup>34</sup> The committee also noted its disappointment in the proposed cuts to CSI, C-TPAT, and WHITI. The committee further requested a briefing within 90 days of enactment to explain how the additional \$29 million provided for these programs will be used by CBP, and how the agency plans to mitigate the potential effects of the proposed cuts on security.<sup>35</sup>

## **Immigration and Customs Enforcement<sup>36</sup>**

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

### **President’s FY2011 Request**

The Administration requested \$5,835 million in gross budget authority for ICE in FY2011. This represented a 1.6% increase over the enacted FY2010 level of \$5,742 million. The Administration requested an appropriation of \$5,524 million in net budget authority for ICE in FY2011, representing a 1.6% increase over the FY2010 enacted level of \$5,437 million. **Table 9** provides activity-level detail for the Salaries and Expenses account. The request includes the following increases:

- \$20 million help Detention and Removal Operations (DRO) to maintain current bed space;
- \$19.9 million for the co-location of ICE facilities;
- \$15 million for Office of Investigations mission support;
- \$10.4 million for data center migration;
- \$10 million for addition Border Enforcement Security Task Forces (BEST);
- \$5 million for intellectual property rights enforcement.

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<sup>34</sup> U.S. Congress, Senate Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2011*, report to accompany S. 3607, 111<sup>th</sup> Cong., 2<sup>nd</sup> sess., July 17, 2010, S.Rept. 111-222 (Washington: GPO, 2010), p. 32.

<sup>35</sup> *Ibid.*

<sup>36</sup> Prepared by Chad C. Haddal, Analyst in Immigration Policy, Domestic Social Policy Division.

**Table 9. ICE Salaries and Expenses Account Detail**  
(budget authority in millions of dollars)

| Activity   | FY2010 Enacted | FY2011 Request | FY2011 House-Passed | FY2011 Senate-Reported | FY2011 Enacted |
|--|----------------|----------------|---------------------|------------------------|----------------|
| <b>Management (HQ) &amp; Administration</b>                        | <b>512</b>     | <b>510</b>     |                     | <b>495</b>             |                |
| <b>Legal Proceeding</b>  | <b>222</b>     | <b>222</b>     |                     | <b>222</b>             |                |
| Investigations - Domestic  | 1,650          | 1,727          |                     | 1,761                  |                |
| Investigations - International                                     | 113            | 114            |                     | 114                    |                |
| Visa Security Program  | 31             | 31             |                     | 38                     |                |
| <b>Total Investigations</b>  | <b>1,794</b>   | <b>1,872</b>   |                     | <b>1,913</b>           |                |
| <b>Intelligence</b>  | <b>70</b>      | <b>71</b>      |                     | <b>72</b>              |                |
| DRO-Custody Operations   | 1,771          | 1,904          |                     | 1,904                  |                |
| DRO-Fugitive Operations  | 230            | 168            |                     | 168                    |                |
| DRO-Criminal Alien Program   | 193            | 179            |                     | 179                    |                |
| DRO-Alternatives to Detention                                      | 70             | 72             |                     | 72                     |                |
| DRO Transportation and Removal Program                             | 282            | 295            |                     | 295                    |                |
| <b>DRO Total</b>   | <b>2,546</b>   | <b>2,618</b>   |                     | <b>2,618</b>           |                |
| <b>Comprehensive Identification and Removal of Criminal Aliens</b> | <b>200</b>     | <b>147</b>     |                     | <b>147</b>             |                |
| <b>ICE Salaries and Expenses</b>                                   | <b>5,344</b>   | <b>5,440</b>   |                     | <b>5,467</b>           |                |

**Source:** CRS Analysis of the FY2011 DHS Congressional Budget Justifications, the FY2011 DHS Budget in Brief, and S.Rept. 111-222.

**Notes:** Amounts may not strictly accord with budgetary documents due to rounding. FY2010 amounts do not include FY2010 supplemental appropriations.

### Senate-Reported S. 3607

Senate-reported S. 3607 would appropriate \$5,862 million in gross budget authority, \$27 million more than the Administration request. Senate-reported S. 3607 would appropriate \$5,551 million in net budget authority for ICE in FY2011, \$27 million more than the Administration request.

### Issues for Congress

ICE is responsible for many divergent activities due to the breadth of the civil and criminal violations of law that fall under ICE's jurisdiction. As a result, how ICE resources are allocated in order to best achieve its mission is a continuous issue. In addition, part of ICE's mission includes locating and removing deportable aliens, which involves determining the appropriate amount of detention space as well as which aliens should be detained. Although many contend that the priority should be placed on removing aliens who have committed crimes in the United States, in



FY2008 less than one-third of those deported by ICE were convicted of a criminal offense.<sup>37</sup> Furthermore, others argue that the prioritization of criminal aliens should not come at the expense of ICE's other responsibilities, such as terrorist travel and worksite enforcement investigations.<sup>38</sup> Additionally, in recent years there has been debate concerning the extent to which state and local law enforcement should aid ICE with the identification, detention, and removal of deportable aliens.

### ***Detention and Removal Operations***

Detention and Removal Operations (DRO) in ICE provide custody management of the aliens who are in removal proceedings or who have been ordered removed from the United States.<sup>39</sup> DRO is also responsible for ensuring that aliens ordered removed actually depart from the United States. Many contend that DRO does not have enough detention space to house all those who should be detained. Concerns have been raised that decisions regarding which aliens to release and when to release them may be based on the amount of detention space, not on the merits of individual cases, and that detention conditions may vary by area of the country leading to inequities. A number of policymakers have advocated for the increased use of alternatives to detention programs for non-criminal alien detainees, citing these programs as a lower cost option than detention and a more proportional treatment relative to the violation.<sup>40</sup> Furthermore, there have been concerns raised about the adequacy of medical care received by aliens in detention.<sup>41</sup> ICE released new detention standards aimed at addressing these criticisms.<sup>42</sup>

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

### ***State and Local Law Enforcement***<sup>43</sup>

Currently, the INA provides limited avenues for state enforcement of its civil provisions. One of the broadest grants of authority for state and local immigration enforcement activity stems from INA §287(g), which authorizes the Attorney General to enter into a written agreement with a state, or any political subdivision, to allow state and local law enforcement officers to perform the

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<sup>37</sup> U.S. Congress, House Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2010*, Report to accompany H.R. 2892, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., June 16, 2009, H.Rept. 111-157, p. 8.

<sup>38</sup> U.S. Congress, House Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2010*, Report to accompany H.R. 2892, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., June 16, 2009, H.Rept. 111-157, p. 228.

<sup>39</sup> For more information on detention issues see CRS Report RL32369, *Immigration-Related Detention: Current Legislative Issues*, by Chad C. Haddal and Alison Siskin. Under the INA aliens can be removed for reasons of health, criminal status, economic well-being, national security risks, and others that are specifically defined in the act.

<sup>40</sup> U.S. Congress, House Committee on Homeland Security, Subcommittee on Border, Maritime, and Global Counterterrorism, *Moving Toward More Effective Immigration Detention Management*, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., December 10, 2009 (Washington: GPO, 2009).

<sup>41</sup> For more on the issue of detainee medical care, see CRS Report RL34556, *Health Care for Noncitizens in Immigration Detention*, by Alison Siskin.

<sup>42</sup> Immigration and Customs Enforcement, "Secretary Napolitano and ICE Assistant Secretary Morton Announce New Immigration Detention Reform Initiatives," press release, October 6, 2009.

<sup>43</sup> This section adapted from CRS Report RL32270, *Enforcing Immigration Law: The Role of State and Local Law Enforcement*, by Lisa M. Seghetti, Karma Ester, and Michael John Garcia.

functions of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the United States. The enforcement of immigration by state and local officials has sparked debate among many who question what the proper role of state and local law enforcement officials should be in enforcing federal immigration laws. Many have expressed concern over proper training, finite resources at the local level, possible civil rights violations, and the overall impact on communities. Nonetheless, some observers contend that the federal government has scarce resources to enforce immigration law and that state and local law enforcement entities should be utilized. The President's FY2011 request for ICE includes \$5 million for 287(g) agreements which is the FY2010 ICE funding level for such agreements; however, state and local entities may apply for additional funding through appropriations to the Office of State and Local Government Coordination in FEMA. Senate-reported S. 3607 would match the Administration's funding request.

## **Transportation Security Administration<sup>44</sup>**

The TSA, created by the Aviation and Transportation Security Act (ATSA, P.L. 107-71), is charged with protecting air, land, and rail transportation systems within the United States to ensure the freedom of movement for people and commerce. In 2002, the TSA was transferred to DHS with the passage of the Homeland Security Act (P.L. 107-296). The TSA's responsibilities include protecting the aviation system against terrorist threats, sabotage, and other acts of violence through the deployment of passenger and baggage screeners; detection systems for explosives, weapons, and other contraband; and other security technologies. The TSA also has certain responsibilities for marine and land modes of transportation including assessing the risk of terrorist attacks to all non-aviation transportation assets, including seaports; issuing regulations to improve security; and enforcing these regulations to ensure the protection of these transportation systems. TSA is further charged with serving as the primary liaison for transportation security to the law enforcement and intelligence communities. See **Table 7** for account-level detail for all of the agencies in Title II, and **Table 10** for amounts specified for TSA budget activities.

### **President's FY2011 Request**

The President's request specified total gross funding of \$8,165 million in FY2011 for the TSA, an increase of about 7% over FY2010 enacted levels. The request for Aviation Security of \$5,561 million was also roughly 7% more than FY2010 enacted levels and would comprise roughly 68% of the total TSA budget. Proposed programmatic increases for aviation security highlight initiatives on passenger screening and international aviation security, two key areas brought to the forefront of policy debate following the December 25, 2009, attempted bombing of a trans-Atlantic flight on approach to Detroit. Proposed increases for passenger screening and security include an increase of \$215 million over FY2010 baseline levels for the purchase and deployment of advanced imaging technology (AIT), also known as whole body imaging (WBI) systems, at airport screening checkpoints. The President's request also specified an additional \$219 million for about 3,500 full-time equivalent (FTE) screeners to operate newly deployed AIT systems, as well as \$96 million for airport management and mission support for deploying and operating these systems. The President's budget also specified a \$60 million increase, within the Checkpoint Support activity, for purchasing about 800 new portable Explosive Trace Detection

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<sup>44</sup> Prepared by Bart Elias, Specialist in Aviation Safety, Security, and Technology, Resources, Science, and Industry Division.

(ETD) machines for deployment to airport screening checkpoints. In contrast to the proposed budget increases for Checkpoint Support, the President’s request reflected a decrease of \$404 million for checked baggage Explosives Detection Systems (EDS) and ETD purchase and installation, due to a high level of non-recurring procurement and installation costs for EDS and ETD that were allocated in the FY2010 budget.

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

The President’s request included an increase of roughly \$28 million for Surface Transportation Security, reflecting an increase in rail security inspectors and canine explosives detection teams. The request also included an increase of about \$51 million for Transportation Security Support, including \$10 million to increase Office of Intelligence staffing by 35 FTEs, primarily to expand the Field Intelligence Officer (FIO) program presence at large airports.

**Table 10. TSA Gross Budget Authority by Budget Activity**  
(budget authority in millions of dollars)

| Budget Activity                           | FY2010<br>Enacted | FY2011<br>Request | FY2011<br>House-<br>Passed | FY2011<br>Senate-<br>Reported | FY2011<br>Enacted |
|---|-------------------|-------------------|----------------------------|-------------------------------|-------------------|
| <b>Aviation Security</b>                  | <b>5,215</b>      | <b>5,561</b>      |                            | <b>5,490</b>                  |                   |
| Screening Partnership Program (SPP)       | 150               | 143               |                            | 142                           |                   |
| Passenger & Baggage Screening (PC&B)      | 2,759             | 2,998             |                            | 2,961                         |                   |
| Screeener Training & Other                | 205               | 265               |                            | 258                           |                   |
| Checkpoint Support                        | 129               | 360               |                            | 360                           |                   |
| EDS/ETD Purchase/Installation             | 778               | 374               |                            | 355                           |                   |
| Screening Technology                      | 317               | 333               |                            | 323                           |                   |
| Operation Integration                     | 21                | -                 |                            | 0                             |                   |
| Aviation Regulation and Other Enforcement | 254               | 368               |                            | 368                           |                   |
| Airport Management, IT, and Support       | 454               | 577               |                            | 575                           |                   |
| FFDO & Crew Training                      | 25                | 25                |                            | 26                            |                   |
| Air Cargo Security                        | 123               | 118               |                            | 122                           |                   |
| <b>Federal Air Marshal Service</b>        | <b>861</b>        | <b>950</b>        |                            | <b>950</b>                    |                   |
| Management and Administration             | 763               | 823               |                            | 823                           |                   |

| Budget Activity                                       | FY2010<br>Enacted | FY2011<br>Request | FY2011<br>House-<br>Passed | FY2011<br>Senate-<br>Reported | FY2011<br>Enacted |
|---|-------------------|-------------------|----------------------------|-------------------------------|-------------------|
| Travel and Training                                   | 98                | 127               |                            | 127                           |                   |
| <b>Threat Assessment and<br/>Credentialing (TTAC)</b> | <b>172</b>        | <b>174</b>        |                            | <b>148</b>                    |                   |
| Secure Flight   | 84                | 85                |                            | 85                            |                   |
| Other/ TTAC Admin. & Ops.                             | 88                | 89                |                            | 63                            |                   |
| Credentialing Fees                                    | 48                | 40                |                            | 40                            |                   |
| TWIC—Fee  | 9                 | 9                 |                            | 9                             |                   |
| HAZMAT CDL—Fee  | 15                | 12                |                            | 12                            |                   |
| Certified Cargo Screening<br>Program—Fee              | 5                 | 5                 |                            | 5                             |                   |
| Large Aircraft Security Plan—Fee                      | 2                 | 1                 |                            | 1                             |                   |
| Security Identification Display<br>Area Checks—Fee    | 10                | 8                 |                            | 8                             |                   |
| Indirect Air Cargo—Fee                                | 3                 | 1                 |                            | 1                             |                   |
| Alien Flight School—Fee                               | 4                 | 4                 |                            | 4                             |                   |
| <b>Surface Transportation<br/>Security</b>            | <b>110</b>        | <b>138</b>        |                            | <b>138</b>                    |                   |
| Operations and Staffing                               | 42                | 40                |                            | 40                            |                   |
| Security Inspectors                                   | 68                | 98                |                            | 98                            |                   |
| <b>Transportation Security<br/>Support</b>            | <b>1,001</b>      | <b>1,052</b>      |                            | <b>1,049</b>                  |                   |
| Intelligence  | 28                | 38                |                            | 38                            |                   |
| Headquarters Administration                           | 249               | 271               |                            | 270                           |                   |
| Human Capital Services                                | 226               | 263               |                            | 261                           |                   |
| Information Technology                                | 498               | 480               |                            | 480                           |                   |
| <b>Aviation Security Capital<br/>Fund (ASCF)</b>      | <b>250</b>        | <b>250</b>        |                            | <b>250</b>                    |                   |
| <b>TSA Gross Total</b>                                | <b>7,657</b>      | <b>8,165</b>      |                            | <b>8,065</b>                  |                   |

**Source:** CRS Analysis of the FY2011 DHS Congressional Budget Justifications, the FY2011 DHS Budget in Brief, and S.Rept. 111-222.

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

### Senate-Reported S. 3607

Senate-reported S. 3607 specified \$8,065 million for the TSA, \$100 million less than the President's request. Of this amount, \$5,491 million (68%) is designated for aviation security programs. Additionally, \$950 million is specified for FAMS, and an additional \$250 million is to be provided as grants to airports derived from the mandatory Aviation Security Capital Fund (ASCF).

The amount specified in S. 3607 for aviation security is \$71 million less than the requested amount. The Senate-reported amount for passenger and baggage screener personnel, compensation, and benefits (PC&B) was \$37 million less than requested. The Senate committee denied the TSA's request for additional BDOs, at an additional cost of roughly \$16 million, expressing concern over further expansion of the program without a complete assessment and validation of its effectiveness. Additionally, the Senate-reported amount reflects an anticipation that increased efficiency gains from the expedited deployment of in-line EDS systems will allow for personnel reductions. The committee also noted that in prior years, the TSA has carried large unobligated balances for screener PC&B, and included a general provision rescinding \$15 million from prior year balances.

The Senate-reported amount for EDS/ETD purchase and installation is \$19 million less than requested, and the amount specified for Screening Technology Maintenance and Utilities is \$9 million below the requested amount. These lower amounts reflect anticipated recovery of amounts appropriated in prior years but not fully expended for EDS procurement and installation, as well as reductions in anticipated maintenance costs due to the negotiation of extended vendor warranties for AIT systems currently being deployed. The Senate-reported bill provides \$360 million, the same as requested, for procurement and installation of AIT systems and other checkpoint technologies under the Checkpoint Support program. The Senate-reported bill included the requested level of \$368 million for Aviation Regulation and Other Enforcement, supporting the Administration's request for an increase of \$114 million above FY2010 levels to provide for additional canine teams and strengthening of international aviation security programs in high risk areas of the world. The Senate committee also recommended \$122 million for Air Cargo Security, \$4 million above the request to accelerate inspector needs and canine cooperative programs with state and local law enforcement to support cargo screening mandates.

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

## **Issues for Congress**

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

although an Administration proposal to increase this fee would not begin to take effect until FY2012.

### ***Checkpoint Explosives Screening***

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

In addition to AIT, advanced technology (AT) X-ray systems, bottle liquid scanner (BLS), and next generation explosives trace detection (ETD) equipment are also being procured. By the end of FY2011, the TSA anticipates that AT X-ray deployment will be at 96% of full operating capacity (FOC) sought by FY2014, whereas AIT deployments will only be at 56% of FOC. The TSA strategy is to focus its AIT deployments at larger airports first, and by end of FY2011, it plans to have deployed 75% of the FOC at the most critical Category X airports. This strategy may, however, leave vulnerabilities at smaller airports.

The sustainment costs of checkpoint screening systems may also be a particular concern for appropriators. For FY2011, the TSA request includes \$74 million for maintenance of checkpoint screening equipment, a 45% increase compared to FY2010. Checkpoint screening maintenance costs will likely increase considerably in future years, to pay for upkeep and extend the service life of the more complex next generation screening technologies currently being deployed.<sup>45</sup>

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

### ***Secure Flight, Terrorist Watchlists, and Transportation Security Intelligence***

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

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<sup>45</sup> See CRS Report R40543, *Airport Passenger Screening: Background and Issues for Congress*, by Bart Elias.

only includes inflationary adjustments to the FY2010 enacted levels for the Secure Flight program.

To a large degree, following the December 25, 2009, incident, the policy emphasis has now shifted from the procedural, technical, and privacy issues surrounding the Secure Flight system development and deployment to focus on the intelligence analysis process underlying the no-fly and selectee lists against which passenger names are checked. While the circumstances of the incident have focused attention more specifically on intelligence gathering and analysis agencies, the FY2011 President's request included a proposed increase of \$10 million for the TSA's Office of Intelligence (TSA-OI). The increase is intended to provide additional field intelligence capabilities at large airports and to implement improved secure communications capabilities between TSA headquarters and large airports to improve the dissemination of intelligence information to security operations in the field. In the course of the appropriations process, Congress may also examine the adequacy of TSA-OI resources and capabilities to work with the intelligence community with respect to making accurate and timely decisions for including terrorist identities on the no-fly and selectee lists, as well as the scope of those lists compared to the broader available information contained in government terrorist systems and databases, such as the Terrorist Identities Datamart Environment (TIDE), maintained by the National Counterterrorism Center (NCTC), and the Terrorist Screening Database (TSDB), maintained by the Terrorist Screening Center (TSC).<sup>46</sup>

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

### *Air Cargo Screening*

The Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53, Sec. 1602) required the TSA to establish a system for screening 50% of cargo placed on passenger airliners by February 2009, and 100% of such cargo by August 2010. The TSA currently requires 100% screening of cargo placed on domestic passenger flights using narrow body aircraft, which accounts for 95% of domestic flights, and relies on a process known as the Certified Cargo Screening Program (CCSP) to regulate screening and supply chain security practices of participating shippers, freight forwarders, and cargo consolidation facilities to carry out these screening requirements. By 2010, the TSA estimates that about 15,000 shipping facilities and 250 freight forwarding and cargo consolidation facilities will be participating in the CCSP. However, screening of cargo placed on widebody jets, particularly inbound international flights, remains a particular challenge for meeting the statutory requirements. Specific challenges in the international arena include limited control over foreign supply chain activities, the scale of diversity among various supply chains, and diplomatic considerations that pose specific challenges to implementing the CCSP model overseas. The TSA indicates that it will continue to work with international partners through FY2011 to better harmonize air cargo security standards and advance the supply chain screening approach to move toward achieving 100% screening of cargo on inbound international passenger flights. With respect to domestic air cargo security, the TSA is anticipated to face continuing resource challenges to adequately oversee the large number of regulated shipping and freight forwarding entities participating in the CCSP.

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<sup>46</sup> For further discussion of this topic see CRS Report RL33645, *Terrorist Watchlist Checks and Air Passenger Prescreening*, by William J. Krouse and Bart Elias.

The FY2011 request includes \$28 million for air cargo policy and programs, a reduction of \$11 million compared to FY2010 levels reflecting the culmination of the air cargo screening technology pilot program effective August 2010, and the transition of those technologies and screening responsibilities to the CCSP participants. The request also includes \$74 million for air cargo inspectors, which reflects inflationary adjustments to the FY2010 baseline of \$70 million. Also included in the request is \$15 million for the National Explosive Detection Canine Training Program (NEDCTP) which provides for the training and certification of local law enforcement canine teams assigned to air cargo screening duties at airports, as well as partial reimbursement for the operational and maintenance costs through cooperative agreements with local law enforcement agencies.<sup>47</sup>

S. 3607 included a general provision that would direct the TSA to continue its quarterly reporting of cargo screening statistics and also to provide an implementation plan for meeting the 100% screening mandate for passenger aircraft in the event that the August 2010 statutory deadline is not met. The Senate committee also issued report language (see S.Rept. 111-222, p. 65) encouraging the TSA to expedite approval of effective and suitable technologies for screening air cargo commodities with a particular emphasis on continuing its ongoing work with the fresh fruit industry to identify and certify screening systems.

### *Passenger Security Fee Collections*

ATSA gave the TSA authority to collect passenger security fees totaling \$2.50 per leg, not to exceed \$5.00 per one-way trip. The Bush Administration had unsuccessfully attempted to raise passenger security fees on several occasions, but its proposals failed to gain sufficient support in Congress. The Obama Administration has proposed a phased-in increase beginning in FY2012. Under this proposal, the base fee would increase by \$1 per leg each year in FY2012, FY2013, and FY2014, until it reaches a level of \$5.50 per leg with a cap of \$11 per one-way trip. While the Administration has not proposed to begin phasing-in these increases until FY2012, Congress may consider various options to increase passenger security fee collections as a means to reduce the budget deficit, including possible options that could go into effect prior to or during FY2011. For example, S. 1808 and S. 698, both offered by Senator Feingold, seek a flat fee of \$5.00 per one-way trip. The airline industry has ardently opposed such fee increases, arguing that aviation security is a national concern that impacts all citizens, and therefore, like national defense, its costs should be borne by all and not just aviation system users. The airline industry also argues that the passenger security fees, along with ticket taxes and other government fees, must be offset to some degree in the pricing of airline tickets to sustain passenger demand, which impacts airline revenues during tough economic times.<sup>48</sup> Notwithstanding these arguments, Congress may be more willing to consider a fee increase in the current context given that the fee has remained unchanged and has not been adjusted for inflation since its initial authorization in 2001, and there is increasing pressure to identify offsetting revenue sources to reduce federal deficit spending.

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<sup>47</sup> See CRS Report RL34390, *Aviation Security: Background and Policy Options for Screening and Securing Air Cargo*, by Bart Elias.

<sup>48</sup> Chris Strohm, "Airlines oppose renewed push for higher security fees," *Congress Daily*, February 9, 2010.



## United States Coast Guard<sup>49</sup>

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

### President's FY2011 Request

The President's requested amount for major accounts compared with last year's enacted level is shown in **Table 7**. As the table indicates, the President requested \$87 million more in operating expenses (an increase of 1%) and \$155 million less in the capital (ACI) account (a decrease of 10%) compared to last year's enacted level. These two accounts are shown in further detail in **Table 11**, below. The President requested no funds for the Bridge Alteration account (consistent with prior Administration budget requests) and requested \$5 million less for research and development. The other requested amounts are nearly the same as last year's enacted level.

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

|  | FY2010<br>Enacted | FY2011<br>Request | FY2011<br>House-<br>Passed | FY2011<br>Senate-<br>Reported | FY2011<br>Enacted |
|--|-------------------|-------------------|----------------------------|-------------------------------|-------------------|
| <b>Operating Expenses</b>                                  | <b>6,564</b>      | <b>6,651</b>      |                            | <b>6,970</b>                  |                   |
| Military pay and allowances                                | 3,253             | 3,358             |                            | 3,381                         |                   |
| Civilian pay and benefits                                  | 701               | 757               |                            | 757                           |                   |
| Training and recruiting                                    | 206               | 204               |                            | 204                           |                   |
| Operating funds and unit<br>level maintenance              | 1,155             | 1,106             |                            | 1,114                         |                   |
| Centrally managed accounts                                 | 335               | 346               |                            | 347                           |                   |
| Intermediate and depot level<br>maintenance                | 914               | 880               |                            | 893                           |                   |
| Marine Safety and Response<br>Personnel                    |                   |                   |                            | 20                            |                   |
| <b>Acquisition,<br/>Construction, and<br/>Improvements</b> | <b>1,536</b>      | <b>1,381</b>      |                            | <b>1,583</b>                  |                   |
| Vessels and Critical<br>Infrastructure                     | 121               | 42                |                            | 62                            |                   |
| Icebreaker Refurbishment                                   |                   |                   |                            | 21                            |                   |
| Other Equipment  | 130               | 36                |                            | 36                            |                   |

<sup>49</sup> Prepared by John Frittelli, Specialist in Transportation Policy, Resources, Science and Industry Division.

|   | <b>FY2010<br/>Enacted</b> | <b>FY2011<br/>Request</b> | <b>FY2011<br/>House-<br/>Passed</b> | <b>FY2011<br/>Senate-<br/>Reported</b> | <b>FY2011<br/>Enacted</b> |
|---|---------------------------|---------------------------|-------------------------------------|--|---------------------------|
| Integrated Deepwater System             | 1,154                     | 1,113                     |                                     | 1,234                                  |                           |
| Shore facilities and Aids to Navigation | 27                        | 69                        |                                     | 108                                    |                           |
| Personnel and Related Support           | 105                       | 108                       |                                     | 108                                    |                           |
| Coast Guard HQ                          | -                         | 14                        |                                     | 14                                     |                           |

**Source:** CRS Analysis of the *FY2011 DHS Congressional Budget Justifications*, the *FY2011 DHS Budget in Brief*, and S.Rept. 111-222.

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

### Senate Reported S. 3607

The Senate Appropriations Committee recommended about 6% more than the President requested. However, the Senate committee included \$255 million for the Coast Guard’s overseas activities in Iraq and Afghanistan, while the President requested these funds under the Navy’s budget. Other major differences are that the Senate committee provided \$41 million more than requested for vessel acquisition, about \$40 million more for shore facilities, \$8 million more for research and development, and \$4 million for modifying bridges interfering with navigation. Other differences are discussed below.

### Issues for Congress

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

### *Deepwater*

The Deepwater program is a 25-year acquisition program to replace or modernize 91 cutters, 124 small surface craft, and 247 aircraft at an estimated cost of over \$25 billion. The Coast Guard’s management and execution of the program has been strongly criticized and the GAO and DHS IG have been very active in reviewing Deepwater. In 2007, the Coast Guard decided to phase out an outside system integrator (a team led by Lockheed Martin and Northrup Grumman) to execute the program. Issues for Congress include the Coast Guard’s management of the program, which is the largest and most complex acquisition effort in Coast Guard history, the overall cost of the program, and the program’s time line for acquisition.<sup>50</sup> For FY2011, the President requested

<sup>50</sup> These issues are discussed in CRS Report RL33753, *Coast Guard Deepwater Acquisition Programs: Background, Oversight Issues, and Options for Congress*, by Ronald O’Rourke.

\$1,113 million for Deepwater. This amount includes \$538 million for the construction of a fifth National Security Cutter and \$240 million for four Fast Response Cutters.

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

### ***Personnel Strength***

The FY2011 budget request would reduce the size of the Coast Guard's military workforce by 485 FTE (1,112 positions) and increase the size of the civilian workforce by 384 FTE (339 positions) for a net reduction of 773 personnel.<sup>51</sup> Some military positions would be re-classified as civilian positions. Some of the reduction in personnel is due to the planned decommissioning of older vessels (cutters) that require more crew than the newer vessels replacing them. However, some of the newer vessels will not be ready for service when the older vessels are taken out of service, reducing total cutter hours in FY2011 by an estimated 5,000 hours.

The USCG has 12 Maritime Safety and Security Teams (MSSTs), which can be deployed to respond to a safety or security situation in a port that requires additional personnel. MSSTs escort vessels, patrol critical infrastructure, perform counter terrorism activities, board high interest vessels, and respond to unanticipated surge operations (e.g., mass migration, hurricane response, terrorist attack, etc.). The MSSTs are part of a larger group called the Deployable Operations Group (DOG), consisting of 3,000 personnel who are ready to provide a "surge capacity" when needed at a particular port.<sup>52</sup>

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

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

### ***Marine Safety Mission***

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

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<sup>51</sup> FY2011 Budget Justification, pp. CG-OE-6 and 8.

<sup>52</sup> A DHS OIG report provides further information on MSSTs, [http://www.dhs.gov/xoig/assets/mgmttrpts/OIG\\_10-89\\_May10.pdf](http://www.dhs.gov/xoig/assets/mgmttrpts/OIG_10-89_May10.pdf).

water. The Coast Guard's pace in issuing rulemakings and its overall competence in carrying out its marine safety mission was the subject of a recent congressional hearing<sup>53</sup> as well as an issue raised in the aftermath of the *Cosco Busan* oil spill in San Francisco Bay in November 2007. In response to these criticisms, the Coast Guard has revamped its marine safety program.<sup>54</sup> In FY2009, the Administration requested and Congress provided funds for about 300 additional marine safety personnel.

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

### ***Rescue-21***

Congress has been concerned with the Coast Guard's management of the Rescue 21 program, the Coast Guard's new coastal zone communications network that is key to its search and rescue mission and replaces its National Distress and Response System. A 2006 GAO audit of the program found a tripling of project cost from the original estimate and likely further delays in project completion, which was already five years behind schedule.<sup>55</sup> The GAO's FY2008 Coast Guard budget review noted that while Rescue-21 was originally intended to limit gaps to 2% of coverage area, that target has now expanded to a less than 10% coverage gap.<sup>56</sup> As of December 2009, Rescue-21 was deployed at 24 of 39 planned locations.

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

### **United States Secret Service<sup>57</sup>**

The U.S. Secret Service (USSS)<sup>58</sup> has two broad missions, criminal investigations and protection. Criminal investigation activities encompass financial crimes, identity theft, counterfeiting, computer fraud, and computer-based attacks on the nation's financial, banking, and telecommunications infrastructure, among other areas. The protection mission is the most prominent, covering the President, Vice President, their families, and candidates for those offices, along with the White House and Vice President's residence, through the Service's Uniformed

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<sup>53</sup> House Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation, Hearing on Challenges Facing the Coast Guard's Marine Safety Program, July 27, 2007. See also an independent assessment report on the Coast Guard's marine safety mission available at <http://www.uscg.mil/hq/cg5/cg54/docs/VADM%20Card%20Report.pdf>.

<sup>54</sup> For a description of its intended changes, see Coast Guard Proceedings, Summer 2008, pp. 20-28, available at <http://www.uscg.mil/proceedings>.

<sup>55</sup> GAO, United States Coast Guard: Improvements Needed in Management and Oversight of Rescue System Acquisition, GAO-06-623, May 2006.

<sup>56</sup> GAO, Coast Guard: Observations on the Fiscal Year 2008 Budget, Performance, Reorganization, and Related Challenges, April 18, 2007, GAO-07-489T, p. 3.

<sup>57</sup> Prepared by Shawn Reese, Analyst in Emergency Management and Homeland Security Policy, Government and Finance Division.

<sup>58</sup> For more information, see CRS Report RL34603, *The U.S. Secret Service: An Examination and Analysis of Its Evolving Missions*, by Shawn Reese.

Division. Protective duties also extend to foreign missions in the District of Columbia and to designated individuals, such as the DHS Secretary and visiting foreign dignitaries. Aside from these specific mandated assignments, USSS is responsible for security activities at National Special Security Events (NSSE)<sup>59</sup>, which include the major party quadrennial national conventions as well as international conferences and events held in the United States. The NSSE designation by the President gives the USSS authority to organize and coordinate security arrangements involving various law enforcement units from other federal agencies and state and local governments, as well as from the National Guard.

### **President's FY2011 Request**

For FY2011, the Administration requested an appropriation of \$1,570 million. The Administration's request reflected an increase of \$87 million from FY2010. Within the Protection of Persons and Facilities account, the Administration protects 34 individuals, of which 24 are authorized under U.S. Code<sup>60</sup> and ten are provisional protectees authorized pursuant to presidential memoranda.<sup>61</sup> Additionally the Secretary of the Treasury receives protection on a reimbursable basis.<sup>62</sup> USSS intends to continue to provide protection for the President and Vice President, their families, visiting heads-of-state, and the White House and other buildings within the Washington, DC, area. Finally, USSS plans to continue implementing operational security for designated NSSEs.<sup>63</sup>

### **Senate-Reported S. 3607**

The Senate Committee on Appropriations recommended \$1,576 million for the Secret Service for FY2011, an increase of \$93 million over the FY2010 appropriations and \$4 million over the president's FY2011 budget request.<sup>64</sup> In all spending categories (except for one), the Appropriations Committee recommendations for FY2011 were identical to the president's budget request. The single difference was for domestic investigations: the committee recommended \$4 million above the president's request, which thus accounts for the increase in the total amount between the committee's recommendation and the president's request.

The panel raised concerns—based on a 2010 Government Accountability Office report (GAO-10-762)—however, that the Secret Service was in violation of the Anti-Deficiency Act, by spending more funds than it had available. The committee directed the Secret Service and the DHS Chief Financial Officer (CFO) to implement the GAO recommendations related to financial management and compliance.<sup>65</sup> The panel also retained bill language withholding from obligation \$20 million until the DHS Chief Information Officer submits a report to the House and Senate

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<sup>59</sup> For more information, see CRS Report RS22754, *National Special Security Events*, by Shawn Reese.

<sup>60</sup> 18 U.S.C. § 3056.

<sup>61</sup> The ten provisional protectees are not identified due to security operations.

<sup>62</sup> U.S. Department of Homeland Security, U.S. Secret Service, *Salaries & Expenses: Fiscal Year 2011 Congressional Justification*, Washington, DC, February 2010, p. S&E-1.

<sup>63</sup> *Ibid.*, p. S&E-10.

<sup>64</sup> U.S. Senate Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2011*, S.Rept. 111-222, 111<sup>th</sup> Cong., 2<sup>nd</sup> sess., pp. 89-93.

<sup>65</sup> *Ibid.*

Appropriations Committees certifying that all information security modernization plans are consistent with DHS data center migration and enterprise architecture requirements.<sup>66</sup>

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

| Programs and Activities  | FY2010<br>Enacted | FY2011<br>Budget<br>Request | FY2011<br>House-<br>Passed | FY2011<br>Senate-<br>Reported | FY2011<br>Enacted |
|--|-------------------|-----------------------------|----------------------------|-------------------------------|-------------------|
| Protection of persons and facilities                                       | 756               | 792                         |                            | 792                           |                   |
| Protective intelligence activities   | 68                | 69                          |                            | 69                            |                   |
| National Special Security Events   | 1                 | 1                           |                            | 1                             |                   |
| Candidate nominee protection   | —                 | 18                          |                            | 18                            |                   |
| White House mail screening   | 22                | 25                          |                            | 25                            |                   |
| Management and administration  | 221               | 253                         |                            | 253                           |                   |
| Rowley Training Center   | 54                | 55                          |                            | 55                            |                   |
| Domestic field operations  | 261               | 257                         |                            | 261                           |                   |
| International field operations   | 31                | 31                          |                            | 31                            |                   |
| Electronic crimes program  | 57                | 57                          |                            | 57                            |                   |
| Forensic support to the National Center for Missing and Exploited Children | 8                 | 8                           |                            | 8                             |                   |
| Acquisition, construction, and improvements                                | 4                 | 4                           |                            | 4                             |                   |
| <b>Total</b>   | <b>1,483</b>      | <b>1,570</b>                |                            | <b>1,574</b>                  |                   |

**Source:** CRS Analysis of the *FY2011 DHS Congressional Budget Justifications*, the *FY2011 DHS Budget in Brief*, and S.Rept. 111-222.

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

### Issues for Congress

There are two potential issues Congress might wish to address concerning the FY2011 appropriations for USSS. The two issues include funding for the Service’s protection mission, and NSSE funding.

#### *Protection Mission Funding*

USSS’s protection mission, as opposed to its investigative mission, employs the majority of the Service’s agents and receives a larger share of the agency’s resources. Additionally, the majority of congressional action concerning USSS has been related to its protection mission, as evidenced by past appropriations, and their accompanying conference report, for USSS. The priority given

<sup>66</sup> Ibid.

to protection reflects the costs associated with an increase in protecting individuals, events, and facilities, which the conferees noted in the conference report accompanying P.L. 111-83 (FY2010 DHS appropriations). While Congress has maintained USSS's role in investigating financial crimes, such as providing funding for a new international field office in Estonia to combat electronic crimes in FY2010, congressional action primarily has addressed, and continues to address, the Service's protection mission. An example of this is the 110<sup>th</sup> Congress' enactment of P.L. 110-326, the Former Vice President Protection Act of 2008, which requires the Service to protect former Vice Presidents, their spouses, and minor children for a period of up to six months after leaving office. Congress has, however, moved to reduce the Service's protection mission by specifically stating, in the FY2010 DHS appropriations, that the USSS could not use any funds to protect any federal department head, except the DHS Secretary, unless the Service is reimbursed.<sup>67</sup>

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

### *National Special Security Event Funding*

The Administration proposes \$20 million for a new initiative, the NSSE State and Local Reimbursement Fund (NSSE Fund). For FY2011, the Administration proposes housing this account in Title I, under Analysis and Operations (see **Table 5**). The NSSE Fund would reimburse state and local governments for costs incurred when providing security at NSSEs. In the past state and local governments were reimbursed for NSSE costs through targeted through multiple federal programs that were not consolidated or coordinated. Eligible costs of the NSSE Fund would be determined by the DHS Secretary and the fund's management and administrative costs could not exceed one percent (\$200,000). NSSE Fund allocations would not be available to states and localities that receive reimbursement from other federal programs, including the Department of State's "Protection of Foreign Missions and Officials" account.<sup>68</sup>

NSSEs are events of national significance<sup>69</sup> that may heighten the possibility of terrorist attacks because of the anticipated attendance by U.S. officials and foreign dignitaries; the size of the event; and the event's historical, political, and symbolic significance. Recent NSSEs include the January 2009 inauguration of President Barack Obama and the 2008 presidential nominating conventions.

The U.S. Secret Service (USSS) is the lead federal agency for planning, implementing, and coordinating operational security at NSSEs.<sup>70</sup> USSS's Major Events Division (MED) plans and coordinates NSSE security operations. Some of the coordination includes advance planning and

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<sup>67</sup> P.L. 111-83.

<sup>68</sup> U.S. Office of Management and Budget, *Appendix: Budget of the U.S. Government, Fiscal Year 2011*, Washington, DC, February 1, 2010, p. 518.

<sup>69</sup> P.L. 106-544, Sec. 3. 114 Stat. 2713.

<sup>70</sup> *Ibid.*

liaison for venue and air space security, training, communications, and security credentialing.<sup>71</sup> State and local law enforcement entities augment federal law enforcement security of NSSEs.

Recent NSSE funding include the appropriation of \$100 million for securing the 2008 Presidential Nominating Conventions in Denver, CO, and Minneapolis-St. Paul, MN.<sup>72</sup> The \$100 million was appropriated to the Department of Justice (DOJ) and administered through the DOJ's Edward Byrne Memorial State and Local Enforcement Assistance Programs (Byrne Programs). DOJ used most of this funding to reimburse state and local law enforcement entities for NSSE security costs.

The most recent NSSE funding was \$15 million for "emergency planning and security costs" incurred by the District of Columbia (DC) during the January 20, 2009, inauguration of President Obama.<sup>73</sup> Prior to the inauguration, former President George W. Bush issued an emergency declaration for DC, which authorized the federal government to reimburse the District for emergency preparedness activities and expenditures that exceeded the \$15 million Congress appropriated in P.L. 110-329, "The Consolidated Security, Disaster Assistance, and Continued Appropriations Act, 2009."<sup>74</sup> Additionally, Congress appropriated, in the FY2009 Omnibus Appropriations Act, \$39.2 million for emergency planning and security costs in DC; however, this funding was not specifically for NSSEs.<sup>75</sup>

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

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

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

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

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<sup>71</sup> U.S. Department of Homeland Security, U.S. Secret Service, Office of Legislative Affairs, *National Special Security Events: Meeting the Counter-Terrorism Challenge*, Washington, DC, 2006, p. 1. This document is only available by contacting the USSS's Office of Legislative Affairs.

<sup>72</sup> P.L. 110-161, 121 Stat. 1909.

<sup>73</sup> P.L. 110-329, Div. A, Sec. 135, 122 Stat. 3579.

<sup>74</sup> For more information on this emergency declaration, see <http://www.fema.gov/news/newsrelease.fema?id=47284>.

<sup>75</sup> P.L. 111-8, Div. D, Title IV, 123 Stat. 650.



states and localities.

What entity within DHS would administer the NSSE Fund?

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

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

## **Title III: Protection, Preparedness, Response, and Recovery**

Title III includes appropriations for the Federal Emergency Management Agency (FEMA), the National Protection and Programs Directorate (NPPD), and the Office of Health Affairs (OHA). Congress expanded FEMA's authorities and responsibilities in the Post-Katrina Emergency Reform Act (P.L. 109-295) and explicitly kept certain DHS functions out of the "new FEMA."<sup>76</sup> In response to these statutory exclusions, DHS officials created the NPPD to house functions not transferred to FEMA, and the OHA was established for the Office of the Chief Medical Officer. **Table 13** provides account-level appropriations detail for Title III.

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<sup>76</sup> P.L. 109-295, 120 Stat. 1400.

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

(budget authority in millions of dollars)

| Operational Component                               | FY2010 Appropriation |              |              |                    | FY2011 Appropriation |                     |                        | FY2011 Enacted |
|---|----------------------|--------------|--------------|--------------------|----------------------|---------------------|------------------------|----------------|
|   | FY2010 Enacted       | FY2010 Supp. | FY2010 Resc. | FY2010 Total       | FY2011 Request       | FY2011 House-Passed | FY2011 Senate-Reported |                |
| <b>National Protection and Programs Directorate</b> |                      |              |              |                    |                      |                     |                        |                |
| Management and Administration                       | 45                   |              |              | 45                 | 46                   |                     | 45                     |                |
| Infrastructure Protection and Information Security  | 899                  |              |              | 899                | 866                  |                     | 881                    |                |
| US-VISIT  | 374                  |              |              | 374                | 335                  |                     | 335                    |                |
| Federal Protective Service (FPS)                    | 1,115                |              |              | 1,115              | 1,115                |                     | 1,115                  |                |
| <b>Gross Total</b>                                  | <b>2,433</b>         |              |              | <b>2,433</b>       | <b>2,362</b>         |                     | <b>2,375</b>           |                |
| Offsetting collections                              | -1,115               |              |              | -1,115             | -1,115               |                     | -1,115                 |                |
| <b>Net total</b>                                    | <b>1,318</b>         |              |              | <b>1,318</b>       | <b>1,247</b>         |                     | <b>1,260</b>           |                |
| <b>Office of Health Affairs</b>                     | <b>139</b>           |              |              | <b>139</b>         | <b>213</b>           |                     | <b>155</b>             |                |
| <b>Federal Emergency Management Agency</b>          |                      |              |              |                    |                      |                     |                        |                |
| Management and Administration                       | 798                  |              |              | 798                | 903                  |                     | 913                    |                |
| Grant Programs Directorate                          | 4,165 <sup>a</sup>   |              |              | 4,165 <sup>a</sup> | 4,001 <sup>b</sup>   |                     | 4,234                  |                |
| Firefighter Assistance Grants                       | <sup>c</sup>         |              |              | <sup>c</sup>       | <sup>c</sup>         |                     |                        |                |
| U.S. Fire Administration                            | 46                   |              |              | 46                 | 46                   |                     | 46                     |                |
| Disaster relief                                     | 1,600 <sup>d</sup>   |              |              | 1,600 <sup>d</sup> | 1,950                |                     | 1,950 <sup>e</sup>     |                |
| Disaster readiness and support activities           |                      |              |              | 0                  |                      |                     |                        |                |
| Flood map modernization fund                        | 220                  |              |              | 220                | 194                  |                     | 194                    |                |
| National flood insurance fund (NFIF) <sup>f</sup>   |                      |              |              | 0                  |                      |                     |                        |                |
| National flood mitigation <sup>g</sup>              |                      |              |              | 0                  |                      |                     |                        |                |

| Operational Component                            | FY2010 Appropriation |              |              |              | FY2011 Appropriation |                     |                        |                |
|--|----------------------|--------------|--------------|--------------|----------------------|---------------------|------------------------|----------------|
|  | FY2010 Enacted       | FY2010 Supp. | FY2010 Resc. | FY2010 Total | FY2011 Request       | FY2011 House-Passed | FY2011 Senate-Reported | FY2011 Enacted |
| Pre-disaster mitigation fund                     | 100                  |              |              | 100          | 100                  |                     | 75                     |                |
| Emergency food and shelter                       | 200                  |              |              | 200          | 100                  |                     | 150                    |                |
| Disaster assistance direct loan account          |                      |              |              | 0            |                      |                     |                        |                |
| Radiological Emergency Preparedness <sup>h</sup> |                      |              |              | 0            |                      |                     |                        |                |
| <b>Net total</b>                                 | <b>7,129</b>         |              |              | <b>7,129</b> | <b>7,294</b>         |                     | <b>7,562</b>           |                |
| <b>Net budget authority subtotal: Title III</b>  | <b>8,586</b>         |              |              | <b>8,586</b> | <b>8,754</b>         |                     | <b>8,977</b>           |                |
| <b>Offsetting collections</b>                    | <b>1,115</b>         |              |              | <b>1,115</b> | <b>1,115</b>         |                     | <b>1,115</b>           |                |
| <b>Gross budget authority Title III</b>          | <b>9,701</b>         |              |              | <b>9,701</b> | <b>9,869</b>         |                     | <b>10,092</b>          |                |

**Source:** CRS Analysis of the FY2011 DHS Congressional Budget Justifications, the FY2011 DHS Budget in Brief, and S.Rept. 111-222.

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

- a. Includes State and Local Grants, Emergency Performance Management Grants (EMPG), Assistance to Firefighters grants, and \$50 million in Real ID grants.
- b. Includes State and Local Grants, Emergency Performance Management Grants (EMPG), and Assistance to Firefighters grants.
- c. Firefighter Assistance Grants included under Grants Program Directorate.
- d. Does not include transfers from the DRF of \$106 million to FEMA's Management and Administration account, nor does it include a transfer from the DRF of \$16 million to the DHS OIG in Title I.
- e. Does not include transfers from the DRF of \$217 million to FEMA's Management and Administration account, nor does it include a transfer from the DRF of \$16 million to the DHS OIG in Title I.
- f. NFIF funding is derived from premium payments or transfers from the U.S. Treasury, not appropriations.
- g. Funds for the National Flood Insurance Fund (NFIF) are derived from transfers, not appropriations.
- h. Radiological Emergency Preparedness funds are provided through reimbursements and are not actually appropriated funds.

## Federal Emergency Management Agency<sup>77</sup>

The Federal Emergency Management Agency (FEMA) is responsible for leading and supporting the nation's preparedness through a risk-based and comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation. This comprehensive emergency management system is intended to reduce the loss of life and property, and protect the nation from all hazards. These hazards include natural and accidental man-made disasters, and acts of terrorism.<sup>78</sup>

FEMA executes its mission through a number of activities such as providing assistance through its administration of the Disaster Relief Fund (DRF) and the Pre-Disaster Mitigation Fund. Additionally, FEMA provides assistance to state, local, and tribal governments, and non-governmental entities through its management and administration of programs such as State and Local Programs, the Emergency Food and Shelter program, and the Radiological Emergency Preparedness program. **Table 13** provides information on the FY2010 appropriations and the FY2011 budget request for all of FEMA's activities.

### President's FY2011 Request

For FY2011, the Administration proposed an appropriation of \$7,294 million for FEMA, which is an increase of \$165 million compared to the FY2010 FEMA appropriation of \$7,129 million. The proposed increase was due to a proposed appropriation of \$903 million for FEMA's Management and Administration activities, which was \$105 million more than appropriated in FY2010; and a proposed appropriation of \$1,950 million for the DRF, which was \$250 million more than the FY2010 amount. These proposed increases, however, were slightly offset by a proposed reduction in other FEMA activities. The Administration proposed \$4,001 million for State and Local Programs, which was a \$164 million reduction from the FY2010 amount; \$194 million for the Flood Map Modernization Fund, which was a \$16 million reduction from the FY2010 appropriation; and \$100 million for Emergency Food and Shelter, which was a \$100 million reduction from the FY2010 amount.

Significant budget proposals include consolidating selected State and Local Programs;<sup>79</sup> refocusing FEMA's resources on its mission of preparing for and coordinating disaster response and recovery while providing support for the non-disaster Emergency Food and Shelter program;<sup>80</sup> repairing, maintaining, and improving regional facilities;<sup>81</sup> and eliminating the

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<sup>77</sup> This section was prepared by Shawn Reese, Analyst in Emergency Management and Homeland Security Policy, Bruce R. Lindsay, Analyst in Emergency Management Policy, Natalie Keegan, Analyst in American Federalism and Emergency Management Policy, Francis McCarthy, Analyst in Emergency Management Policy, Government and Finance Division, and Lennard G. Kruger, Specialist in Science and Technology Policy, Research, Science, and Industry Division.

<sup>78</sup> U.S. Department of Homeland Security, Federal Emergency Management Agency, *About FEMA: FEMA Mission*, Washington, DC, November 2008, at <http://www.fema.gov/about/index.shtm>.

<sup>79</sup> U.S. Office of Management and Budget, *Appendix: Budget of the U.S. Government, Fiscal Year 2011*, Washington, DC, February 2010, p. 557.

<sup>80</sup> U.S. Department of Homeland Security, Federal Emergency Management Agency, *FY2011 Budget Request: FEMA-All Appropriations, Congressional Committee Rollout*, Washington, DC, February 2010, p. 27.

<sup>81</sup> *Ibid.*, p. 6.

National Flood Mitigation Fund and funding its activities through the National Flood Insurance Fund.<sup>82</sup> The Administration also proposed to partner FEMA with the Department of Housing and Urban Development to support strategic local approaches to sustainable development by combining certain hazard mitigation objectives with community development objectives.<sup>83</sup> Finally, the Administration assumed that catastrophic disasters are rare and that these catastrophic disasters would be funded through a supplemental or emergency appropriation.<sup>84</sup>

### **Senate-Reported S. 3607**

Compared to the Administration's request, the Senate proposed a slight increase for FEMA's budget (\$7,345 million). The Senate also proposed a decrease of 24% for the Management and Administration (\$696 million). The decrease is offset, however, by a transfer of \$216 million from the DRF, making the proposal comparable to the Administration's request. The Senate committee recommended a total appropriation of \$4,237 million for State and Local Programs, which was \$236 million more than the Administration proposed. The Senate proposal for Emergency Food and Shelter was \$150 million, an increase of \$50 million compared to the Administration's request. The Senate proposed the same amount for Flood Map Modernization (\$194 million).

### **Issues for Congress**

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

### ***Disaster Relief Fund***

The Administration's FY2011 request for the Disaster Relief Fund (DRF) was \$1,950 million. The DRF is the main account used to fund a wide variety of programs, grants, and other forms of emergency and disaster assistance to states, local governments, certain nonprofit entities, and family and individuals affected by disasters.<sup>85</sup> The DRF is funded yearly through regular appropriations; however, the account often needs supplemental funds for continued disaster assistance. Ongoing recovery efforts from the Gulf Coast hurricanes of 2005 have increased the federal government's reliance on supplemental funding for the DRF.

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<sup>82</sup> U.S. Office of Management and Budget, *Appendix: Budget of the U.S. Government, Fiscal Year 2011*, Washington, DC, February 2010, p. 561.

<sup>83</sup> *Ibid.*, p. 562.

<sup>84</sup> *Ibid.*, p. 563.

<sup>85</sup> In most cases, funding from the DRF is released after the President has issued a declaration pursuant to the Robert T. Stafford Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). For further analysis on the DRF, see CRS Report R40708, *Disaster Relief Funding and Emergency Supplemental Appropriations*, by Bruce R. Lindsay and Justin Murray. For further analysis on declaration process, see CRS Report RL34146, *FEMA's Disaster Declaration Process: A Primer*, by Francis X. McCarthy.

Senate-reported S. 3607 also proposed \$1,950 million for the DRF. However, Senate-reported S. 3607 stipulated that of the \$1,950 million, \$16 million would be transferred to the Department of Homeland Security Office of Inspector General for audits and investigations related to disasters, and \$217 million to FEMA's Management and Administration account. On May 27, 2010, Congress passed P.L. 111-212. The bill transferred \$5 million of the supplemental funding provided for the DRF (discussed below) to the Department of Homeland Security Office of Inspector General. It is unclear if the proposed transfer of \$16 million in S. 3607 will be altered or offset as a result of P.L. 111-212.

The DRF appropriation in FY2011 may be of particular concern due to developments that occurred after the initial FY2011 request, when the President submitted a supplemental request for appropriations for the DRF for FY2010.<sup>86</sup> According to President Obama, additional funds for the DRF were needed to supplement continued response and recovery efforts. Initially, the Administration included a request for \$3,600 million in supplemental funds to carry out disaster assistance in FY2010, with the FY2011 budget request.<sup>87</sup> Unexpected recovery costs were incurred by FEMA however, which prompted the Administration to amend this supplemental request by an additional \$1,500 million, making the FY2010 request for supplemental appropriations to the DRF \$5,100. These requests for additional supplemental FY2010 funds were included in the proposed legislative language of the FY2011 request as a General Provision in Title V, and on May 27, 2010, Congress provided the requested supplement of \$5,100 million in P.L. 111-212.

### *Issues for Congress Related to the DRF*

There are at least two issues that might be of congressional concern. The first is how the DRF is funded. The second is the fundamental question concerning the federal government's role in providing disaster assistance.

Expenditures related to disasters in the past five years have increased significantly. However, it is unclear if increased expenditures are due solely to hurricane activity in the Gulf Coast since 2005. Rather, the rise in expenditures may indicate increases in the number of disasters occurring each year, an escalation of federal involvement in disaster assistance more broadly, or both. Moreover, the arbitration panels authorized by P.L. 111-5 have resulted in increased costs to the DRF because arbitrators have overturned some of FEMA's cost decisions for FY2010. Despite the cause, the federal funding for disaster assistance since 2005 has been on the rise.

In *A New Era of Responsibility*, the Office of Management and Budget (OMB) stated that "in the past, budgets assumed that there would not be any natural disasters in our nation that would necessitate federal help.... This omission is irresponsible, and has permitted past Administrations to project deficits that were lower than likely to occur."<sup>88</sup> Such a claim may lead some to question whether the President's request for the DRF was sufficient given the supplemental request for FY2010 and increased federal spending for disaster relief.

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<sup>86</sup> Barack Obama, Letter from the White House, Washington DC, February 12, 2010.

<sup>87</sup> Office of Management and Budget, *Appendix: Budget of the U.S. Government*, Washington DC, 2010, pp. 1362-1363.

<sup>88</sup> Office of Management and Budget, *A New Era of Responsibility: Renewing America's Promise*, Washington DC, February 26, 2009, p. 36.

Essentially, the trend over the past 20 years for funding disaster assistance has consisted of funding the DRF through regular appropriations and then supplementing the account as needed through emergency supplemental appropriations. However, the DRF receives an emergency supplemental appropriation almost annually. Critics might argue that this indicates, as the OMB quote above appears to suggest, that the DRF should be funded at a higher amount to avoid the need for emergency supplemental appropriations. Supporters of the practice might argue that it is better to pay for large disasters after they occur through emergency supplemental appropriations rather than funding the DRF at a higher amount ties up funds if they are not needed due to a lack of disaster activities.

Another issue is that the increase in DRF funding further highlights fundamental questions concerning responsibility and equity in disaster recovery: at what point are individuals responsible to recover from disasters on their own through homeowners insurance and other means? Does increased federal assistance create an expectation that if the federal government provides assistance for a particular event, future incidents will receive similar assistance? In light of increased DRF expenditures, Congress might elect to investigate potential reforms to reduce federal expenditures on disaster assistance. Furthermore, if one makes the assumption that the incidence of disasters in the future will increase because of such factors as global warming or the development of unused land areas, then Congress might also consider expending more funds on mitigation to lessen future expenditures or reliance on supplemental appropriations to increase the DRF.

***State and Local Programs***

FEMA’s State and Local Programs assist state, local, and tribal governments—primarily first responder entities—to meet homeland security needs and enhance capabilities to prepare for, respond to, and recover from both man-made and natural disasters. **Table 14** provides information on the FY2010 appropriations and the Administration’s FY2011 budget request for all State and Local Programs.

**Table 14. Budget Authority for State and Local Programs**  
(budget authority in millions of dollars)

| Programs   | FY2010<br>Enacted | FY2011<br>Budget<br>Request | FY2011<br>House-<br>Reported | FY2011<br>Senate-<br>Reported | FY2011<br>Enacted |
|--|-------------------|-----------------------------|------------------------------|-------------------------------|-------------------|
| Homeland Security Prevention and Protection Programs |                   |                             |                              |                               |                   |
| <i>Urban Area Security Initiative</i>                | 887               | 1,100                       |                              | 950                           |                   |
| <i>State Homeland Security Grant Program</i>         | 950               | 1,050                       |                              | 950                           |                   |
| <i>Driver’s License Security Program (REAL ID)</i>   | 50                | 0                           |                              | 0                             |                   |
| <i>Buffer Zone Protection Program</i>                | 50                | 50                          |                              | 50                            |                   |
| <i>Transportation Security Grant Program</i>         | 600               | 600                         |                              | 700                           |                   |
| <i>Over-the-Road Bus Security Grants</i>             | 12                | 0                           |                              | 0                             |                   |

| <b>Programs</b>   | <b>FY2010<br/>Enacted</b> | <b>FY2011<br/>Budget<br/>Request</b> | <b>FY2011<br/>House-<br/>Reported</b> | <b>FY2011<br/>Senate-<br/>Reported</b> | <b>FY2011<br/>Enacted</b> |
|---|---------------------------|--------------------------------------|---------------------------------------|--|---------------------------|
| Homeland Security Response and Recovery Programs  |                           |                                      |                                       |  |                           |
| <i>Assistance to Firefighters</i>   | 810                       | 610                                  |                                       | 810                                    |                           |
| <i>Emergency Management Performance Grants</i>  | 340                       | 345                                  |                                       | 345                                    |                           |
| <i>Metropolitan Medical Response System</i>   | 41                        | 0                                    |                                       | 38                                     |                           |
| <i>Citizen Corps Programs</i>   | 13                        | 0                                    |                                       | 12                                     |                           |
| <i>Regional Catastrophic Preparedness</i>   | 35                        | 35                                   |                                       | 35                                     |                           |
| <i>Interoperable Emergency Communications Grants</i>                                      | 50                        | 0                                    |                                       | 50                                     |                           |
| <i>Emergency Operations Centers</i>   | 60                        | 0                                    |                                       | 32                                     |                           |
| Other National, State and Local Grant Programs/Training, Measurement and Exercise Program |                           |                                      |                                       |  |                           |
| <i>Continuing Training Grants</i>   | 29                        | 22                                   |                                       | 30                                     |                           |
| <i>National Domestic Preparedness Consortium</i>  | 102                       | 52                                   |                                       | 97                                     |                           |
| <i>Cybercrime Counterterrorism Training</i>   | 2                         | 0                                    |                                       | 2                                      |                           |
| <i>Center for Domestic Preparedness/Noble Training Center</i>                             | 63                        | 63                                   |                                       | 63                                     |                           |
| <i>National Exercise Program</i>  | 40                        | 42                                   |                                       | 40                                     |                           |
| <i>Technical Assistance Programs</i>  | 13                        | 15                                   |                                       | 15                                     |                           |
| <i>Evaluations and Assessments</i>  | 16                        | 18                                   |                                       | 16                                     |                           |
| <i>Rural Domestic Preparedness Consortium</i>   | 3                         | 0                                    |                                       | 0                                      |                           |
| <b>Total</b>  | <b>4,165</b>              | <b>4,001</b>                         |                                       | <b>4,234</b>                           |                           |

**Source:** CRS Analysis of the FY2011 DHS Congressional Budget Justifications, the FY2011 DHS Budget in Brief, and S.Rept. 111-222.

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

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



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

The Administration, however, states that the reduction in the number of assistance programs consolidates prior individual programs and expands the eligible activities of the remaining programs. Additionally, the Administration states that the consolidation increases grantee discretion and encourages grantees to prioritize investments that meet specific homeland security needs that vary from grantee to grantee.<sup>89</sup>

### ***Assistance to Firefighters Grant Program (AFG)***

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

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

### ***Emergency Food and Shelter Program (EFS)<sup>90</sup>***

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

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<sup>89</sup> U.S. Office of Management and Budget, *Appendix: Budget of the U.S. Government, Fiscal Year 2011*, Washington, DC, February 2010, p. 557.

<sup>90</sup> Prepared by Francis McCarthy, Analyst in Emergency Management Policy, Government and Finance Division.

The Administration's FY2011 budget suggests cutting the EFS program in half, from its current \$200 million to \$100 million. The program had received an additional \$100 million in supplemental appropriations for FY2009, from P.L. 111-5, the American Recovery and Reinvestment Act of 2009, the availability of which extends 3 months into FY2010. This means that the proposed funding cuts may have a greater impact on local recipients given the recent funding history. The Administration's justification notes that the reduction in EFS funding will permit a "refocus of agency-wide resources on FEMA's primary mission" of disaster response and recovery efforts. The Senate has suggested a program budget of \$150 million, \$50 million above the Administration level and \$50 million below the current funding level.

While the EFS program is not a disaster program, it has been hosted at FEMA for more than 25 years and has a significant role in communities during times of high unemployment. The program has frequently been augmented during economic downturns, but the FY2011 budget request of \$100 million, as well as the Senate mark of \$150 million (from the \$200 million of the previous year), represents the largest reduction in the program's 27-year history.<sup>91</sup> The suggested cut-backs are significant within the context of current hunger statistics that suggest increased need.<sup>92</sup> This is a budgetary issue that Congress may examine as the process moves forward.

### ***Pre-Disaster Mitigation***<sup>93</sup>

The Pre-Disaster Mitigation (PDM) program provides federal grants to mitigate property damage and loss of life due to disasters. While funding is authorized under Section 203 of the Stafford Act, eligibility for the PDM program does not require a Stafford Act disaster declaration.<sup>94</sup>

Authorization for the PDM program expires on September 30, 2010. The Administration's FY2011 budget request would extend the authorization until September 30, 2011.<sup>95</sup> In the 111<sup>th</sup> Congress, Representative Oberstar and other sponsors introduced H.R. 3377 to re-authorize the program for an additional three years at \$250 million per year.<sup>96</sup> The FY2011 budget requested \$100 million, which does not reflect any change from the appropriated amount for FY2010.<sup>97</sup> The Senate has suggested a \$75 million level, a reduction of \$25 million. The Senate committee did not address extending the authorization. If enacted, that amount would be the lowest level of funding for the program since FY2006 (\$50 million).

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<sup>91</sup> The largest previous reduction was in FY1996, which reduced the program funding level by \$30 million (from \$130 million to \$100 million).

<sup>92</sup> Feeding America, *Hunger and Poverty Statistics*, <http://feedingamerica.org/faces-of-hunger/hunger-101/hunger-and-poverty-statistics.aspx>

<sup>93</sup> Prepared by Natalie Keegan, Analyst in American Federalism and Emergency Management Policy, Government and Finance Division.

<sup>94</sup> 42 U.S.C. 5133 §203. For additional information on the PDM program, see CRS Report RL34537, *FEMA's Pre-Disaster Mitigation Program: Overview and Issues*, by Francis X. McCarthy and Natalie Keegan.

<sup>95</sup> U.S. Office of Management and Budget, *Appendix: Budget of the U.S. Government, Fiscal Year 2011*, Washington, DC, February 2010, p. 574.

<sup>96</sup> H.R. 3377 would also increase the state minimum amount to \$575,000.

<sup>97</sup> The FY2010 budget requested \$150 million, but P.L. 111-83 appropriated \$100 million and extended authorization for the program until September 30, 2010.

### ***Flood Map Modernization***<sup>98</sup>

FEMA was directed to perform digital updates of flood maps every five years for communities participating in the National Flood Insurance Program.<sup>99</sup> The Administration's FY2011 budget requested \$26 million less than the FY2010 appropriated level, from \$220 million to \$194 million.<sup>100</sup> In agreement with the Administration's request, the Senate committee recommended \$194 million for FY2011 for flood mapping activities. The reduced funding level may be attributed to the anticipated completion of the Flood Map Modernization Initiative (FMMI), and greater sharing of the costs of ongoing Flood Map Modernization (MapMod) with other federal, state, local, and private stakeholders.<sup>101</sup>

### **Office of Health Affairs**

<sup>102</sup>

The Office of Health Affairs (OHA) coordinates or consults on DHS programs that have a public health or medical component. These include several of the homeland security grant programs, and medical care provided at ICE detention facilities. OHA also administers several programs, including the BioWatch program, the National Biosurveillance Integration System (NBIS), and the department's occupational health and safety programs.<sup>103</sup> Dr. Alexander G. Garza, President Obama's nominee for the position, was confirmed by the Senate as Assistant Secretary of Homeland Security and Chief Medical Officer in August 2009. OHA received \$139 million in FY2010 appropriations.

### **President's FY2011 Request**

The President requested \$213 million for OHA for FY2011, \$74 million (53%) more than was provided for FY2010. The requested funding level would support 95 FTEs, 11 more than in FY2010. The requested increase would more than double the funding for the BioWatch program, discussed below. The request would decrease funding for other OHA budget lines, namely Salaries and Expenses; Planning and Coordination (under which numerous leadership and coordination activities are implemented); the National Biosurveillance Integration Center; and the Rapidly Deployable Chemical Detection System.<sup>104</sup>

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<sup>98</sup> Prepared by Natalie Keegan, Analyst in American Federalism and Emergency Management Policy, Government and Finance Division.

<sup>99</sup> As required by §575 of P.L. 103-325, the 1994 Flood Insurance Program Reform Act.

<sup>100</sup> U.S. Office of Management and Budget, *Appendix: Budget of the U.S. Government, Fiscal Year 2011*, Washington, DC, February 2010, p. 564.

<sup>101</sup> FEMA introduced the FMMI in 1997 to convert paper flood insurance rate maps (FIRMs) to digital maps (DFIRMs). MapMod costs are shared with FEMA Cooperating Technical Partners, which include other federal agencies, state and local governments, and private stakeholders.

<sup>102</sup> Prepared by Sarah A. Lister, Specialist in Public Health and Epidemiology, Domestic Social Policy Division.

<sup>103</sup> DHS, Office of Health Affairs, [http://www.dhs.gov/xabout/structure/editorial\\_0880.shtm](http://www.dhs.gov/xabout/structure/editorial_0880.shtm).

<sup>104</sup> OHA, *Fiscal Year 2011 Congressional Justification*, Overview, p. OHA-4.

## Senate Reported S. 3607

The committee recommended \$155 million for OHA for FY2011, \$57 million (27%) less than the President's request.<sup>105</sup> While the recommendation included a modest increase for the BioWatch program above the FY2010 level, it still fell \$60 million below the FY2011 request. The recommendation also included requested amounts for NBIC and Salaries and Expenses, and small increases above requested amounts for the Rapidly Deployable Chemical Detection System and Planning and Coordination.

## Issues for Congress

### *BioWatch: Effectiveness and Deployment*

The BioWatch program deploys sensors in more than 30 large U.S. cities to detect the possible aerosol release of a bioterrorism pathogen, in order that medications could be distributed before exposed individuals became ill. The Administration requested an \$84 million (93%) increase for BioWatch, from about \$90 million in FY2010 to almost \$174 million in FY2011. The increase would be used to procure and deploy "Generation 3" (Gen-3) detectors, which are intended to improve timeliness by automating detection on site, no longer requiring daily collection and off-site analysis. However, deployments of Gen-3 prototypes raised questions about their performance. In the past, appropriators have withheld some funding for the transition to next-generation automated detectors, and/or required notification prior to any such deployments.<sup>106</sup> For FY2011, the Senate committee noted that problems with Gen-3 detector development and deployment had led to significant carryover of funds in previous years.<sup>107</sup>

In FY2008, Congress funded a National Academies study of the effectiveness of the BioWatch program. Among other things, the group recommended thorough operational testing of Gen-3 detectors before deployment; more robust assessments of BioWatch system performance; and improved coordination with federal and non-federal partners. In addition, they estimated the average annual costs to deploy and operate a system of Gen-3 detectors, over a ten-year period, at \$200 million per year.<sup>108</sup>

## National Protection and Programs Directorate<sup>109</sup>

The National Protection and Programs Directorate (NPPD) was formed by the Secretary for Homeland Security in response to the Post-Katrina Emergency Management Reform Act of 2006. The Directorate includes the Office of the Under Secretary and accompanying administrative support functions (budget, communications, etc.), the Office of Risk Management and Analysis, the Office of Infrastructure Protection, the Office of Cybersecurity and Communications, the U.S.

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<sup>105</sup> S.Rept. 111-222, pp. 106-108.

<sup>106</sup> For more information, see the discussion in the OHA section of CRS Report R40642, *Homeland Security Department: FY2010 Appropriations*, coordinated by Jennifer E. Lake and Chad C. Haddal.

<sup>107</sup> S.Rept. 111-222, pp. 106-108.

<sup>108</sup> Institute of Medicine and National Research Council, *BioWatch and Public Health Surveillance: Evaluating Systems for the Early Detection of Biological Threats*, Summary, Abbreviated Version, 2010, Washington, DC, The National Academies Press, <http://www.nap.edu/>.

<sup>109</sup> Prepared by John Moteff, Specialist in Science and Technology Policy, Resources, Science and Industry Division.

Visitor and Immigrant Status Indicator Technology Program (US-VISIT), and the Federal Protective Service. The activities of the Office of the Under Secretary and the other administrative functions and the Office of Risk Management and Analysis (RMA) are supported by the Management and Administration Program. The activities of the Office of Infrastructure Protection and the Office of Cybersecurity and Communications are supported by the Infrastructure Protection and Information Security Program (IPIS). The US-VISIT and the Federal Protective Service each have their own programs.

## **Management and Administration**

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

## **President's FY2011 Request**

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

**Table 15. FY2009 Budget Activity for NPPD Management and Administration Appropriation**  
(budget authority in millions of dollars)

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

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

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

### Senate-Reported S. 3607

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

### Issues for Congress

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

### Federal Protective Service<sup>110</sup>

The Federal Protective Service (FPS), now within National Protection and Programs Directorate (NPPD),<sup>111</sup> is responsible for the protection and security of federally owned and leased buildings, property, and personnel.<sup>112</sup> In general, FPS operations focus on security and law enforcement activities that reduce vulnerability to criminal and terrorist threats.<sup>113</sup> FPS protection and security operations include all-hazards based risk assessments; emplacement of criminal and terrorist

<sup>110</sup> Prepared by Lorraine Tong, Analyst in American National Government, and Shawn Reese, Analyst in Emergency Management and Homeland Security Policy, Government and Finance Division.

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

<sup>112</sup> 40 U.S.C. 1315.

<sup>113</sup> For more information on FPS, see CRS Report RS22706, *The Federal Protective Service and Contract Security Guards: A Statutory History and Current Status*, by Shawn Reese.

countermeasures, such as vehicle barriers and close-circuit cameras; law enforcement response; assistance to federal agencies through Facility Security Committees; and emergency and safety education programs. FPS also assists other federal agencies, such as the U.S. Secret Service (USSS) at National Special Security Events (NSSE), with additional security.<sup>114</sup> FPS is the lead “Government Facilities Sector Agency” for the National Infrastructure Protection Plan (NIPP).<sup>115</sup> Currently, FPS employs approximately 1,225 law enforcement officers, investigators, and administrative personnel, and administers the services of approximately 15,000 contract security guards.

### **President’s FY2011 Request**

The FPS congressional budget justification proposed \$1,115 million for FPS in FY2011 to be collected in security fees (which is not an appropriation, but an accounting of other agencies’ funding for security fees), the same amount Congress enacted in FY2010.<sup>116</sup> FPS estimated a collection of security leasing fees to provide \$220 million for basic security operations,<sup>117</sup> \$420 million for building specific security operations,<sup>118</sup> and \$475 million for Security Work Authorizations.<sup>119</sup>

### **Senate-Reported S. 3607**

Senate-reported S. 3607 would provide FPS with \$1,115 million for salaries and expenses. This is the same amount requested for FY2011, and enacted in FY2010. This appropriation would be fully offset by collections of security fees. The total amount would provide \$220 million for basic security operations, \$420 million for building specific security operations, and \$475 million for Security Work Authorizations.

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

The committee also directed NPPD to provide to the committee and GAO, within 45 days of the enactment date of S. 3607, with the new FPS staffing model that has been in development. GAO

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<sup>114</sup> For information on NSSEs, see CRS Report RS22754, *National Special Security Events*, by Shawn Reese.

<sup>115</sup> Information on the NIPP is available at [http://www.dhs.gov/xprevprot/programs/editorial\\_0827.shtm](http://www.dhs.gov/xprevprot/programs/editorial_0827.shtm).

<sup>116</sup> U.S. Department of Homeland Security, National Protection & Programs Directorate, *Federal Protective Service: Fiscal Year 2011 Overview, Congressional Justification*, Washington, DC, February 2011, p. FPS-2.

<sup>117</sup> Basic security operations include law enforcement services on federally-controlled property, preliminary investigations of incidents, limited proactive activities to detect and deter attacks on high-risk facilities, and capture and detention of suspects.

<sup>118</sup> Building specific security operations include security countermeasure requirements specific to a particular building.

<sup>119</sup> Security Work Authorizations are agreements between FPS and customer agencies to procure security measures beyond those included with basic security operations and building specific security operations.

is expected to report to the committee on the model's validity within 75 days after it receives the model.

Finally, the committee directed NPPD and ICE to provide without delay a signed copy of the memorandum of understanding (MOU) between ICE and NPPD regarding the business services provided to FPS.<sup>120</sup>

### **Issue for Congress**

One potential issue Congress may consider when conducting oversight of FY2011 FPS activities is FPS operations.

### ***FPS Operations***

In July 2009, the Government Accountability Office (GAO) completed and reported a survey that indicated that 82% of FPS customers do not use the agency as their primary law enforcement agency in emergency situations. Additionally, the customers informed GAO that they primarily rely on other entities such as local law enforcement, the U.S. Marshals Service, or the Federal Bureau of Investigation. GSA also informed GAO that it has not been satisfied with the level of protection and security provided by FPS since being transferred to DHS. According to GSA officials, FPS has not been responsive and timely in providing building security assessments for new leases. GAO, however, stated FPS has taken steps to improve customer service through education and outreach initiatives.<sup>121</sup>

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

- improve the strategic methods used in identifying and reducing actual and potential threats directed at FPS-protected facilities;
- restore proactive monitoring activities to mitigate the increased risk to FPS-protected facilities noted by GAO;
- improve the service provided by contract security guard forces through acquisition strategies and "intensive" monitoring and training;
- develop risk-based security standards tied to intelligence and risk-assessments;
- refine business practices to ensure full collection of revenue through "positive" stakeholder interface; and
- implement a capital plan that will improve security and customer service.<sup>122</sup>

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<sup>120</sup>At the time of the FPS transfer from ICE to NPPD, there was an understanding that the core support given to FPS would be maintained. The MOU, which is needed to determine whether FPS is being provided adequate resources, has not been completed.

<sup>121</sup> U.S. Government Accountability Office, *Homeland Security: Federal Protective Service Should Improve Human Capital Planning and Better Communicate with Tenants*, GAO-09-749, July 2009, pp. 5-6.

<sup>122</sup> U.S. Department of Homeland Security, National Protection & Programs Directorate, *Federal Protective Service: Fiscal Year 2011 Overview, Congressional Justification*, Washington, DC, February 2011, p. FPS-8.



## **U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT)<sup>123</sup>**

Until FY2006, US-VISIT was coordinated out of the Directorate of Border and Transportation Security (BTS). Former DHS Secretary Chertoff's second stage review, among other things, eliminated BTS and proposed placing US-VISIT within a new Screening Coordination Office (SCO) that would have combined a number of screening programs within DHS<sup>124</sup> and that would have reported directly to the Secretary. The appropriators did not provide funding for the SCO, however, and US-VISIT became a stand-alone office within Title II of the DHS appropriation in FY2006.<sup>125</sup> In FY2008, DHS transferred US-VISIT into a new entity, the National Protection Programs Directorate (NPPD). In its Section 872 letter, DHS stated that it was relocating US-VISIT to the NPPD "to support coordination for the program's protection mission and to strengthen DHS management oversight."<sup>126</sup>

### **President's FY2011 Request**

The Administration requested \$335 million for US-VISIT in FY2011, a decrease of \$39 million from the FY2010 enacted level of \$374 million. Included in the Administration's request is reduction of \$12 million for US-VISIT Program Management Services and no funding request for the Comprehensive Biometric Exit Program, which was appropriated \$22 million in FY2010. Other program changes identified by US-VISIT include identity management and screening, data center mirror and migration, unique identity, and US-VISIT 1.0.<sup>127</sup>

### **Senate-Reported S. 3607**

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

### **Issues for Congress**

The singularly most prominent issue that Congress may face relating to the implementation of the US-VISIT system is the lack of a biometric exit component.

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<sup>123</sup> Prepared by Chad C. Haddal, Analyst in Immigration Policy, Domestic Social Policy Division.

<sup>124</sup> Programs proposed for transfer to the Screening Coordination Office included the U.S. Visitor and Immigrant Status Indicator Project (US-VISIT); Free and Secure Trade (FAST) and NEXUS/SENTRI, from CBP; and Secure Flight, Transportation Worker Identification Credential (TWIC), Registered Traveler, Hazardous Materials (HAZMAT) background checks, and the Alien Flight School background checks program from TSA.

<sup>125</sup> H.Rept. 109-241.

<sup>126</sup> U.S. Department of Homeland Security, letter from Secretary Michael Chertoff to the Honorable Joseph I. Lieberman, Chairman, Committee on Homeland Security and Government Affairs, U.S. Senate, Washington, DC, January 18, 2007, p. 8.

<sup>127</sup> US-VISIT 1.0 addresses IDENT systems scalability issues and other re-architecting issues to the current system to improve efficiency and performance.

### ***Biometric Exit Component***

Deployment of a biometric exit system has been of concern to Congress for a number of years, and US-VISIT has been heavily criticized for not implementing an exit system at ports of entry. Without verifying the identity of travelers who leave the United States, DHS has no easy way of identifying individuals who overstay their visas and remain in the country illegally. Currently, DHS uses biographical information from Traveler Enforcement Compliance System (TECS) officer confirmed arrivals, I-94 forms, and other traveler information to conduct matching of entry data to exit data—a method with inherent inaccuracies. A pair of recent pilot projects on biometric exit systems were completed in late 2009, yet according to GAO there is no transition plan in place to begin comprehensive deployment of either system.<sup>128</sup> The FY2011 budget requests no funding for the implementation of a biometric exit capability. The lack of such a funding request could indicate that a comprehensive biometric exit solution at ports of entry is unlikely to begin deployment in FY2011. The exact nature of US-VISIT's exit system strategy may be an issue that Congress will examine, given the intense congressional interest on this topic in the past.

### **Infrastructure Protection and Information Security<sup>129</sup>**

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

### **President's FY2011 Request**

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

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<sup>128</sup> U.S. Government Accountability Office, *Homeland Security: Key US-VISIT Components at Varying Stages of Completion, but Integrated and Reliable Schedule Needed*, GAO-10-13, November 19, 2009.

<sup>129</sup> Prepared by John Moteff, Specialist in Science and Technology Policy, Resources, Science and Industry Division.

The Administration aggregated the activities supported by the IPIS program into 11 line items called Program/Project Activities (PAAs). Adjustments to the base funding and programmatic changes requested by the Administration resulted in net reductions to all but 2 of the PPAs (see **Table 16**). What follows is a brief discussion of selected changes being proposed within this PPA structure.

Base adjustments<sup>130</sup> (worth -\$12 million) resulted in the large net decrease in the United States Computer Emergency Readiness Team (US-CERT) PPA. These adjustments were the migration of information systems to a different location, presumably outside the US-CERT budget, and the transfer of funds to the Federal Law Enforcement Training Center to support the National Computer Forensic Institute.

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

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

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

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

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

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<sup>130</sup> Base adjustments are not reflected in **Table 16**.

**Table 16. Budget Authority for Infrastructure Protection and Information Security**  
(budget authority in millions of dollars)

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

**Source:** CRS Analysis of the FY2011 DHS Congressional Budget Justifications, the FY2011 DHS Budget in Brief, and S.Rept. 111-222.

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

### Senate-Reported S. 3607

The Senate approved \$881 million for the IPIS program. It provided more funds than requested for vulnerability assessments (+\$4 million) and the NISAC (+\$2 million) in the IP-Identification and Analysis PPA. It provided more funds than requested for the National Infrastructure Protection Plan Management program and the Critical Infrastructure/Key Resources Partnership program (\$7 million) in the IP- Coordination and Information Sharing PPA. It did not fund the

department's request for data center migration (-\$7 million). The Senate provided the requested funds for the IP- Mitigation Program PPA and required DHS to provide quarterly updates on progress in hiring personnel to enforce compliance associated with security at chemical facilities and ammonia nitrate security program. The Senate also encouraged the Secretary to consider the ability of chemical facilities covered under security regulations to communicate with local law enforcement and first responders as part of that compliance program.

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

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

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

### **Issues for Congress**

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

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

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

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

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

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

(budget authority in millions of dollars)

| Operational Component                              | FY2010 Appropriation |              |              |               | FY2011 Appropriation |                     |                        |                |
|--|----------------------|--------------|--------------|---------------|----------------------|---------------------|------------------------|----------------|
|  | FY2010 Enacted       | FY2010 Supp. | FY2010 Resc. | FY2010 Total  | FY2011 Request       | FY2011 House-Passed | FY2011 Senate-Reported | FY2011 Enacted |
| <b>Citizenship and Immigration Services</b>        |                      |              |              |               |                      |                     |                        |                |
| <b>Total available budget authority</b>            | <b>2,860</b>         |              |              | <b>2,860</b>  | <b>2,813</b>         |                     | 2,599                  |                |
| Offsetting Fees <sup>a</sup>                       | -2,636               |              |              | -2,636        | -2,427               |                     | -2,427                 |                |
| <b>Net subtotal (Direct appropriation)</b>         | <b>224</b>           |              |              | <b>224</b>    | <b>386</b>           |                     | 172                    |                |
| <b>Federal Law Enforcement Training Center</b>     |                      |              |              |               |                      |                     |                        |                |
|  | <b>283</b>           | <b>8</b>     |              | <b>291</b>    | <b>278</b>           |                     | <b>274</b>             |                |
| <b>Science and Technology</b>                      |                      |              |              |               |                      |                     |                        |                |
| Management and Administration                      | 143                  |              |              | 143           | 152                  |                     | 147                    |                |
| Research, Development, Acquisition, and Operations | 863                  |              |              | 863           | 866                  |                     | 863                    |                |
| <b>Net Subtotal</b>                                | <b>1,006</b>         |              |              | <b>1,006</b>  | <b>1,018</b>         |                     | <b>1,010</b>           |                |
| <b>Domestic Nuclear Detection Office</b>           |                      |              |              |               |                      |                     |                        |                |
| Management and Administration                      | 39                   |              |              | 39            | 37                   |                     | 37                     |                |
| Research, Development, and Operations              | 325                  |              |              | 325           | 208                  |                     | 208                    |                |
| Systems Acquisition                                | 20                   |              |              | 20            | 61                   |                     | 78                     |                |
| <b>Net Subtotal</b>                                | <b>384</b>           |              |              | <b>384</b>    | <b>306</b>           |                     | <b>323</b>             |                |
| <b>Gross budget authority: Title IV</b>            | <b>4,533</b>         |              |              | <b>4,541</b>  | <b>4,414</b>         |                     | <b>4,206</b>           |                |
| <b>Offsetting collections: Title IV</b>            | <b>-2,636</b>        |              |              | <b>-2,636</b> | <b>-2,427</b>        |                     | <b>-2,427</b>          |                |
| <b>Net budget authority: Title IV</b>              | <b>1,897</b>         |              |              | <b>1,905</b>  | <b>1,988</b>         |                     | <b>1,779</b>           |                |

**Source:** CRS Analysis of the *FY2011 DHS Congressional Budget Justifications*, the *FY2011 DHS Budget in Brief*, and S.Rept. 111-222.

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

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

## U.S. Citizenship and Immigration Services<sup>131</sup>

There are three major activities that dominate the work of the U.S. Citizenship and Immigration Services (USCIS): the adjudication of immigration petitions (including nonimmigrant change of status petitions, relative petitions, employment-based petitions, work authorizations, and travel documents); the adjudication of naturalization petitions for legal permanent residents to become citizens; and the consideration of refugee and asylum claims, and related humanitarian and international concerns. USCIS funds the processing and adjudication of immigrant, nonimmigrant, refugee, asylum, and citizenship benefits largely through funds generated by the Examinations Fee Account.<sup>132</sup> **Table 18** shows FY2010 appropriations and the FY2011 request.

### President's FY2011 Request

USCIS is a fee-supported agency. As part of the former Immigration and Naturalization Service (INS), USCIS was directed to transform its revenue structure with the creation of the Examinations Fee Account.<sup>133</sup> Although the agency has received direct appropriations in the last decade, these appropriations have been largely directed towards specific projects such as backlog reduction initiatives. The vast majority of the agency's revenues, however, comes from the adjudication fees of immigration benefit applications and petitions. In the President's FY2011 budget request, the agency requested \$386 million in direct appropriations. The remaining \$2,427 million in gross budget authority requested would be funded by revenues from collected fees.

As **Table 18** shows, the requested USCIS gross budget authority for FY2011 was approximately \$2,813 million. The requested direct appropriation of \$386 million includes \$103 million for the E-Verify program, \$23 million for data center development, and \$18 million for the Immigrant Integration Initiative. Moreover, the agency requested \$34 million for a new Systematic Alien Verification Entitlements (SAVE) Program. USCIS is also proposing to fund asylum and refugee applications and military naturalizations—all which have no fees attached—with a direct appropriation of \$207 million. All other programs and operations would be fee funded. Of the fee-collected funds for FY2011, \$1,955 million would fund the USCIS adjudication services. The President's budget request also included requested funding levels of \$84 million for information and customer services, and \$337 million for administration.

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<sup>131</sup> This section was prepared by William Kandel, Analyst in Immigration Policy, Domestic Social Policy Division.

<sup>132</sup> §286 of the Immigration and Nationality Act, 8 U.S.C. §1356.

<sup>133</sup> There are two other fee accounts at USCIS, known as the H-1B Nonimmigrant Petitioner Account and the Fraud Prevention and Detection Account. The revenues in these accounts are drawn from separate fees that are statutorily determined (P.L. 106-311 and P.L. 109-13, respectively). USCIS receives 5% of the H-1B Nonimmigrant Petitioner Account revenues and 33% of the Fraud Detection and Prevention Account revenues. In FY2007, the USCIS shares of revenues in these accounts were approximately \$13 million each, and the funds combined for a little less than 2% of the USCIS budget (U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *Fiscal Year 2009 Congressional Budget Justifications*).



**Table 18. USCIS Budget Account Detail**  
(budget authority in millions of dollars)

| Program/Project Activity                                | FY2010 Enacted | FY2011 Request | FY2011 House-Passed | FY2011 Senate-Reported | FY2011 Enacted |
|---|----------------|----------------|---------------------|------------------------|----------------|
| <b>Appropriations</b>                                   | <b>224</b>     | <b>386</b>     |                     | <b>172</b>             |                |
| REAL ID Act Implementation                              | 10             | 0              |                     | 0                      |                |
| E-Verify (Basic Pilot Program)                          | 137            | 103            |                     | 103                    |                |
| Data Center Development                                 | 11             | 23             |                     | 7                      |                |
| Immigrant Integration Initiative                        | 11             | 18             |                     | 11                     |                |
| Asylum, Refugees, & Military Naturalizations Processing | 55             | 207            |                     | 50                     |                |
| SAVE  |                | 34             |                     |                        |                |
| <b>Fee Collections</b>                                  | <b>2,636</b>   | <b>2,427</b>   |                     | <b>2,426</b>           |                |
| Immigration Examination Fee Account                     | 2,513          | 2,376          |                     | 2,375                  |                |
| H-1B Visa   | 13             | 13             |                     | 13                     |                |
| H-1B/L Fraud  | 110            | 38             |                     | 38                     |                |
| <b>Total USCIS Funding</b>                              | <b>2,860</b>   | <b>2,813</b>   |                     | <b>2,598</b>           |                |

**Source:** CRS Analysis of the FY2011 DHS Congressional Budget Justifications, the FY2011 DHS Budget in Brief, and S.Rept. 111-222.

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

### Senate-Reported S. 3607

The Senate-reported S. 3607 proposed the same appropriation of \$172 million for USCIS as the Administration, including \$50 million for processing applications for asylees and refugees, and \$103 million for immigration verification programs such as E-Verify. The Senate also proposed that USCIS may purchase up to five vehicles for replacement of its fleet where leased vehicles are unavailable, and that employees in such locations may use the vehicles to commute to work. The Senate proposed restricting funding for the REAL ID program until the House and Senate Appropriations Committees receive a program spending plan that outlines the program's strategic context, its specific goals and milestones, and funds reserved to achieve each goal. Finally, the Senate proposed that no funds designated for immigrant integration services be used for immigrants who have not been lawfully admitted for permanent residence.

### Issues for Congress

For the FY2011 budget cycle, some potential issues for Congress include the decline in immigrant and nonimmigrant applications and the use of fee-generated funding, as well as the USCIS request for appropriations to process refugee, asylees, and military naturalization applications.

### ***Application Declines and Fee-generated Funding***

Because USCIS has been almost completely fee supported for many years, accurate projections of the number of applications that will require processing are essential to avoid building backlogs or over-budgeting projects. In the past few years, USCIS has been criticized for its handling of application backlogs and allegedly being underprepared for the surge of applications in the wake of the 2007 fee increases.<sup>134</sup> More recently, the global economic downturn has highlighted projection concerns, as some observers believe the number of applications submitted to USCIS could decrease (thereby decreasing the agency's revenues). If such revenue declines occur, USCIS may need to forgo certain future projects or request appropriated funds from Congress. In order to address this issue, USCIS has among other things taken steps to ensure more accurate application projections as a means of informing the budgeting process.<sup>135</sup>

### ***Appropriations for Waiver Applications***

In the FY2011 presidential budget request, USCIS has requested direct appropriations of \$207 million for funding applications for refugees, asylum-seekers, and military naturalizations. Historically, these applications (for which the fees are waived for the applicants) have been funded through revenues generated by application fees charged to other applicants. In previous years, Congress has debated providing USCIS with direct appropriations for application processing and the fees. Thus, the proposal to fund these applications with direct appropriations may be an issue of concern to Congress as it considers the FY2011 request. Likewise, the FY2011 presidential budget request also includes a \$34 million appropriation for the SAVE Program which currently is funded through "surcharges" on immigration application fees.

## **Federal Law Enforcement Training Center<sup>136</sup>**

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

### **President's FY2011 Request**

The overall request for FLETC in FY2011 was \$278 million, a decrease of \$5 million from the FY2010 appropriation of \$283 million. In FY2011, FLETC officials intend to

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<sup>134</sup> For more information, see CRS Report RL34040, *U.S. Citizenship and Immigration Services' Immigration Fees and Adjudication Costs: Proposed Adjustments and Historical Context*, by William A. Kandel, U.S. Citizenship and Immigration Services' Immigration Fees and Adjudication Costs: Proposed Adjustments and Historical Context, by William A. Kandel and Chad C. Haddal.

<sup>135</sup> Information is based upon CRS discussions with the USCIS Chief Financial Officer in 2009.

<sup>136</sup> Prepared by Shawn Reese, Analyst in Emergency Management and Homeland Security Policy, Government and Finance Division.

- continue the re-accreditation, begun in FY2010, for its law enforcement training programs; and
- continue to provide professional law enforcement training to its federal, state, local, and international partners.<sup>137</sup>

### **Senate-Reported S. 3607**

The Senate-reported S. 3607 would provide \$274 million to FLETC, or \$4 million less than the administration request and a \$9 million decrease from the FY2010-enacted amount.

### **Science and Technology<sup>138</sup>**

The Directorate of Science and Technology (S&T) is the primary DHS organization for research and development (R&D). Headed by the Under Secretary for Science and Technology, it performs R&D in several laboratories of its own and funds R&D performed by the Department of Energy national laboratories, industry, universities, and others.<sup>139</sup>

### **President's FY2011 Request**

The Administration has requested a total of \$1,018 million for the S&T Directorate for FY2011 (see **Table 19**). This is 2% more than the FY2010 appropriation, but it includes \$109 million for radiological and nuclear countermeasures R&D, an activity formerly funded in the Domestic Nuclear Detection Office (DNDO). Funding for the directorate's other activities is 9% below the FY2010 level. The proposed reduction of \$39 million for the Infrastructure and Geophysical Division includes the termination of local and regional initiatives previously established or funded at congressional direction. The request for Laboratory Facilities includes no funds for the planned National Bio and Agro Defense Facility (NBAF), which received \$32 million in FY2010, but DHS announced plans to request a reprogramming of unobligated prior-year funds to support construction of a utility plant at the NBAF site.<sup>140</sup>

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<sup>137</sup> U.S. Department of Homeland Security, *Federal Law Enforcement Training Center, Salaries and Expenses: Fiscal Year 2011 Congressional Justification*, Washington, DC, February 2010.

<sup>138</sup> Prepared by Daniel Morgan, Specialist in Science and Technology Policy, Resources, Science, and Industry Division.

<sup>139</sup> For more information, see CRS Report RL34356, *The DHS Directorate of Science and Technology: Key Issues for Congress*, by Dana A. Shea and Daniel Morgan.

<sup>140</sup> DHS is prohibited from obligating funds for NBAF construction until 30 days after it completes a safety and security assessment, has it evaluated by the National Academy of Sciences, and provides the Academy's report and certain other reports to the House and Senate appropriations committees. (Department of Homeland Security Appropriations Act, 2010, P.L. 111-83, Sec. 560) According to the FY2011 DHS congressional budget justification, DHS expects to conduct site preparation at the NBAF site during FY2010 and FY2011, and to begin construction of a utility plant in FY2011, but does not plan to commence construction of the laboratory facility until FY2012.

**Table 19. Directorate of Science and Technology, Accounts and Activities**  
(budget authority in millions of dollars)

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

**Source:** CRS Analysis of the FY2011 DHS Congressional Budget Justifications, the FY2011 DHS Budget in Brief, and S.Rept. 111-222.

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

### Senate-Reported S. 3607

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

### Issues for Congress

#### *National Bio and Agro Defense Facility (NBAF)*

The construction of NBAF will likely require significant increases in Laboratory Facilities funding over the next several years. It may also result in increased congressional oversight. For

construction of NBAF and decommissioning of the Plum Island Animal Disease Center (PIADC), which NBAF will replace, DHS expects to need further appropriations of \$691 million between FY2012 and FY2017. The estimated total federal cost of the NBAF project increased from \$451 million in December 2006 to \$615 million in May 2009. Additional site-specific infrastructure and utility upgrade costs of \$110 million are to be contributed in-kind by Kansas State University and its partners. Decommissioning PIADC is expected to cost another \$190 million. These estimated costs have not changed since May 2009, but the completion schedule has been extended by one year because the process of selling Plum Island is taking longer than DHS had planned. In the Department of Homeland Security Appropriations Act, 2009 (P.L. 110-329, Div. D, Sec. 540) and the Department of Homeland Security Appropriations Act, 2010 (P.L. 111-83, Sec. 540) Congress authorized DHS to use receipts from the sale of Plum Island, subject to appropriation, to offset NBAF construction and PIADC decommissioning costs. Similar language is included in S. 3607 as reported.<sup>141</sup>

### ***Testing and Evaluation for Large DHS Acquisition Projects***

Congress has been interested for several years in DHS policies and procedures for testing and evaluation (T&E) of large acquisition projects. This interest has especially focused on the T&E role of the S&T Directorate in acquisitions by other DHS components. The Homeland Security Act of 2002 (P.L. 107-296, Section 306) authorizes the Secretary of Homeland Security, acting through the Under Secretary for Science and Technology, to “issue necessary regulations with respect to ... testing and evaluation activities of the Department.” Under current DHS policy, in establishing T&E policies and procedures for DHS acquisitions, the Under Secretary acts through the Director of the S&T Directorate’s Test and Evaluation and Standards Division (TSD) and a special assistant in the TSD known as the Director of Operational Testing and Evaluation (DOT&E).<sup>142</sup> Congressional oversight of DHS acquisition and T&E may therefore focus attention on the S&T Directorate’s funding for Test and Evaluation and Standards.

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

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

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<sup>141</sup> For more information on NBAF, see CRS Report RL34160, *The National Bio- and Agro-Defense Facility: Issues for Congress*, by Dana A. Shea, Jim Monke, and Frank Gottron.

<sup>142</sup> DHS, *Acquisition Management Directive*, DHS Directive 102-01, revision 01, authorized by the Under Secretary for Management on January 20, 2010.

## Domestic Nuclear Detection Office<sup>143</sup>

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

### President's FY2011 Request

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

**Table 20. Domestic Nuclear Detection Office, Accounts and Activities**

(budget authority in millions of dollars)

|  | FY2010<br>Enacted | FY2011<br>Request | FY2011<br>House-<br>Passed | FY2011<br>Senate-<br>Reported | FY2011<br>Enacted |
|--|-------------------|-------------------|----------------------------|-------------------------------|-------------------|
| <b>Domestic Nuclear Detection Office</b>     |                   |                   |                            |                               |                   |
| <b>Total</b>                                 | <b>384</b>        | <b>306</b>        |                            | <b>323</b>                    |                   |
| <b>Management and Administration</b>         | <b>39</b>         | <b>37</b>         |                            | <b>37</b>                     |                   |
| <b>Research, Development, and Operations</b> | <b>324</b>        | <b>208</b>        |                            | <b>208</b>                    |                   |
| Systems Engineering and Architecture         | 25                | 39                |                            | 39                            |                   |
| Systems Development                          | 100               | 69                |                            | 69                            |                   |
| Transformational Research and Development    | 109               |                   |                            | 0                             |                   |
| Assessments                                  | 32                | 43                |                            | 43                            |                   |
| Operations Support                           | 38                | 34                |                            | 34                            |                   |
| National Technical Nuclear Forensics         | 20                | 23                |                            | 23                            |                   |
| <b>Systems Acquisition</b>                   | <b>20</b>         | <b>61</b>         |                            | <b>78</b>                     |                   |
| Radiation Portal Monitoring Program          | —                 | 8                 |                            | 20                            |                   |
| Securing the Cities                          | 20                | —                 |                            | 20                            |                   |
| Human Portable Radiation Detection Systems   | —                 | 53                |                            | 38                            |                   |

**Source:** CRS Analysis of the FY2011 DHS Congressional Budget Justifications, the FY2011 DHS Budget in Brief, and S.Rept. 111-222.

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

<sup>143</sup> Prepared by Daniel Morgan, Specialist in Science and Technology Policy, Resources, Science, and Industry Division.

## Senate-Reported S. 3607

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

## Issues for Congress

### *Advanced Spectroscopic Portal (ASP) Program*

Congressional attention has focused in recent years on the testing and analysis DNDO has conducted to support its planned purchase and deployment of Advanced Spectroscopic Portals (ASPs), a type of next-generation radiation portal monitor.<sup>144</sup> Congress included a requirement for secretarial certification before full-scale ASP procurement in each homeland security appropriations act from FY2007 through FY2010. Similar language is included in S. 3607 as reported. The expected date for certification has been postponed several times. In February 2010, DHS decided that it will no longer pursue the use of ASPs for primary screening, although it will continue developing and testing them for use in secondary screening.<sup>145</sup>

### *Global Nuclear Detection Architecture*

The global nuclear detection architecture overseen by DNDO remains an issue of congressional interest.<sup>146</sup> According to the FY2011 congressional budget justification, the proposed reduction in funding for Systems Development reflects “a shift in DNDO priorities to developing a wider range of potential solutions to enduring vulnerabilities in the global nuclear detection architecture” and will result in increased funding for “systems studies, as well as testing and piloting existing technologies in new operational environments.” Congress may consider the basis for and implications of these changes in priorities, including how they may affect other elements of the global architecture. Other agencies with a role in the architecture, in addition to DHS, include DOD, DOE, the Department of State, and the intelligence community.

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<sup>144</sup> For more information, see CRS Report RL34750, *The Advanced Spectroscopic Portal Program: Background and Issues for Congress*, by Dana A. Shea, John D. Moteff, and Daniel Morgan.

<sup>145</sup> Letter from Dr. William K. Hagan, Acting Director, DNDO, to Senator Lieberman, February 24, 2010, [http://hsgac.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore\\_id=11f7d1f0-c4fe-4105-94e6-bb4a0213f048](http://hsgac.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=11f7d1f0-c4fe-4105-94e6-bb4a0213f048).

<sup>146</sup> For more information, see CRS Report RL34574, *The Global Nuclear Detection Architecture: Issues for Congress*, by Dana A. Shea.

### *DNDO Role in Research and Acquisition*

The mission of DNDO, as established by Congress in the SAFE Port Act (P.L. 109-347, Title V), includes serving as the primary federal entity “to further develop, acquire, and support the deployment of an enhanced domestic system” for detection of nuclear and radiological devices and material (6 U.S.C. 592). The act also eliminated any explicit mention of radiological and nuclear countermeasures from the statutory duties and responsibilities of the Under Secretary for S&T. Congress may consider whether the proposed transfer of DNDO’s research activities to the S&T Directorate is consistent with its intent in the SAFE Port Act. It may also consider the acquisition portion of DNDO’s mission. Most of DNDO’s funding for Systems Acquisition was eliminated in FY2010, and that year’s budget stated that “funding requests for radiation detection equipment will now be sought by the end users that will operate them.”<sup>147</sup> In contrast, the FY2011 request for Systems Acquisition includes more funding than ever before for DNDO’s procurement of human-portable radiation detectors on behalf of the Coast Guard, Customs and Border Protection, and the Transportation Security Administration. The reasons for this apparent reversal of policy are not explained in the FY2011 congressional budget justification for DNDO.

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<sup>147</sup> Executive Office of the President, FY2010 Budget, Appendix, p. 560.



## **Appendix A. FY2010 Supplemental Appropriations**

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

### **Administration Budget Amendment**

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

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

The \$201 million that was requested for DOJ would have increased the presence of federal law enforcement in the Southwest border districts by adding seven Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) Gunrunner Teams, five FBI Hybrid Task Forces, additional Drug Enforcement Administration (DEA) agents, equipment, operational support, and additional attorneys and immigration judges, and supporting additional detention and incarceration costs for criminal aliens in coordination with DHS enforcement activities. The amendment would also have provided funding to support Mexican law enforcement operations with ballistic analysis, DNA analysis, information sharing, technical capabilities, and technical assistance.<sup>148</sup>

### **Congressional Action on Border Security**

The budget amendment by the Administration was initially included in the House-passed version of H.R. 4899, but the border security provisions were dropped prior to final passage and the

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<sup>148</sup> OMB, Estimate No. 8, “FY2010 Emergency Supplemental Proposals in the FY2011 Budget for the Departments of Homeland Security and Justice to Support Efforts to Secure the Southwest Border and Enhance Federal Border Protection and Law Enforcement and Counternarcotics Activities,” June 22, 2010.

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

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

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

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

On August 9, the House introduced a new border security supplemental bill—H.R. 6080—which was subsequently passed by the House on August 10. H.R. 6080 contained identical language to Senate-passed H.R. 5875. Reportedly, the House took up the bill with a new number to avoid a dispute related to its constitutional obligation to originate all revenue measures.<sup>149</sup> This dispute arose with the addition of funding provisions in Senate-passed H.R. 5875 that were not included in the House-passed version. On August 12, the Senate passed H.R. 6080 without amendment by unanimous consent.

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<sup>149</sup> Theo Emery and Edward Epstein, “Border Security Bill Passes in House,” *CQ Today*, August 10, 2010, online edition.

## Appendix B. DHS Appropriations in Context

### Federal-Wide Homeland Security Funding

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

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

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

(budget authority in millions of dollars)

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

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

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

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

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