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Financial Services and General Government (FSGG): FY2011 Appropriations

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Summary

The Financial Services and General Government (FSGG) appropriations bill includes funding for the Department of the Treasury, the Executive Office of the President, the judiciary, the District of Columbia, and 26 independent agencies. Among the independent agencies funded by the bill are the Small Business Administration, the Office of Personnel Management, and the United States Postal Service.

The FSGG FY2010 appropriations were provided through P.L. 111-117, Consolidated Appropriations Act, 2010. P.L. 111-117 provided $46.265 billion for FSGG agencies in FY2010. In addition, P.L. 111-80 provided an additional $169 million for the Commodity Futures Trading Commission—which is under the jurisdiction of the FSGG Subcommittee in the Senate but not in the House—for a total of $46.434 billion for FSGG agencies in FY2010.

On February 1, 2010, President Obama issued his FY2011 FSGG budget request for $48.219 billion, an increase of $1.785 billion over FY2010 appropriations. On July 29, 2010, the Senate Appropriations Committee approved S. 3677, which would provide FSGG agencies with $48.296 billion for FY2011, an increase of $1.861 billion above FY2010 appropriations. On February 19, 2011, the House passed H.R. 1, which would provide FSGG agencies with $43.298 billion for FY2011, $3.136 billion below FY2010 enacted appropriations.

On April 15, 2011, President Obama signed H.R. 1473, the Department of Defense and Full-Year Continuing Appropriations Act of 2011, into law (P.L. 112-10). The bill provides FSGG agencies with $44.745 billion for FY2011, a decrease of $1.69 billion from FY2010 enacted levels and $3.47 billion less that the President's FY2011 request. FY2011 enacted figures may be revised when further details become available.

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Most Recent Developments

On April 14, 2011, the House and the Senate passed H.R. 1473, the Department of Defense and Full-Year Continuing Appropriations Act of 2011, which the President signed into law (P.L. 112-10) the following day. The House and the Senate Financial Services and General Government (FSGG) Subcommittees considered their own appropriations bills and voted on a series of continuing resolutions (CRs) before H.R. 1473 was enacted. To simplify the presentation of FY2011 appropriations legislation, **Table 1**, below, reflects only the status of H.R. 1473 at key points in the appropriations process.

Table 1. Status of FY2011 Financial Services and General Government Appropriations

Subcommittee Markup		House Report	House Passage H.R. 1473	Senate Report	Senate Passage H.R. 1473	Conference Report	Conference Report Passed		Public Law
House	Senate						House	Senate	
—	—	—	04/14/11	—	04/14/11	—	—	—	P.L. 112-10

Introduction

The House and Senate Committees on Appropriations reorganized their subcommittee structures in early 2007. Each chamber created a new FSGG Subcommittee. In the House, the jurisdiction of the FSGG Subcommittee was formed primarily of agencies that had been under the jurisdiction of the Subcommittee on Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies, commonly referred to as "TTHUD."[1] In addition, the House FSGG Subcommittee was assigned four independent agencies that had been under the jurisdiction of the Science, State, Justice, Commerce, and Related Agencies Subcommittee.[2]

In the Senate, the jurisdiction of the new FSGG Subcommittee was a combination of agencies from the jurisdiction of three previously existing subcommittees. The District of Columbia, which had its own subcommittee in the 109th Congress, was placed under the purview of the FSGG Subcommittee, as were four independent agencies that had been under the jurisdiction of the Commerce, Justice, Science, and Related Agencies Subcommittee.[3] Additionally, most of the agencies that had been under the jurisdiction of the Subcommittee on Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies were assigned to the

[1] The agencies previously under the jurisdiction of the TTHUD Subcommittee that did not become part of the FSGG subcommittee were the Department of Transportation, the Department of Housing and Urban Development, the Architectural and Transportation Barriers Compliance Board, the Federal Maritime Commission, the National Transportation Safety Board, the Neighborhood Reinvestment Corporation, and the United States Interagency Council on Homelessness.

[2] The agencies are the Federal Communications Commission (FCC), the Federal Trade Commission (FTC), the Securities and Exchange Commission (SEC), and the Small Business Administration (SBA).

[3] The agencies are the FCC, FTC, SEC, and SBA.

FSGG Subcommittee.[4] As a result of this reorganization, the House and Senate FSGG Subcommittees have nearly identical jurisdictions.[5]

Overview of FY2011 Appropriations

On February 1, 2010, President Obama issued his FY2011 FSGG budget request, which included $48.219 billion, an increase of $1.785 billion over FY2010 appropriations. On July 29, 2010, Senator Durbin introduced, and the Senate Appropriations Committee approved, S. 3677, the Financial Services and General Government Appropriations Act, 2011. S. 3677 would provide $48.296 billion for FY2011, an increase of $1.862 billion above FY2010 appropriations and $77 million above the President's request. On February 11, 2011, Representative Harold Rogers introduced H.R. 1, which the House passed on February 19, 2011. H.R. 1 would have provided FSGG agencies with $43.298 billion for FY2011, $3.136 billion below FY2010 enacted appropriations and $4.921 billion below the President's request.

At the outset of FY2011, the government operated on funds appropriated through a series CRs. The first four CRs generally provided funding at FY2010 levels, but subsequent CRs reduced funding below FY2010 levels for many agencies and programs. On April 15, 2011, President Obama signed H.R. 1473, the Department of Defense and Full-Year Continuing Appropriations Act of 2011, into law (P.L. 112-10). **Table 2** shows the enacted amounts for FY2010, the Obama Administration's FY2011 request, the amounts passed by the House, the amounts recommended for FY2011 by the Senate Committee on Appropriations, and the enacted amounts in H.R. 1473. FY2011 enacted figures may be revised when further details become available.

Table 2. Financial Services and General Government Appropriations, FY2010-FY2011

(in millions of dollars)

	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate	FY2011 Enacted
Department of the Treasury	$13,465	$13,970	$12,344	$13,951	$13,134
Executive Office of the President	772	760	633	795	708
The Judiciary	6,861	7,330	6,716	7,240	6,907
District of Columbia	752	730	673	739	700
Independent Agencies	24,585	25,430	22,932	25,571	23,301
Total	**$46,434**	**$48,219**	**$43,298**	**$48,296**	**$44,750**

Sources: Consolidated Appropriations Act, 2010 (Div. C, P.L. 111-117), and Appendix, U.S. Government Budget, FY2011, S.Rept. 111-238, H.R. 1, and H.R. 1473.

Notes: All columns include Commodity Futures Trading Commission (CFTC) funding. All figures are rounded, and columns also may not equal the total due to rounding. FY2011 enacted totals do not include 0.2% across-the-board rescission.

[4] The agencies that did not transfer from TTHUD to FSGG were Transportation, HUD, the Architectural and Transportation Barriers Compliance Board, the Federal Maritime Commission, the National Transportation Safety Board, the Neighborhood Reinvestment Corporation, and the United States Interagency Council on Homelessness.

[5] The Commodity Futures Trading Commission is under the jurisdiction of the FSGG Subcommittee in the Senate but not in the House.

H.R. 1473: Key Accounts

The following section identifies funding increases or decreases for selected accounts under Titles I through V of H.R. 1473, as enacted. The tables in each section of this report have also been updated to provide account-level enacted funding.

Department of the Treasury

- A majority of accounts are funded at or above the amounts enacted for FY2010. The exceptions are department-wide systems and capital investments ($6 million less than the FY2010 appropriation), CDFI ($20 million less), FMS ($11 million less), and ATTB ($2 million less).
- Most of the difference between FY2010 and FY2011 Treasury appropriations is due to a $310 million increase in FY2011 in a rescission of unobligated funds in the Treasury Forfeiture Fund (TFF): Congress approved a $90 million rescission in unobligated TFF funds for FY2010; H.R. 1473 raises that amount to $400 million for the current fiscal year.
- Section 1501 of the act specifies that $100 million of the $307 million appropriated for departmental offices shall be used for “terrorism and financial intelligence activities”; and that none of the appropriated funds for the account shall be transferred to the National Academy of Sciences to conduct a “carbon audit” of the federal tax code.
- Section 1509 prohibits the transfer of funding for IRS operations to the agency’s enforcement account. Section 1510, the requirement from FY2010 IRS appropriations that “not less than $7.1 billion shall be available only for tax law enforcement,” does not apply to FY2011 appropriations.

Executive Office of the President

- The White House Office (salaries and expenses)—$58.6 million; $1.3 million less than FY2011 request and $0.5 million less than FY2010 enacted amount;
- Office of National Drug Control Policy (salaries and expenses)—$27.1 million; $0.9 million more than FY2011 request and $2.5 million less than FY2010 enacted amount;
- Other Federal Drug Control Programs—$140.9 million; $24.4 million less than the FY2011 request and $13.5 million less than the FY2010 enacted amount;
- Counterdrug Technology Assessment Center—Zero; the same as the FY2011 request and $5 million less than the FY2010 enacted amount;
- Partnership Fund for Program Integrity Innovation—Zero; the same as the FY2011 request and $37.5 million less than FY2010 enacted amount; includes a rescission of $5 million from unobligated FY2010 funds;
- Section 2262 of H.R. 1473 prohibits the use of funds to pay the salaries and expenses for the Director of the White House Office of Health Reform; Assistant to the President for Energy and Climate Change; Senior Advisor to the Secretary of the Treasury assigned to the Presidential Task Force on the Auto Industry and

Senior Counselor for Manufacturing Policy; and White House Director of Urban Affairs.[6] In the statement accompanying the signing of H.R. 1473, issued on April 15, 2011, President Barack Obama stated the following.

> The President has well-established authority to supervise and oversee the executive branch, and to obtain advice in furtherance of this supervisory authority. The President also has the prerogative to obtain advice that will assist him in carrying out his constitutional responsibilities, and do so not only from executive branch officials and employees outside the White House, but also from advisers within it. Legislative efforts that significantly impede the President's ability to exercise his supervisory and coordinating authorities or to obtain the views of the appropriate senior advisers violate the separation of powers by undermining the President's ability to exercise his constitutional responsibilities and take care that the laws be faithfully executed. Therefore, the executive branch will construe section 2262 not to abrogate these Presidential prerogatives.[7]

The Judiciary

- Supreme Court of the United States, Care of the Building and Grounds: $8.16 million—this amount is $6.37 million less than FY2010 enacted amount ($14.53 million), and $6.63 million less than the FY2011 request ($14.79 million).
- Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses: $5,004.22 million—this amount is $6.80 million more than the FY2010 enacted amount ($5,011.02 million), but $305.56 million less than the FY2011 request ($5,309.78 million).
- Defender Services: $1,025.69 million—this amount is $47.94 million more than the FY2010 enacted amount ($977.75 million), but $55.51 million less than the FY2011 request ($1,081.20 million).
- Fees of Jurors and Commissioners: $52.31 million—this amount is $9.56 million less than the FY2010 enacted amount ($61.87 million), and $11.80 million less than the FY2011 request ($64.11 million).
- Court Security: $466.67 million—this amount is $14.07 million more than the FY2010 enacted amount ($452.60 million), but $28.37 million less than the FY2011 request ($495.04 million).
- Vaccine Injury Compensation Trust: $4.78 million—this amount is $0.65 million less than the FY2010 enacted amount ($5.43 million), but the same amount as the FY2011 request.

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[6] The Director of the White House Office of Health Reform was appointed to a White House Deputy Chief of Staff position on January 27, 2011; the Assistant to the President for Energy and Climate Change announced her resignation on January 24, 2011; and the White House Director of Urban Affairs resigned in May 2010, upon appointment to a position at the Department of Housing and Urban Development. The newspaper *Politico* reported that the White House said that the Senior Advisor to the Secretary of the Treasury assigned to the Presidential Task Force on the Auto Industry and Senior Counselor for Manufacturing Policy was no longer serving as the auto adviser. (Robin Bravender, "Budget Deal Axes 'Czars' Already Gone," *Politico*, April 13, 2011, available at http://www.politico.com/news/stories/0411/53001.html).

[7] The White House, Office of the Press Secretary, "Statement by the President on H.R. 1473," April 15, 2011, available at, http://www.whitehouse.gov/the-press-office/2011/04/15/statement-president-hr-1473.

- The Judicial Improvements Act of 1990 (P.L. 101-650; 28 U.S.C. 133 note) was amended to extend by one year the temporary judgeships in (1) the District of Kansas, and (2) the District of Hawaii.

District of Columbia

- Water and Sewer Authority: $11.5 million, a decrease of $8.5 million from FY2010 enacted amount ($20.0 million).
- District of Columbia Courts: $243.4 million, a decrease of $17.8 million from FY2010 enacted amount ($261.2 million).
- School Improvement: $77.7 million, an increase of $2.3 million from FY2010 enacted amount ($75.4 million).

Independent Agencies

- Office of Personnel Management: Salaries and Expenses—$98.0 million; $1.6 million more than the FY2011 request and $5 million less than the FY2010 enacted amount.
- General Services Administration: $82 million for new construction, a decrease of $812 million from the FY2010 enacted amount.
- Small Business Administration: $731 million in total funding, a decrease of $93 million from the FY2010 enacted amount.
- United States Postal Service: $87 million payment to the Postal Service Fund, a decrease of $31 million from the FY2010 enacted amount.

Department of the Treasury[8]

This section examines FY2011 appropriations for the Treasury Department and its operating bureaus, including the Internal Revenue Service (IRS). **Table 3** lists the enacted amounts for FY2010, the Obama Administration's FY2011 request, the amounts passed by the House for FY2011, the amounts recommended for FY2011 by the Senate Committee on Appropriations, and the amounts enacted in H.R. 1473.

Table 3. Department of the Treasury Appropriations, FY2010-FY2011

(in millions of dollars)

Program or Account	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate	FY2011 Enacted
Departmental Offices	$305	$346	$300	$335	$307
Department-wide Systems and Capital Investments	10	22	4	13	4

[8] This section was written by Gary Guenther, Analyst in Industry Economics, Government and Finance Division.

Program or Account	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate	FY2011 Enacted
Office of Inspector General	30	30	29	33	30
Treasury Inspector General for Tax Administration	152	155	152	155	152
Special Inspector General for TARP	23	50	36	50	36
Community Development Financial Institutions Fund	247	250	50	302	227
Financial Crimes Enforcement Network	111	100	109	122	111
Financial Management Service	244	235	233	235	233
Alcohol and Tobacco Tax and Trade Bureau[a]	103	31	100	101	101
Bureau of the Public Debt	182	176	185	176	185
Payment of Losses in Shipment	2	2	2	2	2
Internal Revenue Service, Total	12,146	12,633	11,544	12,508	12,146
Taxpayer Services	*2,279*	*2,322*	*2,188*	*2,331*	*2,279*
Enforcement	*4,904*	*5,007*	*5,219*	*5,683*	*4,904*
Enhanced Tax Enforcement	*600*	*790*	*NA*	*NA*	*600*
Operations Support Activities	*4,084*	*4,108*	*3,857*	*4,088*	*4,084*
Business Systems Modernization	*264*	*387*	*264*	*387*	*264*
Health Insurance Tax Credit Administration	*16*	*19*	*16*	*19*	*16*
Rescissions: Treasury Forfeiture Fund	(90)	(62)	(400)	(82)	(400)
Total: Department of the Treasury	$13,465	$13,970	$12,344	$13,951	$13,134

Sources: Treasury budget documents, S.Rept. 111-238, H.R. 1, and H.R. 1473.

Note: All figures are rounded, and columns also may not equal the total due to rounding.

a. Total budget authority for FY2011 request was $106 million, with $75 million to be collected in fees, leaving a direct appropriation of $31 million.

Department of the Treasury: Budget and Policy Issues

The Treasury Department performs a variety of critical governmental functions. They can be summarized as protecting the nation's financial system against a host of illicit activities (e.g., money laundering and terrorist financing), collecting tax revenue, enforcing tax laws, managing and accounting for federal debt, administering the federal government's finances, regulating financial institutions, and producing and distributing coins and currency.

At its most basic level of organization, Treasury consists of departmental offices and operating bureaus. In general, the offices are responsible for formulating and implementing policy initiatives and managing Treasury's operations, whereas the bureaus perform specific tasks assigned to Treasury, mainly through statutory mandates. In the past decade or so, the bureaus have accounted for more than 95% of the agency's funding and work force.

With one exception, the bureaus and offices can be divided into those engaged in financial management and regulation and those engaged in law enforcement. In recent decades, the Comptroller of the Currency, U.S. Mint, Bureau of Engraving and Printing, Financial Management Service (FMS), Bureau of the Public Debt (BPD), Community Development Financial Institutions Fund (CDFI), and Office of Thrift Supervision have taken on responsibilities related to the management of the federal government's finances or the supervision and regulation of the U.S. financial system. In contrast, law enforcement arguably has been the primary focus of the responsibilities handled by the Alcohol and Tobacco Tax and Trade Bureau (ATB), Financial Crimes Enforcement Network (FinCEN), and the Treasury Forfeiture Fund. With the advent of the Department of Homeland Security in 2002, Treasury's direct involvement in law enforcement has shrunk considerably. An exception to this simplified dichotomy is the Internal Revenue Service (IRS), whose main responsibilities encompass both the collection of tax revenue and the enforcement of tax laws and regulations.

The operating budget for most Treasury bureaus and offices comes largely from annual appropriations. This is the case for the IRS, FMS, Bureau of Public Debt (BPD), FinCEN, ATB, Office of the Inspector General (OIG), Treasury Inspector General for Tax Administration (TIGTA), Special Inspector General for the Troubled Asset Relief Program (SIGTARP), and the CDFI. By contrast, funding for the Treasury Franchise Fund, the U.S. Mint, the Bureau of Engraving and Printing, Office of the Comptroller of the Treasury, and the Office of Thrift Supervision stems from the fees they receive from the services and products they provide.

In the current fiscal year, appropriations for the Treasury Department are distributed among 11 accounts, each of which is briefly described below.

Departmental Offices: covers the salaries and other expenses of offices in the department that formulate and implement policies in the areas of domestic and international finance, terrorist financing and other financial crimes, taxation, international trade, and the domestic economy. Also provides funding for the department's financial and personnel management, procurement operations, and information and telecommunications systems.

Department-wide Systems and Capital Investments: covers salaries and other expenses associated with the development and operation of new systems to improve the efficiency of interactions among Treasury bureaus and offices or between Treasury and other federal agencies.

Office of Inspector General: covers the salaries and other expenses related to the audits and investigations conducted by OIG staff. These evaluations are intended to promote improved efficiency and effectiveness and prevent waste, fraud, and abuse among departmental operations and programs, as well as to inform the Treasury Secretary and Congress about problems or shortcomings in those activities.

Treasury Inspector General for Tax Administration: covers salaries and other expenses related to the audits and investigations conducted by TIGTA staff. These evaluations are intended to promote greater efficiency and effectiveness in the administration of tax law, deter or prevent fraud and abuse in IRS programs and operations, and recommend changes in those activities to resolve problems or remedy deficiencies.

Special Inspector General for the Troubled Asset Relief Program (TARP): covers salaries and other expenses related to the audits and investigations into the management and effectiveness of

TARP conducted by SIGTARP staff. The office was established by the same law that created TARP: the Emergency Economic Stabilization Act (P.L. 110-343).

Financial Crimes Enforcement Network: covers salaries and other expenses related to the activities of FinCEN, whose main responsibility is to protect the domestic financial system from illicit uses, such as money laundering and terrorist financing. The legal basis for this role is the Bank Secrecy Act (BSA, P.L. 91-508). FinCEN administers the act by developing and implementing regulations and other guidance and working with private financial institutions and eight federal agencies to ensure that the financial sector complies with the BSA's reporting requirements.

Financial Management Service: covers salaries and other expenses related to the operations of the FMS, which is responsible for developing and implementing payment policies and procedures for federal agencies, collecting debts owed to those agencies, and providing financial accounting, reporting, and financing services for the federal government and its agents.

Alcohol and Tobacco Tax and Trade Bureau: covers salaries and other expenses related to the activities of ATB, which was established by the Homeland Security Act of 2002 (P.L. 107-296). The bureau is responsible for enforcing certain laws regarding the domestic sale and production of alcohol and tobacco products and preventing harm to consumers by ensuring that the products they regulate comply with federal consumer safety laws.

Bureau of the Public Debt: covers salaries and other expenses related to the conduct of public debt operations and the promotion of U.S. bonds.

Community Development Financial Institutions Fund: provides funding for the activities of the CDFI, which makes investments (in the form of loans, grants, and equity acquisitions) in community development financial institutions. These institutions include community development banks, credit unions, and venture capital funds and provide financing for affordable housing projects, small businesses, and community development projects in eligible areas. CDFI also administers the Black Enterprise Award program and the New Markets tax credit.

Internal Revenue Service: covers salaries and other expenses related to the activities of the IRS, whose main responsibilities are to administer federal tax laws and collect revenue. Two critical components of IRS operations and programs are the services it offers to taxpayers to help them understand and meet their tax obligations and the enforcement activities it uses to improve voluntary taxpayer compliance and punish those who violate the law. Some appropriated funds are used to develop or upgrade business operations and information systems, as part of an ongoing effort to improve the effectiveness of taxpayer services and enforcement activities.

Overview of FY2010 Appropriations for Treasury Offices and Bureaus

Funding for most bureaus comes largely from direct appropriations. This is true for the IRS, FMS, the BPD, FinCEN, the Alcohol and Tobacco Tax and Trade Bureau (ATB), the Office of the Inspector General (OIG), the Treasury Inspector General for Tax Administration (TIGTA), and the CDFI. By contrast, operating funds for the Treasury Franchise Fund, the U.S. Mint, the Bureau of Engraving and Printing, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision come largely from the fees they charge for services and products they provide.

In FY2010, Treasury received $13.465 billion in appropriated funds, or 6.1% more than the amount enacted for FY2009. As usual, the vast share of this money was used to finance the operations of the IRS, which received $12.146 billion in FY2010, or about 90% of total appropriations for Treasury. The remaining $1.319 billion was spread among Treasury's other main appropriations accounts in the following amounts: departmental offices (which includes the Office of Terrorism and Financial Intelligence—or TFI—and the Office of Foreign Assets Control) received $305 million; department-wide systems and capital investments, $10 million; OIG, $30 million; TIGTA, $152 million; CDFI, $247 million; FinCEN, $111 million; FMS, $244 million; ATB, $103 million; and the BPD, $182 million.

FY2011 Appropriations for Treasury Offices and Bureaus: President's Budget Request and Congressional Action

President's Budget Request

Overall, the Obama Administration is requesting $13.970 billion in direct appropriations for Treasury in FY2011, or 3.7% more than the amount enacted for FY2010. Under the budget proposal, the IRS would receive $12.633 billion (or 91% of the total). The remaining $1.137 billion would be split among Treasury's 10 other appropriations accounts in the following amounts: departmental offices would receive $346 million; departmental systems and capital investments, $22 million; OIG, $30 million; TIGTA, $155 million; CDFI, $250 million; FinCEN, $100 million; FMS, $235 million; ATB, $31 million direct appropriation ($106 million in new budget authority less offsetting fees of $75 million); and the BPD, $176 million. All the accounts except FinCEN, FMS, and the BPD would be funded at or above the amounts enacted for FY2010.

The proposed $487 million increase in funding for the IRS greatly exceeds the proposed increase in funding for all other Treasury Department accounts ($51 million). Fiscal services operations would have their FY2011 funding decreased by 3.6% from FY2010 enacted appropriations.

Treasury's budget proposal is intended in part to make further progress in accomplishing the same three "high priority performance" objectives that guided the FY2010 budget request: (1) to repair and reform the U.S. financial system, (2) to increase voluntary tax compliance, and (3) to "significantly" increase the volume of paperless transactions with the public.[9] The ways in which the proposed budget would address each objective are examined below.

Repair and Reform the Financial System

Progress in meeting the first objective would hinge on how the proposed budget would affect Treasury's management of several programs (such as the Troubled Asset Relief Program, or TARP) put in place in the past year and a half to stabilize financial markets, prevent a recurrence of the credit crisis that severely disrupted the functioning of those markets in 2008 and 2009, and promote a recovery in housing sales and prices.

[9] See executive summary of Treasury budget request, p. 2, available at http://www.treas.gov/offices/management/budget/budget-documents/cj/2011/Departmental%20Summary%20CJ%20508.pdf.

According to Treasury budget documents, several components of the budget proposal for FY2011 would promote the repair and reform of the financial system. One is the requested $41 million increase in funding for departmental offices. Nearly half of that amount would be used to bolster the analytical and policymaking capabilities of the Office of Domestic Finance ($17 million), the Office of Tax Policy ($2 million), and the Office of Domestic Economic Policy ($2 million), with the overriding aim of preventing another collapse in financial markets on the scale of 2008.

Another element of the budget proposal that might foster repair and reform in the financial system is Treasury's management of TARP. Treasury's authority to manage the program expired on October 3, 2010. To strengthen oversight of the program, the budget request would more than double funding for the Special Inspector General for TARP (SIGTARP), from $23.3 million in FY2010 to $49.6 million in FY2011. SIGTARP's top priority is to promote the effective and efficient management and operation of TARP through transparent decision making, coordinated oversight, and enforcement of statutes prohibiting waste, fraud, and abuse in the use of TARP funds. Of the requested funding for SIGTARP, $21 million would be used to conduct audits of Treasury's management of TARP, and the other $29 million would cover the cost of conducting criminal and civil investigations of persons and entities inside and outside the federal government suspected of misusing TARP funds.

Repairing and reforming the financial system are also cited as a rationale for a proposed overhaul of the CDFI Fund. The proposed budget would boost funding for a merit-based grant program (known as the CDFI Program) by 30%, in an effort to expand the availability of affordable credit, financial services, business investment, and technical assistance in economically distressed communities. It would also create two new CDFI programs: the Bank on USA initiative and the Healthy Food Financing Initiative. To help defray the cost of the three initiatives, two current CDFI programs would be dropped: the Capital Magnet Fund and the Bank Enterprise Awards program. In FY2010, a total of $105 million was provided for both. In addition, the Obama Administration is asking Congress to grant $5 billion in allocation authority for the New Markets tax credit in 2010 and in 2011; the credit, which expired at the end of 2009, is designed to stimulate private investment in low-income communities through a competitive selection process administered by the CDFI Fund.[10]

Improve Voluntary Tax Compliance

Taxpayer compliance is a top priority for the Treasury Department in FY2011 largely because of the gross federal tax gap, which is the difference between taxes owed and taxes paid in full on time, before collection actions are taken. The gap has reached an estimated $345 billion. Recent sharp rises in the federal budget deficit and projected increases in it over the next five to 10 years have intensified the pressure on the department to do more to shrink the tax gap.

The budget request seeks to improve voluntary tax compliance through the enactment of a variety of legislative proposals and targeted expansions in IRS operations. The proposals are intended to improve the efficiency of tax collection, "with minimum additional burden on taxpayers." They can be placed into four categories: expanding penalties, strengthening tax administration,

[10] For more details on the credit, see CRS Report RL34402, *New Markets Tax Credit: An Introduction*, by Donald J. Marples.

improving business compliance, and expanding information reporting. Treasury officials estimate that if enacted, the proposals could boost tax collection by $26 billion over the next 10 years.[11]

Most of the requested increase in appropriations for the IRS in FY2011 would be used for purposes tied directly or indirectly to the objective of improving tax compliance. Of the additional $487 million, $293 million would be channeled into enforcement activities, $123 million into the agency's business systems modernization (BSM) program, $43 million into taxpayer services, $24 million into operations support, and $3.5 million into administration of the health coverage tax credit established by the Trade Act of 2002.

The added funds for enforcement would be used to bolster recent compliance programs aimed at reducing offshore tax evasion, underreporting of income, and tax evasion by corporations and upper-income individuals. According to Treasury budget documents, the additional enforcement officers that could be hired under the expanded budget could generate an additional $2 billion in enforcement revenue each year, once they "reach their full potential in FY2013."[12]

Proposed funding for the BSM program would allow the IRS to complete the new customer account database engine (CADE 2) in time for the 2012 filing season, and to continue its efforts to expand electronic filing systems. In its initial application, CADE 2, which is the cornerstone of IRS's long-standing information technology modernization program, will be used to expedite refunds to individual taxpayers and expand online services offered by the IRS.

A key factor shaping taxpayer compliance is the assistance taxpayers receive from the IRS in understanding their tax obligations and computing their tax liabilities. One widely used avenue for such assistance is the agency's toll-free telephone service. About half of the requested $43 million increase in funding for taxpayer services in FY2011 would be used to upgrade this service by raising the answer rate from a projected 71% of incoming calls in FY2010 to 75% in FY2011. The $21 million that would be spent for this purpose would come from $12 million in additional appropriated funds and a transfer of about $9 million in funding for the Taxpayer Advocate Service (TAS), low-income taxpayer clinic (LITC) grants, the Tax Counseling for the Elderly (TCE) program, and volunteer income tax assistance (VITA) grants in FY2010.

In addition, the entire proposed increase in funding for operations support would be used to sustain current efforts to improve the IRS.gov website infrastructure and redesign the website to meet expected growth in demand for electronic tax services and taxpayer assistance. According to Treasury budget documents, substantial cost savings could be realized through increased taxpayer use of electronic filing and the IRS website.

Increase Paperless Transactions with the Public

The budget request also includes several measures to bring the bureaus and offices of the Treasury Department closer to the goal of paperless processing. Basically, the measures involve increasing the number of transactions done electronically in FY2011, including benefit payments, business tax filings, and issuances of savings bonds.[13]

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[11] Treasury Department, *Budget in Brief*, p. 4.

[12] Ibid., p. 66.

[13] Ibid., p. 5.

Of those measures, the one that might do the most to advance department-wide adoption of paperless processing is the $22 million in added funding requested for departmental systems and capital investments. Those funds would be used to create two new initiatives: the Enterprise Content Management (ECM) program and the Office of Financial Innovation and Transformation (OFIT). The ECM is intended to establish a common approach among all Treasury offices and bureaus to modernizing their "document-based business processes." OFIT would coordinate Treasury Department efforts to develop and expand shared government-wide solutions to issues in financial management, such as invoice processing, cash collections, and interagency agreements.

Other Noteworthy Proposals

The Treasury Department's budget proposal for FY2011 would do more than fund activities aimed at achieving the three strategic goals. Much of the requested funding is intended to enable Treasury's bureaus to meet their statutory responsibilities or core missions in spite of projected sizable federal budget deficits and expanding demand for their services. In some cases, the budget request assigns a high priority to providing required services at a reduced cost to taxpayers; in others, added funding is being sought to satisfy a perceived need for expanded operations.

For instance, the budget request would allow the Treasury Department to reap $315 million in savings from discretionary spending and added savings from mandatory programs in FY2011. Some of the savings would come from reduced operating costs. Such is the case with three bureaus whose funding would be cut: FinCEN would lose $11 million, FMS $9 million, and the BPD $6 million. FinCEN would receive less money for two reasons: a new source of funding (i.e., the Treasury Forfeiture Fund) would cover the estimated cost ($8.3 million) of continuing the bureau's information technology modernization program, and improved operating efficiencies would result in $3 million in cost savings. Requested funding for FMS is 3.6% below the amount enacted for FY2010 because a $5 million increase in employee compensation would be more than offset by $13 million in improved operating efficiencies. And requested funding for BDP is also lower because of proposed gains in operating efficiencies.

The proposed budget would also raise funding for Treasury's Office of Terrorism and Financial Intelligence (TFI) by 59%, from $65 million in FY2010 to $103 million in FY2011. TFI develops and implements strategies to counter terrorist financing, money laundering, and other financial crimes; it also imposes and enforces trade and financial sanctions on designated countries (e.g., Burma, Iran, and North Korea) in support of foreign policy aims, such as halting the proliferation of nuclear weapons and combating terrorism. Some of the requested increase in funding would go to the Office of Intelligence Analysis under TFI to improve the collection and dissemination of intelligence in support of the department's worldwide anti-money laundering and anti-terrorist financing initiatives.

In a departure from current practice, the requested budget would shift the cost of regulating the production, distribution, and sale of alcohol and tobacco products from taxpayers to private companies. Funding for ATB, the bureau that does the regulating, would come entirely from the collection of annual licensing and registration fees, which would total an estimated $106 million in FY2011. By contrast, $103 million in appropriated funds was provided to cover the cost of ATB operations during FY2010.

In addition, the budget request calls for a cancellation (or withdrawal) of $62 million from the Treasury Forfeiture Fund (TFF). The fund serves as the receipt account for the deposit of assets of criminal enterprises seized by five federal agencies, including the IRS and the Immigration and Customs Enforcement Bureau at the Department of Homeland Security. Revenue in the account normally is used to sustain and improve the capabilities of those agencies to conduct criminal investigations, seizures, and forfeitures and to cover expenses related to those activities. Still, money may be taken from the TFF to pay for other law enforcement activities undertaken by member bureaus, with the approval of the Secretary of the Treasury. Congress must be notified before such a withdrawal can be made.

Evaluations of the President's Budget Request

GAO

In an assessment of the Administration's FY2011 budget request for the IRS, GAO made a number of comments, some of which were critical of the agency's budget justification.

Among other things, GAO noted that $247 million (or 51%) of the proposed $487 million increase in appropriations for the agency would go to enforcement initiatives aimed at lowering the tax gap by about $2 billion, and that $46 million of the proposed increase would be used to improve the IRS's website and expand access to the agency's toll-free telephone service. But GAO faulted the IRS for not including in its budget justification a measure of the "costs or resource needs associated with implementing any of the proposals—information that could lead to more informed congressional decision making."[14]

GAO also pointed out that the budget request included $387 million in funding for the BSM, a 47% increase from the amount enacted for FY2010. Of that amount, $152 million would be used to implement a new CADE, and $39 million would go to the continued development of the Modernized Electronic Filing project, which is intended in part to give taxpayers more timely information on the status of their tax returns. While GAO offered no comment on the size of the requested increase in program funding, it did raise a concern about continued "weaknesses in internal controls over information security" and the responsiveness of the IRS to those weaknesses.

The evaluation included a brief discussion of 36 steps that the IRS could take (either through congressional action or executive action by the IRS) to realize an estimated $3.9 billion in cost savings or revenue gains over the next 10 years.[15]

To improve the transparency and usefulness of future budget justifications, GAO recommended that IRS officials provide additional information on program activities, possible costs associated with legislative proposals, and projected and actual cost savings for new initiatives during the first few years after they are implemented. GAO also suggested that future budget justifications give more details on performance measures, explain "noteworthy" changes in performance goals, and clarify the linkages between new initiatives in the budget request and "strategic documents."

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[14] U.S. Government Accountability Office, *Internal Revenue Service: Assessment of Budget Justification for Fiscal Year 2011Identified Opportunities to Enhance Transparency*, GAO-10-687R (Washington: May 2010), p. 4.

[15] Ibid., pp. 23-31.

IRS Oversight Board

Under section 7802 of the federal tax code, the IRS Oversight Board has the authority to review and approve IRS strategic plans and annual budget requests, including performance budgets. A central purpose of these reviews is to determine whether the proposed plans and budgets support the short-term and long-term goals of the IRS. The President is required by law to submit the board's budget recommendations to Congress together with his requested budget for the agency.

In its assessment of the FY2011 budget proposal, the board recommended that the IRS have a budget of $12.914 billion, an amount that is $768 million greater than the amount enacted for FY2010 and $281 million above the Administration's request.

There were several areas of agreement between the board's recommendation and the budget request. Most notably, both budgets called for spending a total of $5.8 billion on enforcement initiatives and $387 million on the BSM program in FY2011. The board endorsed the requested increase of $247 million in funding for enforcement on the grounds that it "allows the IRS to move forward with its enforcement programs while assimilating new enforcement staff hired during the last two years."[16] The requested $122 million increase in BSM funding would boost the budget for the program to a level that the board has long recommended and, in the board's judgment, that would allow the IRS to continue the critical task of upgrading its information systems to better manage the agency's central database and taxpayer accounts, process electronic returns, and handle growing demands from taxpayers and Congress on the agency's resources.

But there were some significant areas of disagreement as well. Specifically, the board argued that more funds should be directed at taxpayer services and operations support, if the IRS is to meet the strategic goals set forth in its current five-year strategic plan, which covers the period from FY2009 to FY2013. The board's preferred budget would provide $2.374 billion for taxpayer services (or $52 million more than the amount requested by the Administration) and $4.337 billion for operations support (or $229 million more than the request). On the matter of taxpayer services, the board recommended that the following steps be taken: spend more than the budget request to improve the level of service through IRS toll-free telephone assistance; rescind the proposed $9 million cutback in funding for the TAS, LITC grants, the TCE program, and VITA grants; and provide $21 million in funding for four new initiatives to improve taxpayer service, including $8.4 million for research on the complexity of the tax code and its implications for taxpayer compliance.[17] Nearly half of the funding for operations support is used to operate, maintain, and develop IRS's "legacy" information technology (IT) systems, which fall outside the scope of the BSM program. The board endorsed a larger budget for operations support so the aging IT infrastructure can be upgraded in a manner that would permit the IRS to manage and keep records more efficiently and effectively.

National Taxpayer Advocate's Report

Current law requires the NTA to issue two annual reports to the House Ways and Means and the Senate Finance Committees. The first report, which is due by June 30 of each year, is supposed to set forth the priorities for the coming fiscal year for the Office of the Taxpayer Advocate. These

[16] IRS Oversight Board, *FY 2011 IRS Budget Recommendation: Special Report* (Washington: March 2010), p. 3.

[17] Ibid., p. 5.

aims tend to be closely tied to the IRS's own goals, initiatives, and challenges for the same period.

Though the NTA's report for FY2011 did not offer an assessment of the Administration's budget request for the IRS, it did highlight areas of concern related to taxpayer service and compliance that might influence congressional consideration of the budget request.[18] These concerns, which the document discussed at length, included shortcomings in taxpayer service (such as declining levels of telephone service in recent years), the administrative burdens and costs associated with the new responsibilities (e.g., administering the small business health insurance tax credit) assumed by the IRS under the Patient Protection and Affordable Care Act (PPAC, P.L. 111-148), IRS collection practices that have failed to promote voluntary compliance and could harm economically distressed taxpayers, the key factors determining taxpayer compliance, and the effectiveness of the IRS's new initiative to regulate tax return preparers.

Congressional Action

Senate

On July 29, 2010, the Senate Appropriations Committee approved a bill (S. 3677) to fund financial services and general government accounts in FY2011. S. 3677 would provide $13.951 billion in appropriations for the Treasury Department, or $486 million more than the amount enacted for FY2010 but $19 million less than the amount requested by the Obama Administration. More details on recommended funding for each account are provided below.

Departmental Offices: S. 3677 would appropriate $335 million for the functions and operations of the department, or $30 million above the amount enacted for FY2010 but $11.5 million below the budget request. While the bill would match the Administration's requested budget for terrorism and financial intelligence ($103 million), it recommends that $6 million less than the request be spent on financial policies and programs, and $2 million less than the request be spent on economic policies and programs. Still, S. 3677 would provide the requested funding for additional staff to support the department's expanded role in federal efforts to prevent future financial crises on the scale of the meltdown in financial markets in 2007 and 2008. In addition, the bill recommends that $1 million be spent on a study of the long-term economic consequences of the aging U.S. population to be undertaken by the National Academy of Sciences, and that proposed funding for the Office of Financial Education be increased by $1 million for the purpose of revising the national strategy on increasing financial literacy.

In its report on S. 3677, the committee directed the department to fully implement all economic sanctions and divestment measures targeted at North Korea, Burma, Iran, Sudan, and Zimbabwe, and to notify the committee promptly if a lack of resources is hampering these efforts.[19] The committee also ordered the department to do more to reduce the flow of funds into the United States from "corrupt politicians, terrorists, and those involved in organized crime" through its involvement in the multinational Financial Action Task Force, and its rule-making authority under

[18] See National Taxpayer Advocate, *Fiscal Year 2011 Objectives: Report to Congress* (Washington, June 30, 2010), available at http://www.irs.treas.gov.

[19] U.S. Senate, Committee on Appropriations, *Financial Services and General Government Appropriations Bill, 2011*, report to accompany S. 3677, 111th Cong., 2nd sess., S.Rept. 111-238 (Washington: GPO, 2010), p. 12.

the Bank Secrecy Act and certain other statutes. To monitor the department's response to this directive, the report required it to submit a report to the Senate Committees on Appropriations and Banking, Housing, and Urban Affairs within 180 days of the enactment of the bill that described the steps taken to prevent the "flow of the proceeds of corruption into the United States, specifically including activities related to identifying the beneficial ownership of corporate vehicles, where appropriate, and participation in FATF activities and initiatives."[20]

Department-wide Systems and Capital Investments Programs: S. 3677 would provide $13 million in appropriations for this account in FY2011, or $3.5 million above the amount enacted for FY2010 but $9 million below the budget request. The recommended funding would match the $5 million requested for the Enterprise Content Management program and provide $8 million for the Financial Innovation and Transformation (FIT) program, or $9 million less than the request. In its report on the bill, the committee noted that while it supported the primary goal of the FIT program, which is to create government-wide solutions for processing financial transactions, it could not endorse the requested funding for the program because the budget justification gave too few details on the program's design and operation.[21] The committee directed the department to provide a more detailed justification for the program, including the cost estimate for each project, within 60 days of the enactment of the bill.

Office of Inspector General: S. 3677 would provide $33.3 million in appropriated funds for the OIG in FY2011, or $3.6 million above the amount enacted for FY2010 and $3 million more than the budget request. The additional funds are intended to support more audits and investigations of bank failures than current resources would allow. In its report on the bill, the committee stated categorically that OIG should give the highest priority to performing an audit of the Bank Secrecy Act Information Technology Modernization project being undertaken by FinCEN.[22] As part of its oversight of the project, OIG would have to submit a report to the committee by March 31, 2011, (and every six months thereafter) that assessed contractor performance and the likelihood of cost overruns. The committee also ordered the office to undertake audits of Treasury's activities to prevent or disrupt money laundering and terrorist financing, its capital investments, and the CDFI.

Treasury Inspector General for Tax Administration: S. 3677 would provide $155 million in appropriations for TIGTA in FY2011, or $3.5 million more than the amount enacted for FY2010 and the same as the budget request. The added funding is intended to enable TIGTA to monitor the IRS's renewed focus on combating foreign tax evasion and closing loopholes in the tax code that make it more profitable for U.S. companies to relocate their operations abroad. The committee's report on the bill identified certain priorities for TIGTA in the coming fiscal year. Specifically, it urged the bureau to continue its oversight of IRS's initiatives to reduce the tax gap to ensure that they strike a reasonable balance between protecting taxpayer rights and enhancing taxpayer compliance. The committee also recommended that TIGTA examine IRS's assistance program for low-income taxpayers, current law regarding the classification of independent contractors and its effect on the tax gap, various schemes to steal confidential taxpayer information for the purpose of identity theft, and the best ways to reduce threats to the security of IRS employees and IRS databases.[23]

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[20] Ibid., p. 12.

[21] Ibid., p. 14.

[22] Ibid., p. 15.

[23] Ibid., p. 17.

Special Inspector General for the Troubled Asset Relief Program: S. 3677 would provide $50 million in appropriations for SIGTARP in FY2011, or $26 million above the amount enacted for FY2010 and the same as the budget request. The committee expressed satisfaction with the audits and investigations conducted by the office to date.

Financial Crimes Enforcement Network: S. 3677 would provide $122 million in funding for FinCEN in FY2011, or $11 million more than the amount enacted for FY2010 and $21 million above the budget request. The difference between the amount recommended in the bill and the request reflected two committee recommendations. First, the committee opposed a proposal by the Administration to fund a portion of the Bank Secrecy Act Information Technology Modernization project using about $20 million in uncommitted money from the Treasury Forfeiture Fund and instead urged that appropriations for FinCEN be increased by the same amount so the project can be funded entirely through the bureau's account. Second, the committee recommended that appropriations be increased by another $1.5 million to expand FinCEN's analytical support to a network of more than 300 law enforcement and regulatory authorities" at the federal, state, and local levels involved in investigating and disrupting illicit financial transactions.[24]

The bill would also provide $46 million for the BSA modernization project, which is intended to revamp the BSA data architecture, update antiquated or obsolete infrastructure needed to collection and distribute data, implement innovative web services and enhanced electronic filing, and provide enhanced analytical tools. Banks, federal, state, and local law enforcement agencies, and federal intelligence agencies use the system to report, gather, and analyze data in an effort to detect and thwart instances of money laundering, terrorist financing, tax evasion, and other financial crimes. The existing BSA data infrastructure is considered outdated and a hindrance to federal efforts to combat those illegal activities. In its report on S. 3677, the committee directed FinCEN to submit a semi-annual report to the committee summarizing the progress made on the modernization project; the report should address "milestones planned and achieved, progress on cost and schedule, management of contractor oversight, strategies to involve stakeholders, and acquisition management efforts."[25]

Treasury Forfeiture Fund: S. 3677 would rescind $82 million in uncommitted balances in the fund.

Financial Management Service: S. 3677 would provide $235 million in appropriations for FMS in FY2011, or about $9 million less than the amount enacted for FY2010 and the same as the budget request. The report on the bill noted that another estimated $80 million would be available for the bureau from payments for its debt collection activities in FY2011.

Alcohol and Tobacco Tax and Trade Bureau: S. 3677 would provide $101 million in appropriations for ATB in FY2011, or $2 million less than the amount enacted for FY2010 and about $5 million less than the budget request. For the second year in a row, the committee refused to endorse an Administration proposal to cover bureau operating expenses by assessing fees on producers, distributors, and retailers of alcoholic products. The difference between recommended funding and the budget request reflects the estimated cost of implementing the proposal. In addition, the report noted that enacted funding for ATB in FY2010 included $3 million (to remain

[24] Ibid., p. 18.

[25] Ibid., p. 19.

available through the end of FY2011) to hire, train, and equip special law enforcement agents to combat tobacco smuggling and other such criminal activities.[26]

Bureau of the Public Debt: S. 3677 would provide $176 million in appropriations for the Bureau of Public Debt in FY2011, or $6 million less than the amount enacted for FY2010 and the same as the budget request. The committee appears to have accepted the Administration's position that the bureau could deliver its required services at a lower cost by reducing issuing and paying agent fees, consolidating its facilities in Parkersburg, WV, cutting back on staff travel, streamlining procurement operations, and improving operating efficiency in all BPD programs.

Community Development Financial Institutions Fund: S. 3677 would provide $302 million in appropriations for CDFI in FY2011, or $56 million more than the amount enacted for FY2010 and $52 million more than the budget request. The committee recommended that $52 million be used for the Bank on USA program, which seeks to improve access to affordable financial services and consumer credit for households facing high fees for check-cashing services, difficult obstacles to saving and acquiring lines of credit, and an increased risk of being the victim of fraud and theft. It also specified that $25 million be used for the Healthy Food Financing Initiative; $7.5 million for qualified community development financial institutions to back additional loans of $2,500 or less; $12 million for grants, loans, and technical assistance and training programs for native American, Alaskan, and Hawaiian communities; and $25 million for the Bank Enterprise Award program.[27]

Internal Revenue Service: S. 3677 would provide $12.508 billion for the IRS in FY2011, or $362 million more than the amount enacted for FY2010 and $125 million less than the budget request. Of this recommended amount, $2.331 billion would be used for taxpayer services ($53 million above the FY2010 amount and $9.5 million above the budget request), $5.683 billion for enforcement ($779 million above the FY2010 amount and $675 million above the budget request), $4.088 for operations support ($4 million above the FY2010 amount but $20 million below the budget request), $387 million for the BSM program ($123 million above the FY2010 amount and the same as the budget request), and $19 million for the administration of the health insurance tax credit under the Trade Act of 2002 (P.L. 107-210) ($3.5 million above the FY2010 amount and the same as the budget request).

In its report on the bill, the committee stressed that its recommended increase in funding for the IRS is mainly intended to bolster the agency's resources and capabilities for reducing the federal tax gap and improving taxpayer compliance.[28] These objectives lay behind recommended increases in funding for taxpayer services, enforcement, operations support, and, most notably, the BSM program. In the committee's view, the FY2011 budget should enable the IRS to pursue multiple approaches to shrinking the tax gap, including expanded information reporting, improved taxpayer services, increased research on sources of non-compliance, a strengthened partnership among the IRS, tax preparers, and practitioners, and greater use of modernized information systems.

At the same time, with the same objectives in mind, the committee directed the IRS to provide it with detailed and timely information on planned re-organizations, job reductions, program

[26] Ibid., p. 21.

[27] Ibid., p. 23.

[28] Ibid., p. 25.

increases, and changes in enforcement activities. Of particular concern was planned cuts in taxpayer services. The committee made it clear that it would endorse planned reductions in such services, especially face-to-face assistance, only if they are consistent with the budget justification and the current Taxpayer Assistance Blueprint, and the IRS can demonstrate to the committee that the reductions would not adversely affect taxpayer compliance.

On the matter of funding for taxpayer services, the committee recommended matching the budget request and restoring the proposed $9.5 million reduction in combined spending on the TAS, LITC and VITA grants, and the TCE program. The report on S. 3677 specified that a minimum of $6.1 million should be set aside for the TCE program, a minimum of $10 million for LITC grants, a minimum of $14 million for VITA grants over two years, and a minimum of $213 million for the TAS.[29] The committee backed the Administration's proposal to increase the budget for taxpayer services by $46 million in order to channel $25 million into improving the IRS website and $21 million into improving the level of assistance available through the agency's toll-free telephone service. It also directed the IRS to identify in its FY2012 budget request any proposed increases in spending to implement the new health-care mandates under PPAC and submit annual updates to Congress of its Taxpayer Assistance Blueprint, focusing on changes to its existing strategic plan for taxpayer services.

On the matter of funding for enforcement activities, the committee expressed support for the IRS's current priorities in combating tax evasion and lowering the tax gap. These priorities include increased audits of high-income individuals and passthrough entities such as S corporations, and an intensified push to reduce offshore tax evasion by individuals and companies. In its report on S. 3677, the committee also directed the IRS to provide it with more details on the actual costs, revenues, and return on investment of new enforcement initiatives in the years after their implementation, and to undertake more frequent studies of and collect more frequent data on the nature and size of the tax gap, particularly the portion of the gap attributable to international transactions.[30] Section 105 of the bill would extend through FY2011 a provision in the law providing appropriations for the Treasury Department in FY2010 that bars the IRS from re-starting the private tax debt collection program it managed from early March 2006 through early March 2009.

On the matter of funding for operations support, S. 3677 would allow up to $75 million in recommended funding for information technology to remain available until the end of FY2012. The committee expressed concern about the IRS's management and oversight of its non-BSM information technology projects and said that it expected the agency to monitor those projects more carefully to ensure that they are properly classified and managed, subject to risk management and contingency plans in case of missed deadlines for "scheduled deliverables," and essential to the operations and needs of IRS business units.[31] What is more, the report on the bill urged IRS management to make sure that contracts for the projects contain adequate penalties and repayment clauses to address shortcomings in contractor performance, and that contractors have adequate staff to "fulfill the contract terms and deliverables." The committee also directed the IRS to include in its budget request for FY2012 a long-term funding plan within the operations support account to modernize its aging "legacy information technology infrastructure."

[29] Ibid., p. 27.

[30] Ibid., p. 31.

[31] Ibid., p. 32.

And on the matter of funding for the BSM program, the committee reiterated a long-held belief that the program should be considered the "IRS's highest management and administrative priority."[32] It also commended the agency for the progress that has been made in the program over the past few years. The replacement of the aging individual master file with a new CADE should allow for daily (rather than weekly) updating of individual taxpayer accounts, leading to better customer service, faster processing of refunds, and more effective tax law enforcement. Noting that the program is at a "critical juncture," the committee endorsed a proposal by the Administration to appropriate $152 million for the accelerated development of CADE 2, with the intent of making it available for the 2012 filing season. It also recommended that the following amounts be spent on certain other key elements of the program: $40 million for completion of CADE 1, $39 million for Modernized E-file, $38.5 million for Core Infrastructure, $37 million for Architecture, Integration, and Management, $10 million for Management Reserve, and $70 million for salaries and other labor costs.

House

On July 29, 2010, the House Appropriations Subcommittee on Financial Services and General Government approved a bill—which was never numbered—that would provide funding for FSGG agencies, including Treasury. In a public statement issued the same day, the chairman of the Subcommittee, Representative Jose E. Serrano, noted that the measure is intended to achieve five objectives, one of which relates to the Treasury accounts. That objective is to provide sufficient funding to allow for the "fair and effective collection of taxes." In his view, the bill fully funds new initiatives by the IRS to curb offshore tax evasion and avoidance and offers more funding than the request for improving taxpayer assistance through IRS's toll-free telephone service and through special programs for the elderly and low-income taxpayers. No further action was taken on the measure during the 111th Congress.

H.R. 1, a full-year continuing resolution (CR) passed by the House on February 19, 2011, would make sharp cuts in discretionary non-defense spending. Recommended appropriations for the Treasury Department reflect that intention. H.R. 1 would provide $12.344 billion in for FY2011, or $1.607 billion less than the amount approved by the Senate in S. 3677, $1.626 billion below the amount requested by the Obama Administration, and $1.121 billion below the amount enacted for FY2010. Funding for the IRS accounts for most of those differences. Under H.R. 1, the IRS would receive $11.544 billion in appropriated funds, or $964 million less than the amount approved by the Senate, $1.089 billion less than the amount requested by the Obama Administration, and $602 million less than the amount enacted for FY2010. Section 1516 of the bill would bar the IRS from using any appropriated funds to "implement or enforce any amendment made to section 6041 of the Internal Revenue Code" under the Patient Protection and Affordable Care Act (P.L. 111-148). In addition, H.R. 1 would sharply cut funding for the CDFI program and department-wide systems and capital investments.

[32] Ibid., p. 33.

Executive Office of the President and Funds Appropriated to the President[33]

The FSGG appropriations bill provides funding for all but three offices under the EOP.[34] **Table 4** shows the enacted amounts for FY2010, the Obama Administration's FY2011 request, the amounts passed by the House for FY2011, amounts recommended for FY2011 by the Senate Committee on Appropriations, and amounts enacted for FY2011 in H.R. 1473.

Table 4. Executive Office of the President and Funds Appropriated to the President, FY2010-FY2011

(in millions of dollars)

Office	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate	FY2011 Enacted
The White House (total)	$207.6	$210.1	$196.9	$210.1	$203.4
Compensation of the President	*0.5*	*0.5*	*0.5*	*0.5*	*0.5*
The White House Office (salaries and expenses)	*59.1*	*59.9*	*56.2*	*59.9*	*58.6*
Executive Residence, White House (operating expenses)	*13.8*	*14.0*	*13.1*	*14.0*	*13.7*
White House Repair and Restoration	*2.5*	*2.0*	*2.0*	*2.0*	*2.0*
Council of Economic Advisers	*4.2*	*4.4*	*4.4*	*4.4*	*4.2*
National Security Council and Homeland Security Council	*12.2*	*14.1*	*11.6*	*14.1*	*13.1*
Office of Administration	*115.3*	*115.3*	*109.5*	*115.3*	*111.3*
Office of Management and Budget	92.9	92.9	88.2	94.9	92.0
Government-wide Management Councils	17.0	20.0	17.0	17.0	0.0[a]
Federal Drug Control Programs (total)	428.0	401.4	360.3	443.8	407.0
Office of National Drug Control Policy	*29.6*	*26.2*	*24.9*	*29.0*	*27.1*
High Intensity Drug Trafficking Areas Program	*239.0*	*210.0*	*239.0*	*239.0*	*239.0*
Other Federal Drug Control Programs	*154.4*	*165.3*	*96.4*	*175.8*	*140.9*
Counterdrug Technology Assessment	*5.0*	*0.0*	*0.0*	*0.0*	*0.0*

[33] This section was written by Barbara Schwemle, Analyst in American National Government, Government and Finance Division.

[34] Of the three exceptions, the Council on Environmental Quality and the Office of Environmental Quality are funded in the House and Senate Interior, Environment, and Related Agencies Appropriations Act. The Office of Science and Technology Policy and the Office of the United States Trade Representative are funded in the House and Senate Commerce, Justice, Science, and Related Agencies Appropriations Act.

Office	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate	FY2011 Enacted
Center					
Unanticipated Needs	1.0	1.0	0.0	1.0	1.0
Partnership Fund for Program Integrity Innovation	37.5	0.0	0.0	0.0	0.0
Integrated, Efficient and Effective Uses of Information Technology	—	50.0	0.0	40.0	0.0
Special Assistance to the President (salaries and expenses)	4.6	4,7	4.4	4.7	4.6
Official Residence of the Vice President (operating expenses)	0.3	0.3	0.3	0.3	0.3
Total: EOP and Funds Appropriated to the President	**$ 771.9**	**$760.4**	**$632.6**	**$794.8**	**$708.3**

Sources: Consolidated Appropriations Act, 2010 (Div. C, P.L. 111-117), *FY2011 Budget, Appendix,* pp. 1145-1156 and 1267-1269; U.S. Executive Office of the President, *Fiscal Year 2011 Congressional Budget Submission* (Washington: February 2010); H.R. 1, as passed by the House; S.Rept. 111-238; H.R. 1473.

Notes: All figures are rounded, and columns also may not equal the total due to rounding. The total does not include the appropriation for the Government-wide Management Councils that involves a transfer of funds that are administered by the Administrator of General Services. The U.S. Executive Office of the President Congressional Budget Submission discusses the councils.

Section 1101of H.R. 1 would provide: "(a) Such amounts as may be necessary, at the level specified in subsection (c) and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2010, for projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise specifically provided for, and for which appropriations, funds, or other authority were made available ... [in] The Consolidated Appropriations Act, 2010 (Public Law 111–117). (c) The level referred to in subsection (a) shall be the amounts appropriated in the appropriations Acts referred to in such subsection, including transfers and obligation limitations ... ." Section 1109(a) of H.R. 1 would provide that "For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2010, ... the levels established ... shall be the amounts necessary to maintain program levels under current law and under the authority and conditions provided in the applicable appropriations Acts for fiscal year 2010." Sections 1518 through 1536 of H.R. 1 relate to the EOP and Funds Appropriated to the President and would provide that, notwithstanding Section 1101, the level of funding shall be ...".

H.R. 1 would provide that of the unobligated balances available, $5 million dollars would be rescinded from the Counterdrug Technology Assessment Center (Section 1521), $2 million would be rescinded from policy research and evaluation under the Office of National Drug Control Policy (Section 1527), and $10 million would be rescinded from the Partnership Fund for Program Integrity Innovation (Section 1533).

a. No funding was identified in text or the Congressional Budget Office score of H.R. 1473, and so no funds have been included for that account. The figures may change as more details become available.

President's Budget Request and Key Issues

The Administration's FY2011 budget requested an appropriation of more than $760.4 million for the EOP and funds appropriated to the President, a decrease of $11.5 million or 1.5% below the $771.9 million appropriated for FY2010. The budget requested the same appropriation as provided for FY2010 for the Office of Administration, the Office of Management and Budget (OMB), and the Unanticipated Needs accounts and increased or decreased appropriations for the following accounts:

- The White House Office (+$716,000 or +1.2%), the Executive Residence (+$168,000 or +1.2%), White House Repair and Restoration (-$495,000 or -19.8%), the Council of Economic Advisers (CEA, +$203,000 or +4.8%), and the National Security Council and Homeland Security Council (NSC/HSC, +$1.9 million or +15.6%).
- Special Assistance to the President (+$53,000 or +1.2%) and the Official Residence of the Vice President (+$5,000 or +1.5%).

The justification that accompanied the EOP's budget submission noted that $150,000 of the CEA's requested increase is to fund an additional economist and $1.7 million of the NSC/HSC requested increase is to fund the expanded mission of both councils as recommended by Presidential Study Directive-1, including new directorates and positions in areas such as Transborder Security, Information Sharing, Resilience Policy, Global Engagement, and Strategic Communications.[35]

The President's budget requested $50 million for a new account entitled Integrated, Efficient and Effective Uses of Information Technology (IEEUIT) to be appropriated to the EOP and administered by the OMB. As appropriate, the funds could be transferred by OMB to agencies to provide shared services. The account would serve "as a central Government fund to establish common hosting for central IT services, creating a set of common platforms for universal tasks." The IT services could include citizen engagement platforms, collaboration solutions, and accountability dashboards and are expected to "prevent billions of dollars in increased costs in the future."[36]

Federal Drug Control Programs

For the accounts under the Federal Drug Control Programs, the President's FY2011 budget requested an overall reduction in funding of -$26.5 million or -6.2%. The FY2011 budget justification states that the proposed reduction in funding "reflects a reprioritization of resources within the Federal Drug Control Program agencies." Appropriations would be reduced for all but one of the accounts as follows:

- Office of National Drug Control Policy (ONDCP, -$3.4 million or -11.4%).
- High Intensity Drug Trafficking Areas Program (HIDTAP, -$29 million or -12.2%). Of the total requested, not less than 51% could be transferred to State and local entities for drug control activities and be obligated within 120 days after the act's enactment and up to 49% of the total could be transferred to federal agencies and departments as determined by the ONDCP Director, including not more than $2.7 million for auditing services and associated activities. Each High Intensity Drug Trafficking Area (HIDTA) designated as of September 30, 2010, would be funded at not less than the FY2010 base level unless the Director submits to the House and Senate Committees on Appropriations justification for changes to those levels based on clearly articulated priorities and published ONDCP performance measures.

[35] U.S. Executive Office of the President, *Fiscal Year 2011 Congressional Budget Submission* (Washington: February 2010), pp. CEA-3 and NSC&HSC-4.

[36] Ibid., p. OMB-13.

- Other Federal Drug Control Programs (OFDCP, +$10.9 million or +7.1%). **Table 5**, below, shows the allocation of the funding for the OFDCP accounts.
- Counterdrug Technology Assessment Center (CTAC, no funding requested, a reduction of $5 million).

Table 5. Other Federal Drug Control Programs: FY2011 Appropriations for Accounts

(in millions of dollars)

Other Federal Drug Control Programs Account	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate	FY2011 Enacted
National media campaign	$45.0	$66.5	$0.0	$66.5	
Drug Free Communities Program	95.0	85.5	85.5	95.0	
National Drug Court Institute	1.0	0.95	0.0	1.0	
Anti-Doping Activities	10.0	9.0	9.0	10.0	
World Anti-Doping Agency dues	1.9	1.9	0.0	1.9	
National Alliance for Model State Drug Laws	1.3	1.2	0.0	1.2	
National Drug Control Program performance measures[a]	0.2	0.2	0.0	0.2	
Total	**$154.35**	**$165.30**	**$94.50**	**$175.80**	

Source: *FY2011 Budget, Appendix*, pp. 1267-1268 and S.Rept. 111-238.

Note: All figures are rounded, and columns also may not equal the total due to rounding.

a. Appropriation is for evaluations and research, and may be transferred to other federal departments and agencies.

Senate Action

The Senate Committee on Appropriations recommended funding at the levels requested by the President for each of the accounts, except for OMB, the federal drug control programs, and the initiative on Integrated, Efficient and Effective Uses of Information Technology.

The appropriation recommended for OMB ($94.9 million) is $2 million or 2.1% more than the President's request. The technology initiative is funded at $40 million, $10 million or 20% less than the budget proposal. Under the WHO account, $1.4 million is provided for the Office of National AIDS Policy. The report accompanying the Senate bill states that the committee does not oppose the proposed reorganization of the Homeland Security Council with the National Security Council and funds both councils in a new "National Security Council and Homeland Security Council" account.

The federal drug control accounts would be funded at the following levels compared to the President's request:

- ONDCP - $29 million; $2.8 million or 10.7% more. Administrative provisions require the ONDCP Director to provide Congress with a detailed financial plan prior to obligating any FY2011 funds (Section 202), allow for transfers of up to

2% among ONDCP programs (Section 203), and establish reprogramming requirements for ONDCP (Section 204).

- HIDTAP - $239 million; $29 million or 13.8% more.
- OFDCP - $175.8 million; $10.5 million or 6.3% more.

Among the directives included in the committee report for the EOP accounts are the following:

> The Committee directs the Administration to coordinate a Government-wide effort to develop and implement a domestic AIDS strategy, including the development of targets for improved prevention and treatment outcomes.
>
> The Committee expects officials employed in whole or in part by the Executive Office of the President, and designated by the President to coordinate policy agendas across executive departments and agencies, to keep Congress fully and currently informed of such activities. The Committee directs each official designated by the President to serve in a position not recognized by statute and who is responsible for interagency development or coordination of any rule, regulation, or policy to submit a semiannual report describing the activities of the official and the office of such official, including a detailed explanation of the development or issuance of any rule, regulation, directive or policy on which that official or the office of such official participated or assisted. The first such report shall be submitted not later than March 31, 2011.
>
> The Committee directs the Office of Administration to place a top priority on the implementation of comprehensive policies and procedures for the preservation of all records, including electronic records such as e-mails, videos, and social networking communication, consistent with the requirements of the Presidential Records Act, the Federal Records Act, and other pertinent laws. .... The Committee expects the Office of Administration to keep the Committee fully apprised of funding needs related to record preservation and retention.
>
> The Committee expects OMB to provide timely and complete responses to the Committee to all requests for information, including requests related to the budget request for OMB and the Executive Office of the President.
>
> The Committee directs OMB to submit a quarterly personnel census to the Committee specifying the number of full-time and part-time career staff and the number of full-time and part-time career Presidential appointees. The personnel census shall be arrayed by specific program activity and include specific detail for each OMB-wide support office, the number of Federal agency detailees, and the number of contractor staff.
>
> The Committee directs OMB to submit a written report to the Committee within 120 days of enactment specifying a plan to modernize the Federal Government's core budgeting system. .... The report shall specify a timeline and a detailed budget estimate for designing and implementing the modernized system as well as a description of enhanced capabilities.
>
> Pursuant to the presidential memorandum regarding disposal of unneeded Federal real estate, the Committee directs that OMB summarize the results, by agency, of the real property cost savings and innovation plans in a report due to the Committee not later than 45 days after enactment of this act.
>
> The Committee directs the Executive Office of the President to continue to include a budgetary justification for each [government-wide management] council in the annual

budget request and to clearly note in the budget justification any items requested in the budget for Government-wide initiatives led or coordinated through the councils.[37]

House Action

H.R. 1, as passed by the House, would provide appropriations for each of the accounts as follows:

- The White House Office: $56.2 million; almost $3.7 million (-6.1%) less than would be provided by S. 3677 and almost $3 million (-5%) less than the FY2010 enacted amount.
- Executive Residence, White House: $13.1 million; $860,000 (-6.1%) less than would be provided by S. 3677 and $692,000 (-5%) less than the FY2010 enacted amount.
- White House Repair and Restoration: $2.0 million; the same amount that would be provided by S. 3677 and $495,000 (-19.8%) less than the FY2010 enacted amount.
- Council of Economic Advisers: $4.0 million; $413,000 (-9.4%) less than would be provided by S. 3677 and $210,000 (-5%) less than the FY2010 enacted amount.
- National Security Council and Homeland Security Council: $11.6 million; more than $2.5 million (-17.8%) less than would be provided by S. 3677 and $612,000 (-5%) less than the FY2010 enacted amount.
- Office of Administration: $109.5 million; almost $5.8 million (-5%) less than would be provided by S. 3677 and than the FY2010 enacted amount.
- Office of Management and Budget: $88.2 million; more than $6.6 million (-7%) less than would be provided by S. 3677 and more than $4.6 million (-5%) less than the FY2010 enacted amount.
- Government-wide Management Councils: $17.0 million; the same amount that would be provided by S. 3677 and the FY2010 enacted amount.
- Unanticipated Needs: 0.0; $1 million (-100%) less than would be provided by S. 3677 and less than the FY2010 enacted amount.
- Partnership Fund for Program Integrity Innovation: 0.0; the same as would be provided by S. 3677 and $37.5 million (-100%) less than the FY2010 enacted amount.
- Integrated, Efficient and Effective Uses of Information Technology: 0.0; $40 million less than would be provided by S. 3677.
- Special Assistance to the President: $4.4 million; $283,000 (-6.1%) less than would be provided by S. 3677 and $230,000 (-5%) less than the FY2010 enacted amount.

[37] S.Rept. 111-238, pp. 37-42.

- Official Residence of the Vice President: $0.3 million; $21,000 (-6.3%) less than would be provided by S. 3677 and $16,000 (-4.8%) less than the FY2010 enacted amount.

H.R. 1 would fund the federal drug control accounts at the following levels:

- ONDCP: $24.9 million; more than $4.1 million (-14.2%) less than would be provided by S. 3677 and almost $4.7 million (-15.8%) less than the FY2010 enacted amount.
- HIDTAP: $239 million; the same as would be provided by S. 3677 and the FY2010 enacted amount.
- OFDCP : $96.4 million; $79.4 million (-45.2%) less than would be provided by S. 3677 and almost $58 million (-37.5%) less than the FY2010 enacted amount.

Sections 1535 and 1536 of H.R. 1 would, respectively, prohibit the use of appropriated funds for an Assistant to the President for Energy and Climate Change, or any substantially similar position; or for the Director of the Office of Health Care Reform, or any substantially similar position.

Under Section 4009 of H.R. 1, the use of appropriated funds to pay the salaries and expenses for the (1) Director, White House Office of Health Reform; (2) Assistant to the President for Energy and Climate Change; (3) Special Envoy for Climate Change; (4) Special Advisor for Green Jobs, Enterprise and Innovation, Council on Environmental Quality; (5) Senior Advisor to the Secretary of the Treasury assigned to the Presidential Task Force on the Auto Industry and Senior Counselor for Manufacturing Policy; (6) White House Director of Urban Affairs; (7) Special Envoy to oversee the Closure of the Detention Center at Guantanamo Bay; (8) Special Master for TARP Executive Compensation, Department of the Treasury; and (9) Associate General Counsel and Chief Diversity Officer, Federal Communications Commission would be prohibited.

Transfer Authority

The President's FY2011 budget proposed continuation of the provision that authorizes the transfer of up to 10% of appropriated funds among the accounts for the White House,[38] and the Special Assistance to the President (Vice President), and the Official Residence of the Vice President (transfers would be subject to the approval of the Vice President). The OMB Director (or such other officer as the President designates in writing) may, 15 days after notifying the House and Senate Committees on Appropriations, transfer up to 10% of any such appropriation to any other such appropriation. The transferred funds may be merged with, and available for, the same time and purposes as the appropriation receiving the funds. Such transfers may not increase an appropriation by more than 50%.[39] S. 3677, as reported, includes the provision at Section 201.

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[38] The accounts under the White House are Compensation of the President, the White House Office, including the Office of Policy Development, the Executive Residence at the White House, White House Repair and Restoration, the Council of Economic Advisers, the National Security Council, and the Office of Administration.

[39] Section 533, Title V, Division H of P.L. 108-447, the Consolidated Appropriations Act for FY2005, authorized transfers of up to 10% of FY2005 appropriated funds among the accounts for the White House Office, Office of Management and Budget, Office of National Drug Control Policy, the Special Assistance to the President (Vice President), and the Official Residence of the Vice President. For FY2006, Section 725 of P.L. 109-115, the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent (continued...)

The Judiciary[40]

As a co-equal branch of government, the judiciary presents its budget to the President, who transmits it to Congress unaltered. **Table 6** shows the enacted amounts for FY2010, the Obama Administration's FY2011 request, the amounts passed by the House for FY2011, the amounts recommended for FY2011 by the Senate Committee on Appropriations, and FY0211 enacted amounts from H.R. 1473.

Table 6. The Judiciary Appropriations, FY2010-FY2011

(in millions of dollars)

Budget Groupings and Accounts	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate	FY2011 Enacted
Total: Supreme Court	$88.6	$92.5	$82.2	$92.5	$82.1
Salaries and Expenses	*74.0*	*77.8*	*74.1*	*77.8*	*73.9*
Building and Grounds	*14.5*	*14.8*	*8.2*	*14.8*	*8.2*
U.S. Court of Appeals for the Federal Circuit	32.6	35.9	32.6	33.9	32.5
U.S. Court of International Trade	21.4	22.3	21.5	22.3	21.4
Courts of Appeals, District Courts, and Other Judicial Services (total)	6,508.7	6,954.9	6,363.1	6,867.7	$6,553.7
Salaries and Expenses	*5,011.0*	*5,309.8*	*4,860.6*	*5,240.1*	*5,004.22*
Court Security	*452.6*	*495.0*	*467.6*	*495.0*	*466.7*
Defender Services	*977.7*	*1,081.2*	*977.7*	*1,072.3*	*1,025.7*
Fees of Jurors and Commissioners	*61.9*	*64.1*	*52.4*	*55.6*	*52.3*
Vaccine Injury Compensation Trust Fund	*5.4*	*4.8*	*4.8*	*4.8*	*4.8*
Administrative Office of the U.S. Courts	83.1	87.3	82.6	87.3	82.9
Federal Judicial Center	27.3	28.7	27.1	28.7	27.3
United States Sentencing Commission	16.8	17.6	16.7	17.6	16.8
Judicial Retirement Funds	82.4	90.4	90.4	90.4	90.4
Total: The Judiciary	**$6,860.7**	**$7,329.5**	**$6,716.2**	**$7,240.4**	**$6,907.1**

(...continued)

Agencies Appropriations Act, 2006 authorized transfers of up to 10% among the accounts for the White House, the Special Assistance to the President (Vice President), and the Official Residence of the Vice President. Section 201 of P.L. 110-161, the Consolidated Appropriations Act for FY2008, Section 201 of P.L. 111-8, the Omnibus Appropriations Act for FY2009, and Section 201 of P.L. 111-117, the Consolidated Appropriations Act for FY2010, continued this practice.

[40] This section was written by Lorraine Tong, Analyst in American National Government, Government and Finance Division.

Sources: Consolidated Appropriations Act, 2010 (Division C, P.L. 111-117) for FY2010 budget authority data. For FY2011, budget authority data are from *The Judiciary Fiscal Year 2011 Congressional Budget Summary* (Washington: February 2010). FY2011 House data are from House-passed H.R. 1. FY2011 Senate committee data are from S.Rept. 111-238. FY2011 enacted are from H.R. 1473.

Notes: All figures are rounded. Columns also may not equal the total due to rounding. The FY2010 enacted figures do not include $10 million in emergency appropriations from P.L. 111-230, for border security and other purposes.

The Judiciary Budget and Key Issues

Appropriations for the judiciary—about two-tenths of 1% (0.2%) of the entire federal budget—are divided into budget groups and accounts. Two accounts that fund the Supreme Court (salaries and expenses of the Court and expenditures for the care of its building and grounds) together total about 1% of the total judiciary budget. The structural and mechanical care of the Supreme Court building, and care of its grounds, are the responsibility of the Architect of the Capitol. The rest of the judiciary's budget provides funding for the "lower" federal courts and related judicial services. The largest account, about 73% of the total budget—the Salaries and Expenses account for the U.S. Courts of Appeals, District Courts, and Other Judicial Services—covers the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the U.S. Court of Federal Claims, bankruptcy judges, magistrate judges, and other officers and employees of the federal judiciary not specifically provided for by other accounts. It also covers the necessary expenses of the courts. The remaining 26% of the judiciary budget is disbursed among these accounts: U.S. Court of Appeals for the Federal Circuit, U.S. Court of International Trade, Administrative Office of the U.S. Courts, Federal Judicial Center, U.S. Sentencing Commission, and Judicial Retirement Funds.

The judiciary budget does not fund three "special courts" in the U.S. court system: the U.S. Court of Appeals for the Armed Forces (funded in the Department of Defense appropriations bill), the U.S. Court of Appeals for Veterans Claims (funded in the Military Construction, Veterans Affairs, and Related Agencies appropriations bill), and the U.S. Tax Court (funded under Independent Agencies, Title V, of the FSGG bill). Federal courthouse construction is funded within the General Services account under Independent Agencies, Title V, of the FSGG bill.

The judiciary also uses non-appropriated funds to offset its appropriations requirement. The majority of these non-appropriated funds are from fee collections, primarily from court filing fees. These monies are used to offset expenses within the *Salaries and Expenses* account. In some instances, the judiciary also has funds which may carry forward from one year to the next. These funds are considered "unencumbered" because they result from savings from the judiciary's financial plan in areas where budgeted costs did not materialize. According to the judiciary, such savings are usually not under its control (e.g., the judiciary has no control over the confirmation rate of Article III judges and must make its best estimate on the needed funds to budget for judgeships, rent costs based on delivery dates, and technology funding for certain programs).

The judiciary also has "encumbered" funds—no-year authority funds for specific purposes, which are used when planned expenses are delayed, from one year to the next (e.g., costs associated with space delivery, and certain technology needs and projects).[41]

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[41] Administrative Office of the U.S. Courts, *The Judiciary Fiscal Year 2011 Congressional Budget Summary* (continued...)

Judge Julia S. Gibbons, chair of the Budget Committee of the Judicial Conference of the United States,[42] expressed the judiciary's recognition that the country had been experiencing very serious financial difficulties. In her March 18, 2010, written testimony submitted to the House Subcommittee on the judiciary's FY2011 budget request, Judge Gibbons stated that the FY2011 request reflected the lowest percentage increase requested in more than 20 years. Judge Gibbons noted that the President had requested increases in programs in some executive branch agencies (e.g., Department of Justice and Department of Homeland Security) that would have a direct impact on the judiciary's workload. She further emphasized that the courts were already feeling the impact of the deteriorating economy resulting in the significant rise in bankruptcy filings that have increased the workload of the bankruptcy courts.[43]

Cost Containment Initiatives

According to Judge Gibbons, the judiciary has adopted a comprehensive strategy since 2004 to contain costs and allow for more modest budget requests. Judge Gibbons noted that several steps "have reduced future costs for rent, information technology, compensation of court staff and law clerks, magistrate judges, law enforcement activities, law books, probation and pretrial services supervision work, and other areas."[44] Judge Gibbons identified several areas for further cost containment.

To control court space costs, the Judicial Conference at its September 2008 biannual meeting adopted a revised policy under which two senior district judges would share one courtroom in new courthouses.[45] The judiciary is also pursuing the development of a courtroom-sharing policy for magistrate judges, and studying the feasibility of courtroom-sharing for district judges in large courthouses as well as in bankruptcy courts. The judiciary has worked with the General Services Administration (GSA) to limit rent costs through a memorandum of agreement on rent calculation. Currently, the rent cap is established at 4.9% in annual rate of growth. According to Judge Gibbons, the projected FY2011 rent will be approximately $1.0 billion in FY2011, or 23% less than an earlier estimate (projected in FY2005) due in large part to cost containment efforts, including a national moratorium on courthouse construction from 2004 to 2006, and reducing office size for chambers and court staff.[46] Other initiatives include using information technology to consolidate computer servers around the country to increase efficiency and cost-effectiveness; further improve automation of electronic case filing and case management systems; and reducing personnel compensation costs.[47]

(...continued)

(Washington: February 2010), pp. 40-41. Hereafter cited as *Judiciary FY2011 Congressional Budget Summary*.

[42] The Judicial Conference of the United States is the principal policymaking body for the federal courts system. The Chief Justice is the presiding officer of the conference, which comprises the chief judges of the 13 courts of appeals, a district judge from each of the 12 geographic circuits, and the chief judge of the Court of International Trade.

[43] Statement of Honorable Julia S. Gibbons, Chair, Committee on the Budget of the Judicial Conference of the United States, U.S. House, Committee on Appropriations Subcommittee on Financial Services and General Government, March 18, 2010, p. 2. Hereafter cited as *Judge Gibbons' March 18, 2010, Statement*.

[44] *Judge Gibbons' March 18, 2010, Statement*, p. 5.

[45] Ibid., p. 7.

[46] Ibid., p. 6.

[47] Ibid., pp. 6-7.

Judicial Security[48]

The safe conduct of court proceedings and security of judges in courtrooms and off-site continue to be concerns. The 2005 Chicago murders of family members of a federal judge; the Atlanta killings of a state judge, a court reporter, and a sheriff's deputy at a courthouse; and the 2006 sniper shooting of a state judge in his Reno office spurred efforts to improve judicial security. In the 110th Congress (2007-2008), the President signed into law the Court Security Improvement Act of 2007 (P.L. 110-177), which was designed to enhance security for judges and court personnel as well as courtroom safety for the public. Legislation enacted in the 109th Congress (P.L. 109-13) included a provision that provided intrusion detection systems for judges in their homes. Threats against judges and the courts, however, have not abated. On January 4, 2010, a lone gunman wounded a deputy U.S. marshal and killed a court security officer at the Lloyd D. George U.S. Courthouse and Federal Building in Las Vegas.[49] The judiciary has been working closely with the U.S. Marshals (USMS) to review the incident to ensure that adequate protective policies, procedures, and practices are in place. USMS has primary responsibility for the protection and security of more than 2,000 sitting federal judges, as well as approximately 5,250 other court officials at over 400 court facilities in the United States and its territories. In FY2003, threats and inappropriate communications against USMS protectees numbered 592.[50] In FY2009, the threats and inappropriate communications increased to more than 1,300.[51]

The FY2011 budget request would reauthorize a pilot program for the USMS to assume responsibility for perimeter security at selected courthouses that were previously the responsibility of the Federal Protective Service (FPS). This pilot was authorized in FY2009 and FY2010 as a result of the judiciary's stated concerns that FPS was providing inadequate perimeter security. After the initial planning phase, USMS implemented the pilot program on January 5, 2009, and assumed primary responsibility for security functions at seven courthouses located in Chicago, Detroit, Phoenix, New York, Tucson, and two in Baton Rouge. The judiciary and USMS have been evaluating the program and identifying areas for improvement. The judiciary reimburses USMS for these services.

Increased court security enhancements may be necessary in the event that more suspects charged with terrorism are tried in federal courts rather than military tribunals.[52]

Workload and Southwest Border Issues

Judge Gibbons, in her March 18, 2010, written testimony submitted to the House Appropriations Subcommittee on Financial Services and General Government, stated that the federal judiciary

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48 For an analysis of court security and federal building security in general, see CRS Report R41138, *Federal Building, Courthouse, and Facility Security*, by Lorraine H. Tong and Shawn Reese.

49 Steve Friess, "Two Killed in Las Vegas Courthouse," *New York Times*, January 4, 2010, available at http://www.nytimes.com/2010/01/05/us/05vegas.html.

50 In addition to U.S. Supreme Court Justices and other federal judges, USMS may also protect Tax Court judges, U.S. deputy attorney general, director of the U.S. Office of National Drug Control Policy, U.S. attorneys and assistant U.S. attorneys, federal public defenders, clerk of courts, probation officers, pre-trial services officers, U.S. trustees, jurors, witnesses, and USMS employees. For more details about the USMS's judicial security responsibilities, see http://www.usmarshals.gov/judicial/index.html.

51 Based on information from USMS, available at http://www.usmarshals.gov/judicial/index.html.

52 *Judge Gibbons' March 18, 2010, Statement*, p. 4.

does not determine the workload of the courts but must handle the cases that are brought before the courts. Judge Gibbons said, “Our workload is increasing, nearly across the board, and if Congress approves the President’s requests for the Department of Homeland Security and the Department of Justice, and bankruptcy filings remain high, our workload will grow.” She noted that bankruptcy filings increased 29% in 2008, 35% in 2009, and another 20% increase is expected in 2010, which would increase filings to nearly 1.6 million.[53] In addition to this anticipated increase, the judiciary based its budget and staffing request for FY2011 on the projected 2010 caseload in the following categories: criminal (+3%), probation (+3%), pretrial services (+2%), and civil (+6%). However, appellate filings are projected to decrease (-5%), due in part to changes in federal sentencing guidelines.[54]

On June 3, 2010, the Judicial Conference of the United States made a request[55] to then-Director Peter Orszag of the Office of Management and Budget (OMB) to transmit to the House its request for $40 million to be included in an emergency supplemental appropriations bill. The Judicial Conference expressed its concern about the ability of federal courts to handle the anticipated growth in caseload associated with the Administration’s request for $700 million for thousands of border patrol agents; officers and investigators; as well as several hundred additional attorneys and Federal Bureau of Investigations (FBI), Drug Enforcement Administration (DEA), and Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) agents to address criminal activity along the southwest border. According to the judiciary, OMB did not transmit its $40 million request for additional magistrate judges, probation and pretrial services officers, clerks’ office staff, fees of jurors, attorneys for indigent defendants, court security, and related expenses necessary to process the additional criminal case.

On July 29, 2010, the Senate Appropriations Committee reported S. 3677, the FY2011 FSGG appropriations bill. Committee report language contained $40 million that the Judicial Conference had requested for additional magistrate judges, probation and pretrial services officers, clerk’s office staff, fees of jurors, attorneys for indigent defendants, court security, and related expenses to enable the application of resources in a timely fashion to address the additional workload needs of the courts to address the immigration and law enforcement initiatives on the southwest border.[56]

In August 2010, Congress passed H.R. 6080,[57] legislation making FY2010 emergency supplemental appropriations for border security, to provide $600 million to enhance southwest

[53] Ibid., p 3.

[54] Ibid., pp. 8, 10.

[55] Letter from James C. Duff, Secretary, Judicial Conference of the United States, to Director Peter Orszag, Director, Office of Management and Budget, June 3, 2010.

[56] S.Rept. 111-238, pp. 54-55.

[57] The legislation would appropriate funds related to activities along the southwest border to the U.S. Customs and Border Protection for salaries and expenses related to staffing, construction of up to two border patrol forward operating bases along the border, and border security fencing, infrastructure, and technology along the southwest border. Prior to the passage of H.R. 6080, there were earlier versions of the emergency border security supplemental bill. On July 27, 2010, Representative David E. Price introduced H.R. 5875, the Emergency Border Security Supplemental Appropriations Act, 2010, which the House passed on July 28, 2010, under suspension of the rules by voice vote. On August 5, 2010, Senator Charles E. Schumer introduced S. 3721, a similar border security bill which, among other things, included the $10 million for the judiciary. The bill was referred to the Senate Appropriations Committee. On the same day, the Senate by unanimous consent passed H.R. 5875 with an amendment in the nature of a substitute (which, among other things, included $10 million for the judiciary). As the Constitution requires revenue measures originate in the House, and the bill contained revenue-raising off-sets, the House then introduced and passed (continued...)

border security.[58] H.R. 6080 also contained $10 million (to remain available until September 30, 2011) to assist the federal courts along the border with the expected increased workload. The president signed the bill into law (P.L. 111-230) on August 13, 2010.

Judgeships

Since the enactment of an omnibus judgeship bill in 1990 (P.L. 101-650), according to the Judicial Conference, the number of appellate judgeships has remained at 179 whereas appellate court case filings have increased by 42% over the past 19 years. During this same time period, Congress enacted legislation that increased the number of district judgeships by 4% (from 645 to 674) whereas district court case filings increased by 34%.

At its biannual meeting on March 17, 2009, the Judicial Conference of the United States voted to ask Congress to create 63 new federal judgeships: 12 in the courts of appeals (9 permanent and 3 temporary), and 51 in the district courts (38 permanent and 13 temporary).[59] The conference made a similar request in the 110th Congress. Subsequent legislation was introduced in both the House and Senate to address this request, but no final action was taken before the 110th Congress adjourned.

On September 8, 2009, Senator Patrick J. Leahy introduced (for himself and Senators Dianne Feinstein, Charles E. Schumer, Sheldon Whitehouse, Amy Klobuchar, Edward E. Kaufman, Al Franken, Tom Harkin, Jeff Bingaman, Patty Murray, Sherrod Brown, Evan Bayh, Michael Bennet, Barbara Boxer, Jeanne Shaheen, Daniel K. Inouye, John F. Kerry, and Daniel K. Akaka) S. 1653, the Federal Judgeship Act of 2009, to authorize the establishment of additional federal circuit and district judges to help reduce backlogs in the nation's caseload. The bill would authorize the appointment of 63 permanent and temporary judgeships across the country, including 12 circuit judgeships. S. 1653 was referred to the Senate Judiciary Committee where it is pending. Representative Hank Johnson introduced (for himself and Representatives John Conyers, Silvestre Reyes, Sheila Jackson-Lee, and Robert Wexler), a companion bill, H.R. 3662, Federal Judgeship Act of 2009, on September 29, 2009. The bill was referred to the House Judiciary Committee where it is pending.

Several other bills (with more limited scope) have been introduced to create or extend temporary judgeships. Among them were S. 193, S. 1727, H.R. 191, H.R. 314, H.R. 349, H.R. 1272, H.R. 2961, H.R. 3161, H.R. 4089, and H.R. 4506.

Judicial Pay

Another issue of continuing interest is the judiciary's advocacy for raising judicial pay. Chief Justice John G. Roberts, Jr. reaffirmed his support for significant increases in judicial salaries in his *2008 Year-End Report on the Federal Judiciary*. Chief Justice Roberts maintained that the

(...continued)

a new bill, H.R. 6080 (identical to the Senate-passed version of H.R. 5875) under suspension of the rules by voice vote on August 10, 2010. The Senate subsequently passed H.R. 6080 by unanimous consent on August 12, 2010.

[58] For more information on southwest border issues, see CRS Report R41075, *Southwest Border Violence: Issues in Identifying and Measuring Spillover Violence*, coordinated by Kristin M. Finklea.

[59] See http://www.uscourts.gov/Press_Releases/2009/recommendations.pdf for a list of the Conference's judgeship recommendations.

salary of judges had not kept pace with inflation over the years and led judges to leave the bench in increasing numbers. However, the judicial pay issue was not mentioned in the Chief Justice's *2009 Year-End Report on the Federal Judiciary.*

During the 110th Congress, legislation was introduced in both the House and Senate to substantially increase judicial salaries, but no final action was taken on the bills before Congress adjourned.[60] However, federal judges received a salary adjustment in 2009.

Near the end of the first session of the 111th Congress on November 3, 2009, Senator Dianne Feinstein introduced (for herself and Senators Orrin Hatch, Patrick Leahy, and Lindsey Graham) S. 2725, the Federal Judicial Fairness Act of 2009. The bill would repeal existing law requiring that salary increases for federal judges and Supreme Court Justices be specifically authorized by acts of Congress, and would apply the same automatic annual cost-of-living adjustment to judicial salaries as takes effect under the General Schedule for civilian federal employees. Although the Senate Appropriations Committee recommended a 2010 salary adjustment for Justices and judges under Section 307 (S.Rept. 111-43),[61] the enacted FY2010 legislation (P.L. 111-117) did not provide for the salary adjustment.

In the FY2011 request, the judiciary proposed that federal judges receive the same automatic cost-of-living adjustments that Members of Congress are authorized to receive (Section 307).

House Budget Hearings

On March 18, 2010, the House Appropriations Subcommittee on Financial Services and General Government held a hearing on the FY2011 judiciary budget request. The subcommittee heard testimony from Judge Gibbons, and James C. Duff, director of the Administrative Office of the U.S. Courts (AOUSC). Among issues raised at the hearing were the dramatic increase in bankruptcy filing, educational assistance the judiciary has been providing citizens considering bankruptcy, compensation for public defenders, security and crime along the southwest border, judicial security, rent paid to GSA, judicial workload, and initiatives to contain judicial spending. The hearing also addressed the unresolved venue of high threat trials, the possible role of the federal courts in trying individuals charged with terrorism, and the various costs, security, and other considerations associated with such trials.[62]

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[60] On June 15, 2007, Senator Patrick Leahy introduced S. 1638, the "Federal Judicial Salary Restoration Act of 2008," that, before markup, would have provided a 50% pay adjustment for justices and judges. Representative John Conyers Jr., chairman of the House Judiciary Committee, introduced a companion bill, H.R. 3753, "Federal Judicial Salary Restoration Act of 2007," on October 4, 2007. The House bill, before markup, would have provided for a 41.3% pay adjustment. As amended in markup, and ordered to be reported by the respective committees, S. 1638 and H.R. 3753, would authorized pay increases of 28.7% to 28.8% respectively. On November 14, 2007, Senator Richard J. Durbin introduced S. 2353, the Fair Judicial Compensation Act of 2007, to authorize a 16.5% increase in the annual salaries of the Chief Justice of the United States, Associate Justices of the Supreme Court, courts of appeals judges, district court judges, and judges of the United States Court of International Trade, and to increase fees for bankruptcy trustees. S. 2353 was referred to the Senate Judiciary Committee. No further action was taken on any of these bills.

[61] For further details about these bills and judicial pay issues, see CRS Report RS20388, *Salary Linkage: Members of Congress and Certain Federal Executive and Judicial Officials*, by Barbara L. Schwemle, and CRS Report RL33245, *Legislative, Executive, and Judicial Officials: Process for Adjusting Pay and Current Salaries*, by Barbara L. Schwemle.

[62] U.S. Congress, House Appropriations Subcommittee on Financial Services and General Government, President Obama's Fiscal 2011 Budget Request for the Federal Judiciary, hearing, 111th Cong., 2nd sess., March 18, 2010, *Congressional Quarterly* transcript of the hearing, available by subscription at http://www.cq.com/display.do?dockey=/ (continued...)

On April 15, 2010, Supreme Court Justices Clarence Thomas and Stephen G. Breyer appeared before the subcommittee to give testimony on the FY2011 Supreme Court budget request. Among the issues raised at the hearing were the Supreme Court Building Modernization Project, funding to provide staff and resources to enhance security, features of the Court's redesigned public website, caseload trends over the years, minority clerk hiring efforts, and possible television coverage of Supreme Court proceedings.[63]

FY2011 Request[64]

For FY2011, the judiciary requested $7.33 billion in total appropriations, an increase of $469 million (6.8%) over the $6.86 billion appropriated in FY2010. Approximately 82% of the increase was requested to cover pay adjustments, benefits, inflation, and to maintain current services. The FY2011 request included funding for an additional 1,137 full-time-equivalent (FTE) positions to meet increased workload requirements. The increase would be 3.3% in the number of FTEs above the 34,663 FTEs funded in 2010.[65]

The following summarizes the FY2010 enacted amount, the FY2011 judiciary budget request, the House passed amounts for FY2011, and the FY2011 Senate Appropriations Committee recommendation by account.

Supreme Court

The total FY2011 request for the Supreme Court was $92.5 million contained in two accounts: (1) Salaries and Expenses: $77.8 million was requested, a $3.7 million (5.0%) increase over the $74.0 million enacted for FY2010; and (2) Care of the Building and Grounds: $14.8 was requested, a 0.2 million (1.8%) over the $14.5 million enacted for FY2010. The total budget FY2011 request was $4.0 million (4.5%) increase over the FY2010 appropriation of $88.6 million. The request included pay and benefits increases to maintain FY2010 services, and 12 additional police officers and associated costs (e.g., training) to enhance the Court's security to staff new posts needed after completion of the Supreme Court Building Modernization Project. The House-passed amount for FY2011 was $74.1 million for the Salaries and Expenses account, and $8.2 million for the Care of Building and Grounds account for a total of $82.2 million. The Senate Appropriations Committee recommended the full amount requested for both accounts.

(...continued)

cqonline/prod/data/docs/html/transcripts/congressional/111/congressionaltranscripts111-000003618552.html@committees&metapub=CQ-CONGTRANSCRIPTS&searchIndex=0&seqNum=62.

[63] U.S. Congress, House Appropriations Subcommittee on Financial Services and General Government, President Obama's Fiscal 2011 Budget Request for the Supreme Court, hearing, 111th Cong., 2nd sess., April 15, 2010, *Congressional Quarterly* transcript of the hearing, available by subscription at http://www.cq.com/display.do?dockey=/cqonline/prod/data/docs/html/transcripts/congressional/111/congressionaltranscripts111-000003642813.html@committees&metapub=CQ-CONGTRANSCRIPTS&searchIndex=0&seqNum=23.

[64] U.S. Administrative Office of the U.S. Courts, *The Judiciary Fiscal Year 2010 Congressional Budget Justification* (Washington: February 2010).

[65] *The Judiciary Fiscal Year 2010 Congressional Budget Summary*, p. 5.

U.S. Court of Appeals for the Federal Circuit

This court, consisting of 12 judges, has jurisdiction and reviews, among other things, certain lower court rulings on patents and trademarks, international trade, and federal claims cases. The FY2011 budget request was $35.9 million, a $3.3 million (10.1%) increase over the FY2010 appropriation of $32.6 million. The House-passed amount for FY2011 was $32.6 million. The Senate Appropriations Committee recommended $33.9 million for this account.

U.S. Court of International Trade

This court has exclusive jurisdiction nationwide over the civil actions against the United States, its agencies and officers, and certain civil actions brought by the United States arising out of import transactions and the administration as well as enforcement of federal customs and international trade laws. The FY2011 request was $22.3 million, a $0.9 million (4.3%) increase over the FY2010 appropriation of $21.4 million. The budget request would pay for standard pay and other inflationary adjustments, and to maintain current services. The House-passed amount for FY2011was $21.5 million. The Senate Appropriations Committee recommended $22.3 million for this account.

Courts of Appeals, District Courts, and Other Judicial Services

The FY2011 funding request for this budget group covers 12 of the 13 courts of appeals and 94 district judicial courts located in the 50 states, District of Columbia, Commonwealth of Puerto Rico, territories of Guam and the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands. The appropriations requested for this budget group comprises about 90% of the judiciary budget for salaries and expenses, court security, defender services, and fees of jurors and commissioners which fund most of the day-to-day activities and operations of the circuit and district courts. The FY2011 request was $6.95 billion, a $446 million (6.9%) increase over the FY2010 appropriation of $6.51 billion. The House-passed amount for FY2011 was $6.36 billion. The Senate Appropriations Committee recommended $6.87 billion for this budget group.

The total of this budget group comprised the following accounts:

Salaries and Expenses

The FY2011 request for this account was $5.31 billion, an increase of $299 million (5.9%) over the FY2010 level of $5.01 billion. According to the budget request, this increase is needed primarily for inflationary and other adjustments to maintain the courts' current services. Of this total, 33% was for court support personnel salaries; 21% for judges and chambers staff salaries and benefits; 17% for rent; 11% for court support personnel benefits; 10% for operations and maintenance; and 7% for information technology. The House-passed amount for FY2011 was $4.86 billion. The Senate Appropriations Committee recommended $5.24 billion for this account.

Vaccine Injury Compensation Trust Fund

Established to address a perceived crisis in vaccine tort liability claims, the Vaccine Injury Compensation Program funds a federal no-fault program that protects the availability of vaccines in the nation by diverting substantial number of claims from the tort arena. The FY2011 request for the Trust Fund account was $4.8 million, a $0.6 million (12.5%) decrease from the FY2010 appropriation of $5.4.million. The decrease is due to a one-time cost in tenant alterations resulting from relocation to new space. The House passed the full amount requested for FY2011. The Senate Appropriations Committee also recommended the full amount requested for this account.

Court Security

This account provides for protective guard services, security systems, and equipment needs in courthouses and other federal facilities to ensure the safety of judicial officers, employees, and visitors. Under this account, the majority of funding for court security is transferred to the U.S. Marshals Service to pay for court security officers under the Judicial Facility Security Program. The request would fund salary adjustments and inflationary increases to maintain current services. The FY2011 request was $495.0 million, a $42.4 million (9.4%) increase over the FY2010 appropriation of $452.6 million. The request included 30 additional court security officers for anticipated new and renovated existing space, changes in operating expenses based on anticipated billings from the Federal Protective Service, and improvements, and enhancements to security systems and equipment. The House-passed amount for FY2011 was $467.6 million. The Senate Appropriations Committee recommended the full amount requested for this account.

Defender Services

This account funds the operations of the federal public defender and community defender organizations, and compensation, reimbursements, and expenses of private practice panel attorneys appointed by federal courts to serve as defense counsel to indigent individuals. The FY2011 request for these services was $1.08 billion, a $103 million (10.6%) increase over the FY2010 appropriation of $978 million. The request includes additional 59 FTE positions to handle increased and complex caseloads. The request also raises non-capital panel attorneys' hourly rates from $125 to $141 per hour. The House-passed amount for FY2011 was $977.7 million. The Senate Appropriations Committee recommended $1.07 billion for this account.

Fees of Jurors and Commissioners

This account funds the fees and allowances provided to grand and petit jurors, and compensation for jury and land commissioners. The FY2011 request was $64.1 million, a $2.2 million (3.6%) increase over the FY2010 appropriation of $61.9 million. The requested increase would be primarily for adjustments to allow payment for statutory fees and expenses. The House-passed amount for FY2011 was $52.4 million. The Senate Appropriations Committee recommended $55.6 million for this account.

Administrative Office of the U.S. Courts

As the central support entity for the judiciary, the AOUSC provides a wide range of administrative, management, program, and information technology services to the U.S. courts. AOUSC also provides support to the Judicial Conference of the United States, and implements conference policies and applicable federal statutes and regulations. The FY2011 request for AOUSC was $87.3 million, a $4.1 million (5.0%) increase over the FY2010 appropriation of $83.1 million. The request would fund adjustments to its base, and maintain current services, including recurring costs such as travel, communications, service agreements, and supplies. Four new positions (two FTEs) were requested for a six-month period to address high priority court support functions. AOUSC also receives non-appropriated funds from fee collections and carry-over balances to supplement its appropriations requirements. The House-passed amount for FY2011 was $82.6 million. The Senate Appropriations Committee recommended the full amount requested for this account.

Federal Judicial Center

As the judiciary's research and education entity, the Federal Judicial Center undertakes research and evaluation of judicial operations for the Judicial Conference committees and the courts. In addition, the center provides judges, court staff, and others with orientation and continuing education and training. The center's FY2011 request was $28.7 million, a $1.4 million (5.0%) increase over the FY2010 appropriation of $27.3 million. The request would cover standard pay and other inflationary adjustments, the hiring of two FTEs, and enhanced education and training initiatives. The House-passed amount for FY2011 was $27.1 million. The Senate Appropriations Committee recommended the full amount requested for this account.

United States Sentencing Commission

The commission promulgates sentencing policies, practices, and guidelines for the federal criminal justice system. The FY2011 request was $17.6 million, an $0.8 million (4.5%) increase over the FY2010 appropriation of $16.8 million. The increase would cover pay and other inflationary adjustments. The House-passed amount for FY2011 was $16.7 million. The Senate Appropriations Committee recommended the full amount requested for this account.

Judiciary Retirement Funds

This mandatory account provides for three trust funds that finance payments to retired bankruptcy and magistrate judges, retired Court of Federal Claims judges, and the spouses and dependent children of deceased judicial officers. The FY2011 request was $90.4 million, an $8.0 million (9.7%) increase over the FY2010 appropriation of $82.4 million. The House-passed amount for FY2011 was $90.4 million. The Senate Appropriations Committee also recommended the full amount requested for this account.

General Provision Changes

According to the FY2011 budget request submission, the judiciary proposed the following new language under general provisions:

- Section 307, which would allow federal judges to receive the same automatic annual cost-of-living adjustments (currently authorized under Title 28, section 461) that Members of Congress are authorized to receive.

The following proposed provisions were reauthorizations and extensions:

- Section 305, which would continue to give the judiciary the same tenant alteration authorities as the executive branch to contract directly for space alteration projects not exceeding $100,000 without having to go through GSA.

- Section 306, which would reauthorize the pilot program for the USMS to provide perimeter security at selected primary courthouses for FY2011.

The judiciary proposed deletion of a provision (Section 307 under the Consolidated Appropriations Act, 2010) that extended temporary judgeships in the District of Kansas, the Northern District of Ohio, and the District of Hawaii because the judiciary expressed its hope that a judgeship bill would be enacted in FY2010.

The Senate Appropriations Committee recommended the following provisions:

- Section 301, which would allow the judiciary to expend funds for the employment of experts and consultative services.
- Section 302, which would allow the judiciary, subject to the committee's reprogramming procedures, to transfer up to 5% between appropriations, but limits to 10% the amount that may be transferred into any one appropriation.
- Section 303, which would limit official reception and representation expenses incurred by the Judicial Conference of the United States to no more than $11,000.
- Section 304, which would require the Administrative Office to submit an annual financial plan for the judiciary within 90 days of enactment of this act.
- The committee also recommended Sections 305 and 306, as requested by the judiciary (see above).

The House-passed bill contained a provision, Section 1546, which extended a temporary judgeship in the District of Kansas for a year.

District of Columbia[66]

The authority for congressional review and approval of the District of Columbia's budget is derived from the Constitution and the District of Columbia Self-Government and Government Reorganization Act of 1973 (Home Rule Act).[67] The Constitution gives Congress the power to "exercise exclusive Legislation in all Cases whatsoever" pertaining to the District of Columbia. In 1973, Congress granted the city limited home rule authority and empowered citizens of the District to elect a mayor and city council. However, Congress retained the authority to review and approve all District laws, including the District's annual budget. As required by the Home Rule Act, the city council must approve a budget within 56 days after receiving a budget proposal from the mayor.[68] The approved budget must then be transmitted to the President, who forwards it to Congress for its review, modification, and approval.[69]

On April 1, 2010, the mayor of the District of Columbia submitted a proposed $10.4 billion general operating fund budget, including enterprise funds, to the District of Columbia Council.

[66] This section was written by Eugene Boyd, Analyst in American National Government, Government and Finance Division, and Erin Lomax, Analyst in Education Policy, Domestic Social Policy Division.

[67] See Article I, Sec. 8, clause 17 of the U.S. Constitution and Section 446 of P.L. 93-198, 87 Stat. 801.

[68] 120 Stat. 2028.

[69] 87 Stat. 801.

Also, on April 1, 2010, the mayor forwarded to the council for its approval a proposed plan intended to address a projected $230 million budget shortfall for FY2010.[70]

Both the President and Congress may propose financial assistance to the District in the form of special federal payments in support of specific activities or priorities. **Table 7** shows details of the District's special federal payments, including the FY2010 enacted amounts, the amounts included in the President's FY2011 budget request, the amounts provided under H.R. 1 for FY2011, amounts recommended by the Senate Appropriations Committee for FY2011, and amounts enacted for FY2011 in H.R. 1473.

Table 7. District of Columbia Appropriations, FY2010-FY2011: Special Federal Payment

(in millions of dollars)

	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate	FY2011 Enacted
Resident Tuition Support	$35.1	$35.1	$35.1	$35.1	$35.1
Emergency Planning and Security	15.0	15.0	15.0	15.0	15.0
District of Columbia Courts	261.2	247.4	235.7	258.4	243.4
Defender Services	55.0	55.0	55.0	55.0	55.0
Court Services and Offender Supervision Agency	212.4	217.8	212.4	217.8	212.4
Public Defender Service	37.3	40.7	37.3	40.7	37.3
Criminal Justice Coordinating Council	2.0	1.8	1.8	1.8	1.8
Judicial Commissions	0.5	0.5	0.5	0.5	0.5
St. Elizabeth Hospital Campus	0.0	2.0	0.0	2.0	0.0
HIV/AIDS Prevention	0.0	5.0	0.0	3.0	0.0
Water and Sewer Authority	20.0	25.0	10.0	25.0	11.5
Office of the Chief Financial Officer	1.9	0.0	0.0	1.0	0.0
Living Classrooms	*0.1*	*0.0*	*0.0*	*0.0*	*0.0*
Nat. Building Museum	*0.15*	*0.0*	*0.0*	*0.0*	*0.0*
Samaritan Ministry	*0.1*	*0.0*	*0.0*	*0.0*	*0.0*
Washington Center	*0.13*	*0.0*	*0.0*	*0.0*	*0.0*
Wash. Hosp. Center	*0.05*	*0.0*	*0.0*	*0.0*	*0.0*
Whitman-Walker Clinic	*0.1*	*0.0*	*0.0*	*0.0*	*0.0*
Children's National Medical	*1.0*	*0.0*	*0.0*	*1.0*	*0.0*

70 Government of the District of Columbia, Executive Office of the Mayor, *FY2010 Proposed Gap-Closing Plan* , Washington., DC, April 1, 2010, p. 3, http://grc.dc.gov/grc/lib/grc/budget/fy2010_mayor_proposed_gap-closing_plan.pdf.

	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate	FY2011 Enacted
Center					
Safe Kids	*0.12*	*0.0*	*0.0*	*0.0*	*0.0*
School Improvement	75.4	52.4	60.0	52.4	77.7
Public Schools	*42.2*	*23.0*	*24.5*	*23.0*	*42.2*
Public Charter Schools	*20.0*	*20.0*	*20.0*	*20.0*	*20.0*
Education Vouchers	*13.2*	*9.4*	*15.5*	*9.4*	*15.5*
Jump Start Public School Reform	0.0	20.0	0.0	20.0	0.0
Consolidated Laboratory Facility	15.0	0.0	0.0	0.0	0.0
D.C. National Guard	0.4	2.0	0.4	1.4	0.4
Perm. Supportive Housing	17.0	10.0	10.0	10.0	10.0
Disconnected Youth	4.0	0.0	0.0	0.0	0.0
Total: Special Federal Payments	**$752.2**	**$729.7**	**$673.2**	**$739.0**	**$700.1**

Sources: FY2010 Enacted, figures are taken from the H.Rept. 111-202 accompanying H.R. 3170, the Financial Services and General Government Appropriations Act, FY2010. FY2011 budget request figures are taken from U.S. Government Budget Appendix Fiscal Year 2011. Senate figures are taken from S.Rept. 111-238. FY2011 enacted are from H.R. 1473.

Note: All figures are rounded, and columns also may not equal the total due to rounding.

The District of Columbia Budget and General Provisions

The President's Budget Request

On February 1, 2010, the Obama Administration released its detailed budget requests for FY2011. The Administration's proposed budget requested $729.7 million in special federal payments to the District of Columbia. Approximately three-quarters ($563.2 million) of this budget request would be targeted to the courts and criminal justice system. The President's budget also requested $89.4 million in support of education, including $52.4 million to support elementary and secondary education, $2 million for a National Guard retention and college access program, and $35.1 million for college tuition assistance. This comprises 12% of the Administration's budget request. The President's total budget request of $729.7 million represents a 3% decrease from the FY2010 appropriations of $752.2 million.

District's Budget

On April 1, 2010, the mayor of the District of Columbia submitted a proposed budget to the District of Columbia Council. The mayor proposed a general fund operating budget of $8.9 billion, and an additional $1.5 billion in proposed enterprise fund spending. After its review, the council revised and approved the District's budget on May 26, 2010, and forwarded it to the mayor for his signature.

In addition, the mayor submitted for the council's review a revised plan intended to close a projected $230 million budget shortfall for FY2010. Much of the funding gap was caused by the decline in revenue projections related to the current economic recession and reported spending pressures[71] according to February 19, 2010, testimony of the District's Deputy Chief Financial Officer.[72] This included $35 million in revenue shortfalls, $185 million in overspending, and $10 million in repayment to the District's reserve fund. The mayor's plan addresses the projected shortfall by a combination of debt restructuring, spending controls, and revenue enhancements (increased taxes and fees).[73]

Senate Bill

The Senate bill includes approximately $743 million in special federal payments to the District of Columbia. It recommends approval of the District of Columbia operating budget of $10.3 billion as submitted to Congress on July 1, 2010. The Senate bill continues provisions prohibiting the use of federal funds for needle exchange, medical marijuana, and restricting the use of federal funds for abortions except in instances of incest, rape, or a threat to the woman's health.

H.R. 1

H.R. 1, which passed the House on February 19, 2011, includes $673.2 million in special federal payments to the District of Columbia. This is $79 million less than appropriated in FY2010, $57 million less than requested by the President, and $67 million less than the amount recommended by the Senate. The bill would reduce federal support for court operations by $25 million below the amount appropriated for FY2010. It would continue to support education initiatives in the District, including school vouchers, but at a level $15 million less than the amount appropriated for FY2010. The bill would reduce federal support for public schools by $19 million while increasing support for private school vouchers by $2.3 million. The bill also recommends $10 million for a homeless initiative, which is $7 million less than appropriated in FY2010. The bill recommends approval of the District of Columbia operating budget of $10.3 million at a rate established by the District of Columbia's Fiscal Year 2011 Budget Request Act (D.C. Act 18-448)

Independent Agencies

In FY2011 a collection of more than two dozen independent entities are slated to receive funding through the FSGG appropriations bill. **Table 8** lists FSGG appropriations as enacted for FY2010, as requested by the President for FY2011, as approved by the House for FY2011, amounts recommended by the Senate Committee on Appropriations for FY2011, and enacted amounts for FY2011 in H.R. 1473.

[71] During his testimony the Deputy Chief Financial Officer defined spending pressure as the potential overspending of an agency's appropriations, if corrective action is not taken.

[72] Government of the District of Columbia, Office of the Chief Financial Officer, Testimony of Gordon McDonald, Deputy Chief Financial Officer, before the Committee of the Whole, Council of the District of Columbia, Washington, D.C., February 19, 2010, http://newsroom.dc.gov/file.aspx/release/19280/021910%20DCFO%20Testimony%20-%20%20FY%202010%20Spending%20Pressures.pdf.

[73] Ibid. p. 3.

Table 8. Independent Agencies Appropriations, FY2010-FY2011

(in millions of dollars)

Agency	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate	FY2011 Enacted
Administrative Conference of the United States	$2	$3	$2	$3	$3
Christopher Columbus Fellowship Foundation	1	0	1	1	1
Commodity Futures Trading Commission[a]	169	261	112	286	203
Consumer Product Safety Commission	118	119	115	119	115
Election Assistance Commission	93	17	15	17	16
Federal Communications Commission[b]	0	1	0	0	0
Federal Deposit Insurance Corporation: Office of Inspector General (by transfer)[c]	38	48	43	48	43
Federal Election Commission	67	69	66	71	67
Federal Labor Relations Authority	25	26	26	26	25
Federal Trade Commission[b]	169	199	172	197	175
General Services Administration	653	675	-1,142[d]	647	-985
Harry S. Truman Scholarship Foundation	1	0	1	1	1
Merit Systems Protection Board	43	44	42	44	40
Morris K. Udall Foundation	6	6	5	7	7
National Archives and Records Administration	457	446	411	433	418
National Credit Union Administration	1	2	1	2	1
Office of Government Ethics	14	14	14	14	14
Office of Personnel Management (total)	20,378	20,834	20,828	20,836	20,831
Salaries and Expenses	*103*	*96*	*101*	*96*	*98*
Government Payments for Annuitants, Employee Health Benefits	*9,814*	*10,467*	*10,467*	*10,467*	*10,467*
Government Payments for Annuitants, Employee Life Insurance	*48*	*50*	*50*	*50*	*50*
Payment to Civil Service Retirement and Disability Fund	*10,276*	*10,076*	*10,076*	*10,076*	*10,076*
Office of Special Counsel	18	19	18	19	18
Postal Regulatory Commission	14	14	14	14	14
Privacy and Civil Liberties Oversight Board	2	2	1	2	1
Securities and Exchange Commission[e]	1,095	1,258	1,070	1,300	1,185
Selective Service System	24	25	24	25	24

Agency	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate	FY2011 Enacted
Small Business Administration	824	994	740	1,103	731
United States Postal Service	363	348	348	348	345
United States Tax Court	49	52	52	55	52
Total: Independent Agencies	**$24,585**	**$25,430**	**$22,932**	**$25,571**	**$23,301**

Sources: Consolidated Appropriations Act, FY2010 (Div. C, P.L. 111-117), Appendix, Budget of the U.S. Government, FY2011, H.Rept. 111-181, S.Rept. 111-238, and H.R. 1473.

Notes: All figures are rounded, and columns also may not equal the total due to rounding.

a. The CFTC is funded in the House through the Agriculture appropriations bill and in the Senate through the Financial Services and General Government bill. FY2011 Request includes $45 million in funds contingent on financial reform legislation.

b. Amount represents only direct appropriations and does not include fees collected that are also used to fund agency activities.

c. Budget authority transferred to FDIC is not included in total FSGG appropriations; it is counted as part of the budget authority in the appropriation account from which it came.

d. Amount represents only direct appropriations proposed for the following operating accounts: Government-wide Policy, Operating Expenses, Office of the Inspector General, Electronic Government Fund, Allowances and Office Staff for Former Presidents, and Federal Citizens Information Center Fund. Accounts in the Federal Building Fund (FBF) would receive new budget authority (BA), under H.R. 1, but this BA is not included because rental income to the FBF would exceed new BA. When rental income paid into the FBF is less than new BA, the difference is added to the direct appropriation for operating accounts to equal total appropriations for GSA.

e. Amounts listed in **Table 8** for the SEC include fees collected by the agency. This is not consistent with the treatment of fees for the FCC and the FTC, but it follows the source documents. FY2011 request also includes $24 million in funds contingent on financial reform legislation.

Commodities Futures Trading Commission[74]

The Commodities Futures Trading Commission (CFTC) is the independent regulatory agency charged with oversight of derivatives markets. The CFTC's functions include oversight of trading on the futures exchanges, registration and supervision of futures industry personnel, prevention of fraud and price manipulation, and investor protection. Although most futures trading is now related to financial variables (interest rates, currency prices, and stock indexes), congressional oversight remains vested in the agriculture committees because of the market's historical origins as an adjunct to agricultural trade. Appropriations for the CFTC are under the jurisdiction of the Agriculture Subcommittee in the House, and the Financial Services and General Government (FSGG) Subcommittee in the Senate. In the Consolidated Appropriations Act, 2008, the CFTC was funded in Division A, Agriculture and Related Agencies. In the Omnibus Appropriations Act, 2009, the CFTC was funded in Division A, Financial Services and General Government. For FY2010, CFTC was provided $169 million through the Agriculture appropriations division of P.L. 111-80. For FY2011, the President has requested $261million, including $45 million in contingent funding tied to enactment of financial regulatory reform. The Senate Committee on Appropriations has recommended $286 million, which is $117 million more than FY2010 enacted amounts and $25 million more than the President requested. The committee wrote that it

[74] This section was written by Mark Jickling, Specialist in Financial Economics, Government and Finance Division.

"supports the need for significantly increased resources for the CFTC to ensure appropriate oversight of the futures markets."[75] H.R. 1 would provide $112 million for the CFTC, which is $57 million less than FY2010 enacted levels, $149 million below the President's request, and $174 million less than the amount approved by the Senate Appropriations Committee.

Consumer Product Safety Commission[76]

The Consumer Product Safety Commission (CPSC) is an independent federal regulatory agency whose primary responsibilities include protecting the public against unreasonable risks of injury associated with consumer products; developing uniform safety standards for consumer products and minimizing conflicting state and local regulations; and promoting research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries.

For FY2011, the Administration has requested, and the Senate Committee on Appropriations has recommended, $119 million in funding for the CPSC. H.R. 1 would provide $115 million. The relatively small increase comes after several years of quite substantial growth in CPSC funding. As recently as FY2007, the largest appropriation CPSC ever received (in nominal dollars) was $62.3 million. In fiscal years 2008 through 2010, appropriators provided significantly increased funding for the agency to support major reforms initiated by passage of the Consumer Product Safety Improvement Act of 2008 (CPSIA). The 110th Congress enacted the CPSIA largely in response to a series of highly publicized recalls of imported products, particularly unsafe toys and other items manufactured for children.

Election Assistance Commission[77]

The Election Assistance Commission (EAC) was established under the Help America Vote Act of 2002 (HAVA; P.L. 107-252). The commission provides grant funding to the states to meet the requirements of the act and election reform programs, provides for testing and certification of voting machines, studies election issues, and promulgates voluntary guidelines for voting systems standards and issues voluntary guidance with respect to the act's requirements. The commission was not given express rule-making authority under HAVA, although the law transferred responsibilities for the National Voter Registration Act (NVRA; P.L. 103-31) from the Federal Election Commission to the EAC; these responsibilities include NVRA rule-making authority. The Department of Justice is charged with enforcement responsibility.

For FY2011, the President's budget request includes $16.8 million for the EAC, of which $3.25 million is to be transferred to the National Institute of Standards and Technology (NIST). It includes Election Assistance Commission "election reform grants" among programs to be terminated, and therefore provides no funding for requirements payments, research and pilot program grants, the Help America Vote Act college program (to recruit pollworkers), and the high school mock election program. As justification, it points out that about $1 billion in EAC payments to states remains unspent and claims that states have accrued significant interest on

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[75] S.Rept. 111-238, p. 81.

[76] This section was written by Garrett Hatch, Analyst in American National Government, Government and Finance Division.

[77] This section was written by Kevin Coleman, Analyst in American National Government, Government and Finance Division.

previously appropriated payments. (It also includes $5.26 million for protection and advocacy programs and $12.15 million for accessibility payments administered by the Department of Health and Human Services.) The Senate Appropriations Committee, in its report to accompany S. 3677 (S.Rept. 111-238), recommends $16.8 million for the EAC, of which $3.25 million must be transferred to NIST. These amounts are the same as the budget request. The committee recommends no additional funding for election reform programs, also consistent with the budget request. H.R. 1 would provide $15.0 million for the EAC—about $2 million less than requested by the President and approved by the Senate Appropriations Committee—with $2.3 million to be transferred to NIST.

For FY2010, the President's budget request included $16.5 million for the EAC and $106 million for requirements payments to the states and other election reform programs. The proposed Financial Services and General Appropriations Act, 2010 (H.R. 3170), which passed the House on July 20, 2009, called for $17.9 million for the EAC, of which $3.5 million would have been transferred to NIST for election reform activities, $750,000 would have been for the Help America Vote College Program, and $300,000 would have been for a competitive grant program to support student and parent mock elections. That amount was $1.4 million more than the budget request. The bill also would have provided $100 million for requirements payments to the states, $4 million for research grants to support voting technology improvements, and $2 million to continue a pilot program to provide grants to states and localities for pre-election logic and accuracy testing and post-election voting systems verification. The Senate companion bill (S. 1432) called for $16.5 million for the EAC, of which $3.3 million would have been transferred to NIST, and for $52 million that would have been for requirements payments to the states.

The conference report to H.R. 3288 (H.Rept. 111-366) included $17.9 million for the EAC, of which $3.5 million was to be transferred to NIST, $750,000 was for the Help America Vote College Program, and $300,000 was for a competitive grant program to support student and parent mock elections. It also included $75 million for election reform programs, with $70 million of that amount for requirements payments, $3 million for research grants to improve voting technology with respect to disability access, and $2 million for grants to states and localities for voting system logic and accuracy testing.

Federal Communications Commission[78]

The Federal Communications Commission (FCC), created in 1934, is an independent agency charged with regulating interstate and international communications by radio, television, wire, satellite, and cable. The FCC is also charged with promoting the safety of life and property through wire and radio communications. The mandate of the FCC under the Communications Act is to make available to all people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communications service. The FCC performs five major functions to fulfill this charge: spectrum allocation, creating rules to promote fair competition and protect consumers where required by market conditions, authorization of service, enhancement of public safety and homeland security, and enforcement. The FCC obtains the majority—and sometimes all—of its funding through the collection of regulatory fees pursuant to Title I, Section 9, of the Communications Act of 1934; therefore, its direct appropriation is considerably less than its overall budget; sometimes, there is no direct appropriation.

[78] This section was written by Patricia Moloney Figliola, Specialist in Internet and Telecommunications Policy, Resources, Science, and Industry Division.

For FY2011, FCC is requesting a budget of $352.5 million with all but $1 million to be collected through assessment of regulatory fees. The requested budget includes funding to (1) support the commission's cyber-security role; (2) implement the National Broadband Plan; (3) overhaul the commission's data systems and processes; and (4) modernize and reform the FCC. The Senate Committee on Appropriations recommends $355.5 million for the FCC for FY2011, with all of it to be collected through regulatory fees. H.R. 1 did not specify funding levels for the FCC, so the agency would receive the FY2010 rate of $336.0 million, with all of it to be collected through regulatory fees.

Federal Deposit Insurance Corporation: Office of the Inspector General[79]

The FDIC's Office of the Inspector General is funded from deposit insurance funds; the OIG has no direct support from federal taxpayers. Before FY1998, the amount was approved by the FDIC Board of Directors; the amount is now directly appropriated (through a transfer) to ensure the independence of the OIG.

The Consolidated Appropriations Act for FY2010 (P.L. 111-117) provided for a FY2010 budget of $37.9 million. The President requested $47.9 million for FY2011, an increase of 26% from the FY2010 appropriation. The Senate Committee on Appropriations recommended $47.9 million for FY2011, and H.R. 1 would provide $42.9 million.

Federal Election Commission[80]

The FEC administers, and enforces civil compliance with, the Federal Election Campaign Act (FECA) and campaign finance regulations. The agency does so through educational outreach, rulemaking, and litigation, and by issuing advisory opinions.[81] The FEC also administers the presidential public financing system.[82] In recent years, FEC appropriations have generally been noncontroversial and subject to limited debate in committee or on the House and Senate floors.[83]

For FY2011, the President requested $68.8 million for the FEC (of which no more than $5,000 is to be for "reception and representation," language that has long been included in FEC appropriations provisions). The President's budget submission does not discuss the FEC request in detail, but the commission's budget justification document, submitted concurrently to the Office of Management and Budget and Congress, notes the agency's heavy reliance on information technology.[84] In 2009, the commission initiated an effort to improve its website to provide greater public access to campaign finance data. In addition to supporting those continuing efforts, requested appropriations would fund hardware and software upgrades. The budget request

[79] This section was written by Pauline Smale, former Economic Analyst, Government and Finance Division.

[80] This section was written by Sam Garrett, Analyst in American National Government, Government and Finance Division.

[81] FECA is 2 U.S.C. §431 et seq. The FEC can refer criminal cases to the Justice Department.

[82] The Treasury Department and IRS also have administrative responsibilities for presidential public financing. However, Congress does not appropriate funds for the program. For additional discussion, see CRS Report RL34534, *Public Financing of Presidential Campaigns: Overview and Analysis*, by R. Sam Garrett.

[83] For additional discussion of current campaign finance issues, see CRS Report R40091, *Campaign Finance: Potential Legislative and Policy Issues for the 111th Congress*, by R. Sam Garrett.

[84] Federal Election Commission, *FY2011 Congressional Budget Justification*, Washington, DC, February 1, 2010, pp. 6-7, http://www.fec.gov/pages/budget/fy2011/FY_2011_CJ_2_1_10_final.pdf.

would also fund personnel salaries and benefits, which are typically a major component of the agency's budget.[85]

The Senate Appropriations Committee recommended an FY2011 appropriation of $70.8 million, $2 million more than the President's requested amount. The committee noted that the additional funds, if appropriated, should be used to support additional technology and personnel expenses.[86] H.R. 1 would provide $65.8 million, about $3 million less than requested by the President and $4 million less than the amount recommended by the Senate Appropriations Committee.

Federal Trade Commission[87]

The Federal Trade Commission (FTC) is an independent agency. Its mission is to protect consumers and enhance competition by eliminating unfair or deceptive acts or practices in the marketing of goods and services and by ensuring that consumer markets function competitively.

The Administration has requested a total budget authority of $314 million for the FTC for FY2011. More specifically, it has recommended $96 million would be derived from Hart-Scott-Rodino pre-merger filing fees, $19 million from Do-Not-Call fees, and the remaining amount—$199 million—would be provided by a direct appropriation. The Senate Committee on Appropriations has recommended new budget authority of $314 million for the FTC, with $96 million to come from filing fees, $21 million to come from Do-Not-Call fees, and the remaining $197 million to be provided by a direct appropriation. H.R. 1 would provide the FTC with $289 million in new budget authority, $172 million of which would be provided through direct appropriations and $117 million through fees.

P.L. 111-117 provided the FTC with $291.7 million for FY2010, of which $110 million will come from pre-merger filing fees, $19 million from Do-Not-Call fees, and $162.7 from a direct appropriation.

General Services Administration[88]

The General Services Administration (GSA) administers federal civilian procurement policies pertaining to the construction and management of federal buildings, disposal of real and personal property, and management of federal property and records. It is also responsible for managing the funding and facilities for former Presidents and presidential transitions.

GSA's real property activities are funded through the Federal Buildings Fund (FBF). The FBF is a revolving fund, into which rental payments from federal agencies that lease GSA space are deposited. Revenue in the fund is then made available by Congress each year to pay for specific activities: construction or purchase of new space, repairs and alterations to existing space, rental

[85] Ibid., pp. 8-9.

[86] U.S. Congress, Senate Committee on Appropriations, *Financial Services and General Government Appropriations Bill, 2011*, report to accompany S. 3677, 111th Cong., 2nd sess., July 29, 2010, Report 111-238 (Washington: GPO, 2010), p. 86.

[87] This section was written by Garrett Hatch, Analyst in American National Government, Government and Finance Division.

[88] This section was written by Garrett Hatch, Analyst in American National Government, Government and Finance Division.

payments for space that GSA leases, installment payments, and other building operations expenses. These amounts are referred to as "limitations" because GSA may not obligate more funds from the FBF than permitted by Congress, regardless of how much revenue is available for obligation. Certain debts may also be paid for with FBF funds. A negative total for the FBF occurs when the amount of funds made available for expenditure in a fiscal year is less than the amount of new revenue expected to be deposited. A negative total does not mean that no funds are available from the FBF, only that there is a net gain to the fund under the proposed spending levels.

GSA's operating accounts are funded through direct appropriations, separate from the FBF. The total amount of funding for GSA is calculated by adding the amount of FBF funds made available to the amount of direct appropriations provided. **Table 9** shows GSA appropriations as enacted for FY2010, as requested by the President for FY2011, as approved by the House for FY2011, amounts recommended by the Senate Committee on Appropriations for FY2011, and amounts enacted for FY2011 in H.R. 1473.

Table 9.General Services Administration Appropriations, FY2010-FY2011

(in millions of dollars)

Account	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate	FY2011 Enacted
Federal Buildings Fund	**$387**	**$354**	**-$1,372**	**$359**	**-$1,202**
Limitations on Availability of Revenue	8,544	9,154	7,428	9,158	7,598
Construction and Acquisition	*894*	*676*	*0*	*768*	*82*
Repairs and Alterations	*414*	*703*	*280*	*716*	*280*
Installment Payments	*141*	*136*	*141*	*136*	*136*
Rental of Space	*4,805*	*5,292*	*4,805*	*5,217*	*4,830*
Building Operations	*2,290*	*2,346*	*2,202*	*2,321*	*2,270*
Repayment of Debt	66	71	71	71	71
Rental Income to Fund	-8,223	-8,871	-8,871	-8,871	-8,871
Rescission	**0**	**0**	**0**	**0**	**-$25**
Operating Accounts	**$263**	**$317**	**$226**	**$285**	**$242**
Government-wide Policy	60	85	59	78	67
Operating Expenses	73	72	71	72	70
Office of Inspector General	59	63	59	61	59
e-Government Fund	34	35	2	20	8
Acquisition Workforce Fund	—	25	0	17	0
Federal Citizens Info. Center	37	37	35	37	34
Former Presidents	4	4	4	4	4
Grand Total	**$653**	**$675**	**-$1,142**	**$648**	**-985**

Sources: S.Rept. 111-238, H.R. 1., and H.R. 1473.

Note: Figures in columns may not equal totals due to rounding.

The President proposed a limit of $9.154 billion from the FBF's available revenue for GSA's real property activities in FY2011, $610 million more than was provided in FY2010. The Senate Appropriations Committee approved a nearly identical limitation—$9.158 billion. H.R. 1 would make $7.428 billion in FBF revenue available to GSA, $1.116 billion less than provided in FY2010 and $1.726 billion less than the President proposed for FY2011. The President proposed $317 million for GSA's operating accounts, an increase of $54 million from FY2010 enacted levels. The Senate Appropriations Committee approved $285 million for GSA's operating accounts, $22 million more than FY2010 but $32 million less than the President requested. Under H.R. 1, GSA would receive $226 million for its operating accounts, $37 million less than FY2010 enacted levels, $91 million below the amount requested by the President, and $59 million below the amount approved by the Senate Appropriations Committee.

Electronic Government Fund[89]

Originally unveiled in advance of the President's proposed budget for FY2002, the Electronic Government Fund (E-Government Fund) and its appropriation have been a somewhat contentious matter between the President and Congress. The E-Government Fund was created to support interagency e-government initiatives approved by the Director of OMB.[90] The fund and the projects it sustains historically have been subject to close scrutiny by, and accountability to, congressional appropriators. The President's initial $20 million request for FY2002 was cut to $5 million, which was the amount provided for FY2003, as well. Funding thereafter was held at $3 million for FY2004, FY2005, FY2006, FY2007, and FY2008. In FY2009, President George W. Bush requested $5 million for the E-Government Fund. Congress, however, provided no appropriation to the E-Government Fund in FY2009.[91]

For FY2010, President Obama requested $33 million—$28 million more than former President Bush's FY2009 request, and $33 million more than the Omnibus Appropriations Act, 2009, which did not appropriate any funding to the E-Government Fund.

House appropriators recommended the same funding level as requested by President Obama for FY2010. In accompanying report language, House appropriators recommended that GSA "submit a detailed expenditure plan prior to obligation of funds under [the E-Government Fund] account.

[89] This section was written by Wendy Ginsberg, Analyst in American National Government, Government and Finance Division.

[90] Pursuant to 44 U.S.C. § 3604, the E-Government Fund projects "may include efforts to make Federal Government information and services more readily available to members of the public (including individuals, businesses, grantees, and State and local governments); make it easier for the public to apply for benefits, receive services, pursue business opportunities, submit information, and otherwise conduct transactions with the Federal Government; and enable Federal agencies to take advantage of information technology in sharing information and conducting transactions with each other and with State and local governments."

[91] The E-Gov Fund, in previous years, was not spending its full appropriation. For FY2009, therefore, House appropriators recommended no additional funding for the account, and Senate appropriators recommended $1 million for the fund. The consolidated continuing appropriations act temporarily returned the E-Gov Fund to a $3 million appropriation for FY2009. The omnibus budget, however, eliminated all FY2009 E-Gov Fund appropriations. The E-Gov Fund received no FY2009 appropriations.

The plan should describe projects selected, and the budget, timeline, objectives and expected benefits for each project."[92]

Senate appropriators recommended $35 million for the E-Government Fund, $2 million more than both the President and House appropriators. In detailed report language, the Senate appropriators included the following:

> The Committee strongly supports the activities of the Federal [Chief Information Officer] Council related to "cloud computing" and encourage the council to continue to assess and address the escalating costs, inefficiencies, and stove-piping related to the management of Federal data.[93]

P.L. 111-117 provided $34 million for the E-Government Fund for FY2010, splitting the difference between the House and Senate recommendations.[94] The appropriation was $1 million more than was requested by President Obama and recommended by the House. The conference report did not include Senate language that recommended funds be directed toward particular projects. The law did, however, include language similar to the House recommendation that allowed funds to "be transferred to other Federal agencies … but only after a spending plan and explanation for each project has been submitted to the Committees on Appropriations."[95]

President Obama's FY2011 budget request included $35 million for the E-Government Fund and "support of interagency electronic government or E-Gov initiatives, i.e., projects that will use the Internet or other electronic methods to provide individuals, businesses, and other government agencies with simpler and more timely access to Federal information, benefits, services, and business opportunities."[96] The budget appendix said the funding would be used to "further the Administration's implementation of the Government Paperwork Elimination Act (GPEA) of 1998, which calls upon agencies to provide the public with optional use and acceptance of electronic information, service, and signatures, when practicable."[97] The President's FY2011 recommendation also included language similar to that placed in P.L. 111-117, which prohibited the transfer of any funding to specific agency projects "until 10 days after a proposed spending plan and explanation for each project to be undertaken has been submitted to the Committees on Appropriations of the House of Representatives and the Senate."[98]

Senate appropriators recommended $20 million for the FY2011 E-Government Fund, $14 million less than was appropriated in 2010 and $15 million less than the President requested for 2011.[99] In report language, Senate appropriators said they were

> supportive of the concepts contemplated in the e-gov account … namely, moving agencies to cloud-computing through pilots and development of shared services, improving [f]ederal IT efficiency and effectiveness through an efficient [f]ederal workforce, and improving

92 H.Rept. 111-202, p. 72.

93 S.Rept. 111-43, p. 95.

94 Ibid. p. 919.

95 Ibid.

96 The Office of Management and Budget, *The Budget for FY2011: Appendix*, Washington , DC, February 2010, p. 1166, http://www.whitehouse.gov/omb/budget/fy2011/assets/appendix.pdf.

97 Ibid.

98 Ibid.

99 S.Rept. 111-238, p. 96.

> Government-public interactions through improving transparency and participation. However, due to funding constraints as well as lack of detail and clearly defined information regarding spending requests, the Committee reduces funding for the E-Gov programs.[100]

The report language also stated the appropriation committee's concern "that the electronic government initiative does not provide sufficient guidance regarding consolidation of [f]ederal agency data centers into data facilities with multiple [f]ederal tenants." The report requests that GSA report back to the committee, within 120 days of enactment of the appropriations legislation, on the "feasibility" of such a consolidation.

H.R. 1 would appropriate $2 million to the Electronic Government Fund in FY2011, which is $18 million less than the Senate recommendation and $33 million less than President Obama's request.[101]

Independent Agencies Related to Personnel Management

The FSGG appropriations bill includes funding for four agencies with personnel management functions: the Federal Labor Relations Authority (FLRA), the Merit Systems Protection Board (MSPB), the Office of Personnel Management (OPM), and the Office of Special Counsel (OSC). **Table 10** shows appropriations as enacted for FY2010, amounts requested by the President for FY2011, amounts passed by the House for FY2011, and amounts recommended by the Senate Appropriations Committee for FY2011, for each of these agencies.

Table 10.Independent Agencies Related to Personnel Management Appropriations, FY2010-FY2011

(in millions of dollars)

Agency	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate	FY2011 Enacted
Federal Labor Relations Authority	$24.8	$26.0	$24.5	$26.0	
Merit Systems Protection Board (total)	42.9	44.2	41.6	44.2	
Salaries and Expenses	*40.3*	*41.6*	*39.0*	*41.6*	
Limitation on Administrative Expenses	2.6	2.6	2.6	2.6	
Office of Personnel Management (total)	20,378.1	20,833.7	20,828.4	20,836.4	
Salaries and Expenses	*103.0*	*96.4*	*101.3*	*96.4*	
Limitation on Administrative Expenses	*112.7*	*121.7*	*111.0*	*121.7*	
Office of Inspector General (salaries and expenses)	*3.1*	*2.1*	*2.1*	*3.3*	
Office of Inspector General (limitation on administrative	*21.2*	*20.4*	*20.4*	*21.9*	

[100] Ibid., p. 97.

[101] H.R. 1, Sec. 1561, p. 237.

Agency	FY2010 Enacted	FY2011 Request	FY2011 House	FY2011 Senate	FY2011 Enacted
expenses)					
Government Payments for Annuitants, Employee Health Benefits[a]	*9,814.0*	*10,467.0*	*10,467.0*	*10,467.0*	
Government Payments for Annuitants, Employee Life Insurance[a]	*48.0*	*50.0*	*50.0*	*50.0*	
Payment to Civil Service Retirement and Disability Fund[a]	*10,276.0*	*10,076.0*	*10,076.0*	*10,076.0*	
Office of Special Counsel	$18.5	$19.5	$18.3	$19.5	

Sources: Consolidated Appropriations Act, FY2010 (Div. C, P.L. 111-117), and *FY2011 Budget*, *Appendix*, pp. 1272, 1284-1285, 1187-1190, and 1311, and S.Rept. 111-238.

Note: All figures are rounded, and columns also may not equal the total due to rounding.

a. The annual appropriations act provides "such sums as may be necessary" for the health benefits, life insurance, and retirement accounts. The Office of Personnel Management's *Congressional Budget Justification* for FY2011 states the FY2011 amounts for these accounts as $10,118.0 million (health benefits), $48 million (life insurance), and $10,468.0 million (retirement) at pp. 143-145. The *FY2011 Budget Appendix*, at pp. 1189-1190, states the same amounts as the budget justification, except for $10,550.0 million (retirement). S.Rept. 111-238, at p. 171, states the amounts as requested by the President and recommended by the committee as the same: $10,467.0 million (health benefits), $50 million (life insurance), and $10,076.0 million (retirement) and these are the amounts that are shown in the table.

Federal Labor Relations Authority[102]

The FLRA is an independent federal agency that administers and enforces Title VII of the Civil Service Reform Act of 1978. Title VII gives federal employees the right to join or form a union and to bargain collectively over the terms and conditions of employment. Employees also have the right not to join a union that represents employees in their bargaining unit. The statute excludes specific agencies (e.g., the Federal Bureau of Investigation and the Central Intelligence Agency) and gives the President the authority to exclude other agencies for reasons of national security.

The FLRA consists of a three-member authority, the Office of General Counsel, and the Federal Services Impasses Panel (FSIP). The authority resolves disputes over the composition of bargaining units, charges of unfair labor practices, objections to representation elections, and other matters. The General Counsel's office conducts representation elections, investigates charges of unfair labor practices, and manages the FLRA's regional offices. The FSIP resolves labor negotiation impasses between federal agencies and labor organizations.

The President's FY2011 budget proposed an appropriation of $26.0 million for the FLRA, about $1.2 million or 5.0% above the agency's FY2010 appropriation of $24.8 million. The agency's full-time equivalent (FTE) employment level is estimated to be 146 for FY2011, 5 more than the estimated FTE level of 141 for FY2010.

[102] This section was written by Gerald Mayer, Analyst in Public Finance, Domestic Social Policy Division and Barbara L. Schwemle, Analyst in American National Government, Government and Finance Division.

S. 3677, as reported, recommended the same funding as the President requested. The report accompanying the bill states that the committee is pleased with FLRA's efforts to reduce the case backlog and its planned initiative for electronic filing of public records.

H.R. 1 would provide the FLRA with $24.5 million in funding for FY2011, which is $0.3 million less than the FY2010 appropriation and $1.5 million less than provided in S. 3677 and requested by the President.

Merit Systems Protection Board[103]

The President's budget requested an FY2011 appropriation of $44.2 million, including $41.6 million for Merit Systems Protection Board (MSPB) salaries and expenses, an amount that is almost $1.3 million or 3.2% above the FY2010 funding for salaries and expenses ($40.3 million). The agency's FTE employment level is estimated to be 211 for FY2011, the same as that estimated for FY2010.

Unlike previous submissions in the Budget Appendix document prior to FY2010, MSPB's request for FY2011 did not include data on the actual number of decisions made and the projected number of decisions anticipated to be made by the agency. MSPB's authorization expired on September 30, 2007.[104] The 110th Congress considered, but did not act upon, legislation (S. 2057, H.R. 3551) that would have reauthorized the MSPB for three years and enhanced the agency's reporting requirements. Legislation to reauthorize the agency was not introduced in the 111th Congress.

S. 3677, as reported, recommended the same funding as the President requested.

H.R. 1, as passed by the House, would provide an appropriation of $41.6 million that is more than $2.6 million (-5.9%) less than would be provided by S. 3677 and more than $1.3 million (-3.1%) less than the FY2010 enacted amount.

Office of Personnel Management[105]

The President's budget requested an FY2011 appropriation of $20.833 billion, an increase of $455 million over FY2010 appropriations. The request included $96.4 million for salaries and expenses (S&E) for OPM, an amount that is $6.5 million or 7% less than the FY2010 funding of $102.9 million. This amount includes funding of more than $6 million for the Enterprise Human Resources Integration (HRI) project and more than $1.4 million for the Human Resources Line of Business (HRLOB) project. The agency's FTE employment level is estimated to be 5,018 for FY2011, 166 more than the FTE level of 4,852 for FY2010.

OPM's budget submission states that the budget "will permit OPM to pursue long-term human resources strategies that deliver results and enhance the values of the civil service," and includes

[103] This section was written by Barbara L. Schwemle, Analyst in American National Government, Government and Finance Division.

[104] 5 U.S.C. §5509.

[105] This section was written by Barbara L. Schwemle, Analyst in American National Government, Government and Finance Division.

"funding to maintain timely processing of retirement claims and provide services to annuitants."[106] In addition, it allows the Office of Inspector General to "continue to develop its prescription drug audit program, which includes audits of pharmacy benefit managers," and to continue the Federal Employees' Health Benefits Program (FEHBP) data warehouse initiative that "streamlines and enhances the various administrative and analytical procedures involved in the oversight of FEHBP."[107]

S. 3677, as reported, recommended the same funding as the President requested, except for the OIG salaries and expenses ($3.3 million; $1.2 million or 57.1% more), and the OIG transfers from trust funds ($21.9 million; $1.5 million or 7.3% more). The report accompanying the bill includes a directive related to the inappropriate use of temporary hiring authority by executive agencies. The report language would require OPM

> to report on options and recommendations to remedy the inequity no later than 90 days after the act's enactment. The report will identify agencies and types of positions where continuous and sustained inappropriate use of temporary hiring authority is occurring and include options to provide competitive status to employees performing regular and recurring work of a permanent nature under a series of temporary appointments and actions that can be taken to ensure that federal agencies use appropriate hiring authorities in the future.[108]

H.R. 1, as passed by the House, would provide an appropriation

- of $101.3 million for OPM salaries and expenses that is more than $4.8 million (+5%) above what would be provided by S. 3677 and $1.7 million (-1.6%) less than the FY2010 enacted amount;
- of $111.0 million for trust fund transfers that is $10.7 million (-8.8%) less than would be provided by S. 3677 and $1.7 million (-1.5%) less than the FY2010 enacted amount;
- of $2.1 million for OIG salaries and expenses that is almost $1.2 million (-35.7%) less than would be provided by S. 3677 and more than $1 million (-32.1%) less than the FY2010 enacted amount; and
- of $20.4 million for OIG trust fund transfers that is almost $1.5 million (-6.7%) less than would be provided by S. 3677 and $787,000 (-3.7%) less than the FY2010 enacted amount.

An amendment (H.Amdt. 155) offered to H.R. 1 by Representative Darrell Issa that would have prohibited the use of appropriated funds for periodic within-grade increases for federal civilian employees was not agreed to on a 191-230 (Roll No. 133) vote on February 19, 2011.

[106] *FY2011 Budget, Appendix,* pp. 1188-1189.

[107] Ibid.

[108] S.Rept. 111-238, pp. 110-111.

Office of Special Counsel[109]

The President's budget requested an FY2011 appropriation of $19.5 million for the Office of Special Counsel (OSC), an amount that is just under $1 million more or 5.4% above the FY2010 funding of $18.5 million. The agency's FTE employment level is estimated to be 111 for FY2011, the same as that estimated for FY2010. The agency's budget submission projected a continued increase in the number of Hatch Act, prohibited personnel practice, and disclosure cases received. According to OSC, it will continue to focus on improved performance in the timely handling of cases, the quality of agency products and decisions, and fulfilling responsibilities for education and outreach.

OSC's authorization expired on September 30, 2007.[110] The 110th Congress considered, but did not act upon legislation (S. 2057, H.R. 3551) that would have reauthorized the agency for three years and included provisions to enhance OSC's reporting requirements. Legislation to reauthorize the agency was not introduced in the 111th Congress.

S. 3677, as reported, recommended the same funding as the President requested. In the report accompanying the bill, the committee strongly urges the agency to work with organizations that advocate for whistleblowers "to promote the highest level of confidence in the Whistleblower Protection Act and the OSC."[111]

H.R. 1, as passed by the House, would provide an appropriation of $18.3 million that is just under $1.2 million (-6.1%) less than would be provided by S. 3677 and $195,000 (-1.0%) less than the FY2010 enacted amount.

National Archives and Records Administration[112]

In his FY2011 budget, President Obama requested $348.7 million for general National Archives and Records Administration (NARA) operating expenses,[113] $8.9 million more than the $339.8 million both requested by the President and appropriated to the National Archives in FY2010. Unlike previous budget requests, the FY2011 request did not include a more detailed breakdown of how portions of the requested operating expenses should be allocated. According to the National Archives, some of the increase in operating expenses would be used to hire "57 new full-time staff members to support a variety of programs."[114]

In addition to the operating expenses, the President's budget recommendation included $4.3 million for the NARA OIG, $0.2 million more than the FY2010 appropriation. The President also recommended $85.5 million for "development of the electronic records archives … a system that will allow NARA to manage records electronically and ensure the preservation of and access to

[109] This section was written by Barbara L. Schwemle, Analyst in American National Government, Government and Finance Division.

[110] 5 U.S.C. §5509.

[111] S.Rept. 111-238, p. 114.

[112] This section was written by Wendy Ginsberg, Analyst in American National Government, Government and Finance Division.

[113] *The Budget for 2011: Appendix*, p. 1288.

[114] The National Archives and Records Administration, "President Requests $460M for National Archives FY11 Budget," press release, February 1, 2010, http://www.archives.gov/press/press-releases/2010/nr10-55.html.

Government electronic records."[115] The President's recommendation is the same amount appropriated to the electronic records archive in FY2010. According to the President's budget appendix, the "[r]equested funding for 2011 will enhance the functionality to handle restricted and classified information, extend preservation capabilities, expand search capabilities, implement more efficient storage mechanisms, and support ongoing maintenance and operations of deployed systems."[116] $61.8 million of the electronic records archives funding is to remain available until September 30, 2013.

In his FY2011 budget, President Obama requested $10 million for the National Historical Publications and Records Commission and Grants Program (NHPRC), which "provides funding for grants to preserve and publish non-Federal records that document American history."[117] In FY2010, $13 million, or $3 million dollars more than President Obama is requesting for FY2011, was appropriated to the NHPRC. President George W. Bush had requested no funding for the NHPRC for the previous three fiscal years, although Congress appropriated $7 million for FY2007, more than $9 million for FY2008, and more than $11 million in FY2009.

The President's FY2011 request recommends $11.8 million "[f]or the repair, alteration, and improvement of archives facilities, and to provide adequate storage and holding."[118] The FY2011 request is $15.7 million less than the FY2010 appropriation of $27.5 million. The budget request appendix specifically states that the "2011 [repairs and restoration] Budget provides funding for the National Archives and Records Administration's Capital Improvement Plan. The top priority of the plan is the renovation project for the National Archives Experience."[119] Archives facilities also include the Presidential Libraries. In addition to the repairs and restoration appropriation, the National Archives Trust Fund Board may receive and solicit gifts and bequests and other financial assistance for "the benefit of NARA activities."[120] For FY2011, the budget appendix said the trust fund received $4 million from the George H. W. Bush Library Foundation and $7.2 million from the Clinton Foundation to help "offset a portion of each Library's operational costs."[121]

Senate appropriators recommended the same funding level as requested by the President ($348.7 million).[122] The Senate report accompanying the appropriations bill said that the appropriation recommendation included funds to "establish and staff the National Declassification Center in accordance with Executive Order 13526."[123] Within the operating expenses, the Senate Committee recommended a $3 million appropriation for the Office of Government Information Services (OGIS), an entity created within the Open Government Act of 2007 to address agency compliance with the Freedom of Information Act (FOIA).[124] Senate report language said that FY2012 appropriations should "specifically address the resource needs of OGIS."[125] OGIS began

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115 *The Budget for 2011: Appendix*, p. 1288-1289.

116 Ibid., p. 1289.

117 Ibid., p. 1290.

118 Ibid., p. 1289.

119 Ibid.

120 Ibid, p. 1291.

121 Ibid., p. 1291.

122 S.Rept. 111-238, p. 103.

123 Ibid.

124 Ibid.

125 Ibid.

operations in September 2009 and was appropriated $1 million for FY2009 as a line-item in the FSGG appropriation legislation.[126] The FSGG 2010 appropriation provided no line-item for OGIS, but the office received $1.4 million from the overall NARA appropriation.

Senate appropriators also recommended $4.3 million for the OIG, the same amount recommended by the President. The accompanying Senate report said that the committee supported a "distinct account for the OIG in order to clearly identify the resources necessary to staff and operate the expanding mission-critical oversight and accountability functions performed by the OIG to ensure responsible NARA stewardship over public records."[127] The committee report states that the likely future acquisition of the George W. Bush presidential library and the establishment of both OGIS and the Controlled Unclassified Information Office will increase the OIG's audit and investigative responsibilities. According to the Senate report, "[t]he increase funds will support an additional auditor to help increase audit coverage."[128]

Senate appropriators recommended $72 million for the Electronic Records Archive (ERA), $13.5 million less than was enacted for FY2010 and also $13.5 million less than the President's FY2011 request. In detailed report language, the committee expressed its support of ERA, calling the project "of utmost importance." The report language, however, requests NARA "identify and clearly explain the outcomes that NARA expect from the funding made available."[129] The report stated that NARA has historically "not clearly identified the specific functions to be delivered through specific spending," and such actions have "hampered the Committee's ability to assess the extent of progress on the ERA that should be expected as a result of the spending."[130]

Senate appropriators recommended $10 million for the NHPRC and $11.8 million for repairs and restoration. Both of these amounts were identical to the President's budget request. Within the repairs and restoration appropriation, the committee recommended $6.8 million for "base requirements" and $5 million for the "top priority project in the Capitol Improvements Plan, the National Archive Experience, Phase II."[131]

H.R. 1 would provide about $411 million to NARA in FY2011. More specifically, the bill would provide $322 million for operating expenses, $4 million for the NHPRC, $9 million for repairs and restoration, $72 million for the EFA, and $4 million for the NARA Inspector General. The total includes a $3.2 million rescission of funds that had been provided for a "new regional archives and records facility in Anchorage, Alaska."[132]

The largest drop in appropriation level in H.R. 1 was for the ERA, which would receive $13.5 million less than its FY2010 appropriated level and the President's recommended appropriation, both of which were $85.5 million. As noted above, Senate appropriators also recommended $72 million for the ERA in FY2011. The reduction in ERA appropriation levels in H.R. 1 followed the release of two Government Accountability Office (GAO) reports that examined implementation

[126] P.L. 111-8.

[127] S.Rept. 111-238, p. 104.

[128] Ibid.

[129] Ibid.

[130] Ibid., p. 105.

[131] Ibid., p. 106.

[132] H.R. 1, p. 240.

of the ERA. The first report said that NARA's oversight of the acquisition processes related to creating the Electronic Record Archive had "weaknesses … in most areas."[133]

Shortly after the report's release, Archivist of the United States David Ferriero made the following statement in a press release:

> Building such a complex system has not been without challenges. When I became Archivist, I set out to address the problems that the Government Accountability Office and the Archives' Office of Inspector General had identified, particularly those related to management and oversight. Improvements have been made and later this year, the National Archives intends to complete development of the ERA system, earlier and at less cost than originally planned.[134]

A second GAO report released on March 4, 2011, found:

> Without a reliable expenditure plan and adequate management of the ERA acquisition, it is unclear whether NARA can make substantial progress in delivering additional system capabilities by the end of fiscal year 2011 to justify its planned investment.[135]

NARA's FY2012 budget justification said that ERA's development was "ending and the program [was] moving into an operations and maintenance (O&M) phase."[136] The justification added that there would be no need for a separate appropriation for ERA after FY2012 because contracts for development of the archive will end "in FY2011 with only the wrap-up activities of validation and testing continuing into the first part of 2012."[137]

National Credit Union Administration[138]

The NCUA is an independent federal agency funded entirely by the credit unions that the agency charters, insures, and regulates. Two entities managed by the NCUA are addressed by the Financial Services and General Government bill. One of these, the Community Development Revolving Loan Fund (CDRLF), makes low-interest loans and technical assistance grants to low-income credit unions. Earnings generated from the CDRLF are available to fund technical assistance grants in addition to funds provided for specifically in appropriations. The Consolidated Appropriations Act for FY2010 (P.L. 111-117) provided $1.25 million, for technical assistance grants, for FY2010. The President's budget proposal includes $2 million for FY2011. The Senate Committee on Appropriations also recommended $2 million for FY2011.

[133] U.S. Government Accountability Office, Electronic Records Archive: National Archives Needs to Strengthen Its Capacity to Use Earned Value Techniques to Manage and Oversee Development, GAO 11-86, January 2011, Highlights, http://www.gao.gov/new.items/d1186.pdf.

[134] National Archives and Records Administration , "Statement by the Archivist of the United States Regarding ERA," press release, February 4, 2011, http://www.archives.gov/press/press-releases/2011/nr11-73.html.

[135] U.S. Government Accountability Office, *Electronic Government: National Archives and Records Administration's Fiscal Year 2011 Expenditure Plan*, GAO 11-299, March 4, 2011, Highlights, http://www.gao.gov/new.items/ d11299.pdf.

[136] National Archives and Records Administration, *2012 Performance Budget: Congressional Justification*, Washington , DC, 2011, pp. I-17. Information is available from author upon request.

[137] Ibid.

[138] This section was written by Pauline Smale, former Economic Analyst, Government and Finance Division.

The other entity managed by the NCUA, the Central Liquidity Facility (CLF), provides a source of seasonal and emergency liquidity for credit unions. Provisions in the appropriations bill set a borrowing limit for the CLF each fiscal year. To provide the NCUA with increased flexibility to assist with credit unions' financial liquidity during the recent economic downturn, the limit for FY2009, was set by P.L. 111-8, at the maximum level authorized by the Federal Credit Union Act (12 U.S.C. 1795f(a)(4)(A)). The limit is 12 times the subscribed capital stock and surplus of the CLF. This increase is equivalent to a cap of about $41 billion. P.L. 111-117 continued to provide the CLF with the ability to lend up to the maximum level provided for by the Federal Credit Union Act for FY2010. The President's budget proposal would extend the authority to lend up to the maximum level for FY2011.The administrative expenses of the CLF were limited to $1.25 million in FY2009, this limit was also imposed on FY2010 expenses, and $1.25 million is the limit the President has proposed for FY2011. The Senate Appropriations Committee recommendations would also extend the authority to lend up to the maximum level for FY2011 and would limit CLF administrative expenses for FY2011 to $1.25 million. H.R. 1 would limit CLF administrative expenses to $500,000.

Privacy and Civil Liberties Oversight Board[139]

Originally established in 2004 by the Intelligence Reform and Terrorism Prevention Act as an agency within the EOP,[140] the Privacy and Civil Liberties Oversight Board (PCLOB) was reconstituted as an independent agency within the executive branch by the Implementing Recommendations of the 9/11 Commission Act of 2007 (P.L. 110-53).[141] The board assumed its new status on January 30, 2008; its FY2009 appropriation was its first funding as an independent agency.[142] Among its responsibilities, the five-member board is to (1) ensure that concerns with respect to privacy and civil liberties are appropriately considered in the implementation of laws, regulations, and executive branch policies related to efforts to protect the nation against terrorism; (2) review the implementation of laws, regulations, and executive branch policies related to efforts to protect the nation from terrorism, including the implementation of information sharing guidelines; and (3) analyze and review actions the executive branch takes to protect the nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties. The board advises the President and the heads of executive branch departments and agencies on issues concerning, and findings pertaining to, privacy and civil liberties. The board provides annual reports to Congress detailing its activities during the year, and board members appear and testify before congressional committees upon request.

The President's FY2011 request for the PCLOB is $1.6 million, which is $100,000 above FY2010 enacted appropriations of $1.5 million. The Senate Committee on Appropriations has recommended $1.5 million for FY2011. H.R. 1 would provide $100,000 for salaries and expenses and rescind $1.5 million in unobligated balances. President Obama has not yet nominated anyone to sit on the board, which ceased operations January 2008; and Senate appropriators wrote that they are "seriously concerned that now, 30 months later, the new PCLOB has not yet been

[139] This section was written by Garrett Hatch, Analyst in American National Government, Government and Finance Division.

[140] 118 Stat. 3638 at 3684.

[141] 121 Stat. 266 at 352.

[142] See CRS Report RL34385, *Privacy and Civil Liberties Oversight Board: New Independent Agency Status*, by Garrett Hatch.

reconstituted and staffed as required by P.L. 110-53."[143] Senate appropriators further "urge(d) the Administration" to nominate members to the PCLOB "as expeditiously as possible" and then "promptly provide a detailed budget justification to the Committee."[144] In addition, in a letter dated March 29, 2010, 22 Members of Congress asked President Obama to "immediately nominate qualified individuals" to the PCLOB, because it was "imperative that the Board be fully operational to evaluate and advise the Executive Branch" on privacy and civil liberties issues.[145]

Securities and Exchange Commission[146]

The Securities and Exchange Commission (SEC) administers and enforces federal securities laws to protect investors from fraud, to ensure that sellers of corporate securities disclose accurate financial information, and to maintain fair and orderly trading markets. The SEC's budget is set through the normal appropriations process, but funds for the agency come from fees that are imposed on sales of stock, new issues of stocks and bonds, corporate mergers, and other securities market transactions. When the fees are collected, they go to a special offsetting account available to appropriators, not to the Treasury's general fund. The SEC is required to adjust the fee rates periodically to make the amount collected approximately equal to target amounts set in statute.

For FY2011, the Administration has requested $1.258 billion (including $24 million contingent on enactment of regulatory reform legislation), an increase of $205 million over FY2010 appropriations. The Senate Committee on Appropriations recommends $1.300 billion for FY2011, and H.R. 1 would provide $1.070 billion. Under the budget request, the Senate recommendation, and H.R. 1, fees collected during the fiscal year would account for the entire amount, so there would be no FY2011 appropriation from the general fund. P.L. 111-117 provided $1.111 billion for the SEC, $16 million of which will come from prior-year unobligated balances and the remaining $1.095 billion will come from offsetting collections, so that there will be no appropriation from the general fund for FY2010.

Selective Service System[147]

The Selective Service System (SSS) is an independent federal agency operating with permanent authorization under the Military Selective Service Act.[148] It is not part of the Department of Defense, but its mission is to serve the emergency manpower needs of the military by conscripting personnel when directed by Congress and the President.[149] All males ages 18 through 25 and living in the United States are required to register with the SSS. The induction of men into the military via Selective Service (i.e., the draft) terminated in 1972. In January 1980, President

[143] S.Rept. 111-238, p. 116.

[144] Ibid.

[145] U.S. House of Representatives, Committee on Homeland Security, "Chairman Thompson and Members Write President Obama on Privacy and Civil Liberties Nominations," press release, March 29, 2010, p. 1, at http://hsc.house.gov/SiteDocuments/20100409170157-37944.pdf.

[146] This section was written by Mark Jickling, Specialist in Public Finance, Government and Finance Division.

[147] This section was written by David Burrelli, Specialist in National Defense, Foreign Affairs, Defense, and Trade Division.

[148] 50 U.S.C. App. §451 et seq.

[149] See http://www.sss.gov/.

Carter asked Congress to authorize standby draft registration of both men and women. Congress approved funds for male-only registration in June 1980.

Since 1972, Congress has not renewed any President's authority to begin inducting (i.e., drafting) anyone into the armed services. In 2004, an effort to provide the President with induction authority was rejected.[150]

Funding of the Selective Service has remained relatively stable over the last decade. P.L. 111-117 provided $24.28 million for FY2010, an increase of $2.28 million over FY2009 enacted appropriations. The President has requested, and the Senate Committee on Appropriations recommends, $25 million for FY2011. H.R. 1 would provide $24.0 million for FY2011.

Small Business Administration[151]

The Small Business Administration (SBA) administers a number of programs intended to assist small firms. Arguably, the SBA's four most important functions are to guarantee—principally through the agency's Section 7(a) general business loan program—business loans made by banks and other financial institutions; to make long-term, low-interest loans to small businesses, nonprofit organizations, and households that are victims of hurricanes, earthquakes, floods, other physical disasters, and acts of terrorism; to finance training and technical assistance programs for small business owners; and to serve as an advocate for small business within the federal government.

As passed by the House, H.R. 1, the Full-Year Continuing Appropriations Act, 2011, would provide the SBA an appropriation of $740 million in FY2011, 25.6% below the Administration's FY2011 request of $994.1 million, 32.9% below the Senate Committee on Appropriations' FY2011 request of $1.103 billion, and 10.2% below the FY2010 enacted amount of $824 million (P.L. 111-117). The SBA also received $962 million in supplemental appropriations in FY2010, primarily through a series of extensions of SBA fee subsidies and loan modifications originally funded by P.L. 111-5, the American Recovery and Reinvestment Act of 2009, for total FY2010 funding of $1.786 billion.

H.R. 1 would reduce the SBA's appropriated amount for salaries and expenses from the enacted amount of $433,438,000 in FY2010 to $408,438,000 in FY2011, a reduction of $25.0 million. It would also eliminate the SBA's appropriated amount for projects in FY2010, a reduction of $59.0 million. However, P.L. 112-6, Additional Continuing Appropriations Amendments, 2011, subsequently eliminated the SBA's appropriated amount for projects in FY2011, a reduction of $59.0 million. The law reduced the SBA's continuing appropriation for FY2011 from $824 million, the enacted amount in FY2010, to $765 million.

H.R. 1 would retain the FY2010 enacted appropriated amounts for other SBA activities in FY2011, including $16.3 million for the SBA's Office of Inspector General (not including $1.0 million to be transferred from the Disaster Loans Program account), $1.0 million for the SBA's surety bond guarantees revolving loan fund, $236 million for the SBA's business loan programs, and $78.278 million for the SBA's disaster loan program. It would also continue the FY2010

[150] See H.R. 163, October 5, 2004, failed by Yeas and Nays (Roll no. 494).

[151] This section was written by Oscar Gonzalez, Analyst in Economics, Government and Finance Division, and Robert Dilger, Senior Specialist in American National Government, Government and Finance Division.

enacted authorization amounts of up to $28 billion in loan guarantees, including guarantees up to $17.5 billion of 7(a) loans, up to $7.5 billion for 504/CDC (certified development company) loans, up to $3.0 billion for Small Business Investment Company debentures, and up to $12.0 billion for the secondary market guarantee program.

For FY2011, the Senate Committee on Appropriations recommended the appropriation of $1.103 billion for the SBA, an increase of 9.8% above the Administration's FY2011 request, and an increase of 26.6% above the FY2010 regular appropriations of $824 million.

The Senate bill would provide $464.0 million for salaries and expenses. Included in that amount is $194.7 million for non-credit programs, such as Small Business Development Centers, Drug-free Workplace Grants, the Service Corps of Retired Executives (SCORE), Women's Business Centers, the National Women's Business Council, Microloan Technical Assistance, Veterans Programs, PRIME, Native American Outreach, 7(j) Technical Assistance, Historically Underutilized Business Zones (HUBZones), Hispanic Business Centers, the Entrepreneurial Development Initiative, and Emerging Leaders Program. The Senate bill would also provide $18.0 million for the SBA's Office of Inspector General (not including $1.0 million to be transferred from the Disaster Loans Program account), $1.0 million for the SBA's surety bond guarantees revolving loan fund, $356.4 million for the SBA's business loan programs (including $195.4 million to subsidize the 7(a) guaranteed loan program), and $203.0 million for the SBA's disaster loan program. The Senate bill would also provide $60.6 million for small business development and entrepreneurship initiatives, including programmatic and construction activities. Finally, the Senate bill would support up to $28 billion in loan guarantees, including guarantees up to $17.5 billion of 7(a) loans, up to $7.5 billion for the 504/CDC (certified development company) loans, up to $3.0 billion for Small Business Investment Company debentures, as well as up to $12.0 billion for the secondary market guarantee program. These are the same levels as in FY2010.

For FY2011, President Obama requested $994.1 million for the SBA, an increase of 21% over the FY2010 enacted amount of $824 million (P.L. 111-117). The Administration requested $446.0 million for salaries and expenses. Included in that amount is $173.7 million for non-credit programs, such as HUBZones, Microloan Technical Assistance, the National Women's Business Council, Native American Outreach, SCORE, Small Business Development Centers, Veteran's Business Development, and Women's Business Centers. The Administration also requested $18.0 million for the SBA's Office of Inspector General (not including $1.0 million to be transferred from the Disaster Loans Program account), $1.0 million for the SBA's surety bond guarantees revolving loan fund, $326.1 million for the SBA's business loan programs, and $203.0 million for the SBA's disaster loan program. Finally, the Administration's budget request for the SBA is expected to support up to $28 billion in loan guarantees, including guarantees up to $17.5 billion of 7(a) loans, up to $7.5 billion for the 504/CDC (certified development company) loans, up to $3.0 billion for Small Business Investment Company debentures, as well as up to $12.0 billion for the secondary market guarantee program. These are the same levels as in FY2010.

United States Postal Service[152]

The U.S. Postal Service (USPS) generates nearly all of its funding—about $70 billion annually—by charging users of the mail for the costs of the services it provides.[153] However, Congress does provide an annual appropriation to compensate the USPS for revenue it forgoes in providing free mailing privileges to the blind[154] and overseas voters.[155] Congress authorized appropriations for these purposes in the Revenue Forgone Reform Act of 1993 (RFRA).[156] This act also permitted Congress to provide the USPS with a $29 million annual reimbursement until 2035 to pay for the costs of postal services provided at below-cost rates to not-for-profit organizations in the early 1990s.[157] Funds appropriated to the USPS are deposited in the Postal Service Fund, a revolving fund at the U.S. Department of the Treasury.

The Postal Accountability and Enhancement Act (PAEA), which was enacted on December 20, 2006, first affected the postal appropriations process in FY2009.[158] Under the PAEA, both the U.S. Postal Service Office of Inspector General (USPSOIG) and the Postal Regulatory Commission (PRC) must submit their budget requests to Congress and to the Office of Management and Budget (120 Stat. 3240-3241), and the agencies must be paid from the Postal Service Fund. The law further requires USPSOIG's budget submission to be treated as part of USPS's total budget, while the PRC's budget, like the budgets of other independent regulators, is treated separately.[159]

For FY2011, the USPS requested a $102.2 million appropriation to the Postal Service Fund. Of this amount, $73.2 million would be for revenue forgone, and $29 million would be for the annual RFRA reimbursement.[160] (In FY2010, Congress appropriated $118.3 million to the USPS.)

For FY2011, the USPSOIG requested a $244.4 million appropriation,[161] and the PRC requested a $14.5 million appropriation.[162] (In FY2010, Congress appropriated $244.3 million to the USPOIG and $14.3 million to the PRC.)

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[152] This section was written by Kevin Kosar, Analyst in American National Government, Government and Finance Division. Also see CRS Report RS21025, *The Postal Revenue Forgone Appropriation: Overview and Current Issues*, by Kevin R. Kosar.

[153] U.S. Postal Service, *United States Postal Service Annual Report 2010* (Washington: USPS, 2010), p. 3.

[154] 84 Stat. 757; 39 U.S.C. 3403. See also USPS, *Mailing Free Matter for Blind and Visually Handicapped Persons: Questions and Answers*, Publication 347 (Washington: USPS, May 2005), available at http://www.usps.com/cpim/ftp/pubs/pub347.pdf.

[155] Members of the Armed Forces and U.S. citizens who live abroad are eligible to register and vote absentee in federal elections under the provisions of the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (42 U.S.C. 1973ff-ff-6). See CRS Report RS20764, *The Uniformed and Overseas Citizens Absentee Voting Act: Overview and Issues*, by Kevin J. Coleman.

[156] P.L. 103-123, Title VII; 107 Stat. 1267, 39 U.S.C. 2401(c)-(d).

[157] See CRS Report RS21025, *The Postal Revenue Forgone Appropriation: Overview and Current Issues*, by Kevin R. Kosar.

[158] P.L. 109-435; 120 Stat. 3198. On PAEA's major provisions, see CRS Report R40983, *The Postal Accountability and Enhancement Act: Overview and Issues for Congress*, by Kevin R. Kosar.

[159] While the PAEA did not authorize any additional appropriations to the Postal Service Fund, it did alter the budget submission process for the USPS's Office of Inspector General (USPSOIG) and the Postal Rate Commission (PRC). In the past, the USPSOIG and the PRC submitted their budget requests to the USPS's Board of Governors. Accordingly, past presidential budgets did not include the USPOIG's or PRC's funding requests or appropriations therefore.

[160] Office of Management and Budget, *Appendix: Budget of the U.S. Government Fiscal Year 2010*, p. 1313, at http://www.whitehouse.gov/omb/budget/fy2011/assets/oia.pdf.

The President's FY2011 budget proposes $103.9 million for the USPS (with $74.9 million appropriated for revenue forgone and $29 million for the annual RFRA reimbursement), $244.4 million for the USPSOIG; and $14.5 million for the PRC.[163]

On July 29, 2010, the Senate Appropriations Committee recommended appropriations of $103.9 million for the USPS, $244.4 million for the USPSOIG, and $14.5 million for the PRC (S.Rept. 111-238). The committee reiterated its support for six-day mail delivery, and noted that it believes no reduction in delivery days should be made until the PRC has delivered its study of the matter in autumn 2010.[164] The committee also stated that it

> has significant concerns about the fiscal health of the Postal Service and questions whether the existing postal facility network is sustainable. The Committee directs the Postal Regulatory Commission to report to the Committees on Appropriations not later than April 1, 2011, on the potential economic impacts if restrictions on the consolidation or closure of small rural and other small post offices were removed, including an assessment of the benefits and drawbacks of potential closures on access to services, the postal workforce, affected communities, and the fiscal health of the Postal Service. The report should also include an assessment of how the Postal Service's efforts to co-locate postal services in grocery stores and other existing retail locations enhances customer access, improves Postal Service revenue, and reduces facility costs.[165]

Additionally, the committee urged the USPS to coordinate with Office of Personnel Management [OPM], the Postal Service Inspector General, the Postal Regulatory Commission, and the Office of Management and Budget to identify a fair and equitable methodology to calculate the amount the Postal Service should be contributing to the Civil Service Retirement System [CSRS] pension fund. In recent reports, the Postal Service Inspector General and the Postal Regulatory Commission conclude that OPM's methodology in calculating the pension cost allocations between the former taxpayer-supported Post Office Department and the new ratepayer-supported Postal Service resulted in the Postal Service overpaying its share of the CSRS pension fund. Although both the Board of Actuaries and the Government Accountability Office concluded in 2004 that OPM's methodology is consistent with congressional intent of the 1974 law that established the CSRS pension fund, the OPM Director stated during a March 2010 appropriations subcommittee hearing that in light of the methodology being called into question again, OPM would be willing to coordinate with the Postal Service Inspector General and other stakeholders to revisit OPM's current methodology.[166]

(...continued)

161 U.S. Postal Service Office of Inspector General, *FY 2010 Budget* (Washington: 2010), p. OIG-3, at http://www.uspsoig.gov/OIG_Budget_FY2011.pdf.

162 Postal Regulatory Commission, *Performance Budget Plan Fiscal Year 2011*, p. 3, at http://www.prc.gov/Docs/66/66770/Performance%20Budget%20Plan%20FY2011_561.pdf.

163 Office of Management and Budget, *Appendix: Budget of the U.S. Government Fiscal Year 2010*, pp. 1313, 1314, 1316, and 1317.

164 S.Rept. 111-238, p. 130. On six-day mail delivery, see CRS Report R40626, *The U.S. Postal Service and Six-Day Delivery: Issues for Congress*, by Wendy Ginsberg.

165 Ibid., pp. 115-116. On the USPS's proposed closure of retail postal facilities, see CRS Report R40719, *Post Office and Retail Postal Facility Closures: Overview and Issues for Congress*, by Kevin R. Kosar.

166 Ibid., p. 131. On the USPS's CSRS pension obligation, see CRS Report R41024, *The U.S. Postal Service's Financial Condition: Overview and Issues for Congress*, by Kevin R. Kosar.

H.R. 1 would provide $103.9 million for the USPS, an amount equivalent to the amount recommended by the Senate but less than the amount appropriated for FY2010 ($118.3 million) H.R. 1 would also provide $244.4 million for the USPSOIG, and $14.5 million for the PRC.

United States Tax Court[167]

A court of record under Article I of the Constitution, the United States Tax Court (USTC) is an independent judicial body that has jurisdiction over various tax matters as set forth in Title 26 of the *United States Code*. The court is headquartered in Washington, DC, but its judges conduct trials in many cities across the country.

The President has requested $52.2 million for the USTC for FY2011, a $3 million increase over the amount provided by P.L. 111-117 for FY2010. The Senate Committee on Appropriations has recommended $54.6 million for FY2011, a $5 million in increase over FY2010 enacted amounts and $2 million more than the President has requested. H.R. 1 would provide $52 million for FY2011.

General Provisions Government-Wide[168]

The Financial Services and General Government appropriations language includes general provisions which apply either government-wide or to specific agencies or programs. An Administration's proposed government-wide general provisions for a fiscal year are generally included in the Budget Appendix.[169] Most of the provisions continue language that has appeared under the General Provisions title for several years because Congress has decided to reiterate the language rather than making the provisions permanent. The FY2011 budget proposed, however, discontinuing some of the government-wide general provisions that were included in P.L. 111-117, the Consolidated Appropriations Act for FY2010. The provisions proposed to be discontinued (the section numbers refer to the provisions as they were included in P.L. 111-117) and whether they are included in S. 3677, as reported, are listed below.

Provisions Proposed to Be Discontinued in FY2011 Budget Request

- **Communication with Congress**. Section 714 of P.L. 111-117, which prohibits the payment of any employee who prohibits, threatens, prevents, or prevents another employee from communicating with Congress. (Section 714 of S. 3677).
- **Employee Training**. Section 715 of P.L. 111-117, which prohibits federal training not directly related to the performance of official duties. (Section 715 of S. 3677).
- **Publicity or Propaganda**. Section 717 of P.L. 111-117, which prohibits other than for normal and recognized executive-legislative relationships, propaganda,

[167] This section was written by Garrett Hatch, Analyst in American National Government, Government and Finance Division.

[168] This section was written by Barbara Schwemle, Analyst in American National Government, Government and Finance Division.

[169] For FY2011, the provisions are listed in the *Budget, Appendix* at pp. 9-17.

publicity and lobbying by executive agency personnel in support or defeat of legislative initiatives. Section 720, which prohibits the use of funds for propaganda and publicity purposes not authorized by Congress. (Sections 717 and 720 of S. 3677).

- **Release of Non-public information**. Section 719 of P.L. 111-117, which prohibits funds to be used to provide non-public information such as mailing or telephone lists to any person or organization outside the government without the approval of the House and Senate Committees on Appropriations. (Section 719 of S. 3677).
- **E-Government**. Section 733 of P.L. 111-117, which concerns transfers or reimbursements for E-Government initiatives. (Section 732 of S. 3677).
- **Midway Atoll Airfield**. Section 734 of P.L. 111-117, which provides funds for the Midway Atoll Airfield. (Section 733 of S. 3677).
- **Privacy Act**. Section 737 of P.L. 111-117, which prohibits use of funds in contravention of the Privacy Act and implementing regulations. (Section 736 of S. 3677).
- **Great Lakes Restoration**. Section 739 of P.L. 111-117, which requires OMB to submit a report on budget information relating to Great Lakes restoration activities. (Section 738 of S. 3677).

Selected New General Provisions Proposed in the FY2011 Budget Request

- **Pay for Top Officials.** This section would prohibit pay adjustments in calendar year 2011 for the Vice President; individuals serving in Executive Schedule (EX) positions or in positions whose rate of pay is fixed by statute at an EX level and serving at the pleasure of the President or other appointing official; a chief of mission or ambassador at large; a noncareer appointee in the Senior Executive Service; and any employee whose rate of basic pay (including locality payments) is at or above EX level IV who serves at the pleasure of the appointing official. (Section 734) (Section 744 of S. 3677).
- **Administrative Expenses Related to Retirement.** For each employee who retires during FY2011 under 5 U.S.C. §8336(d)(2) on immediate retirement or 5 U.S.C. §8414(b)(1)(B) on early retirement, or retires under the Civil Service Retirement System or the Federal Employees Retirement System and receives a payment as an incentive to retire, the separating agency would remit to the Civil Service Retirement and Disability Fund an amount equal to OPM's average unit cost of processing a retirement claim for the preceding fiscal year. Such amounts would be available until expended to OPM and be deemed to be an administrative expense. (Section 735) (Not included in S. 3677).
- **Overpayments From Discretionary Appropriations.** Overpayments that are made from discretionary amounts appropriated in this fiscal year in this or any other Act, that are subsequently recovered through audits conducted under the Recovery Auditing Act would be credited to agency appropriations from which the overpayment was made and available for the same purpose and time period originally appropriated. (Section 736) (Not included in S. 3677).

- **Federal Real Property Management.** A public database of federal real property, and a pilot program to expedite the disposal of surplus property would be established. Agencies would be permitted to retain the net proceeds resulting from the sale or transfer of surplus property. (Section 737) (Not included in S. 3677).
- Section 742 of S. 3677 would authorize a 1.4% pay adjustment for federal civilian white-collar employees, as requested by the President's budget.

Government Procurement

Acquisition Workforce Training Fund

If enacted, Section 517 of S. 3677 would clarify the authorized purposes of the Acquisition Workforce Training Fund.[170] Currently, the authorized purpose is to "support the training of the acquisition workforce of the executive agencies."[171] By implementing Section 517, the authorized purposes of the fund would change to include fostering and promoting the development of the federal government's acquisition workforce, collecting and analyzing acquisition workforce data, and, as directed by the head of the Office of Federal Procurement Policy, performing other research or career management functions.[172]

Competitive Sourcing[173]

Section 728, as it appears in the President's FY2011 budget request, would prohibit the use of any funds appropriated by this act, or any other appropriations act for the same fiscal year (FY2011), to begin or announce a public-private competition.[174] The prohibition would apply to a "public-private competition regarding the conversion to contractor performance of any function performed by Federal employees pursuant to Office of Management and Budget Circular A-76 or any other administrative regulation, directive, or policy."[175] That is, this section apparently would apply only to competitions that involve work being performed by federal employees, but it would not apply to public-private competitions involving work being performed by contractor employees. Conversion to contractor performance is only one of the possible outcomes of a public-private competition, however, which might lead some observers to conclude that the provision is somewhat ambiguous. This provision is the same as Section 735 of P.L. 111-117.

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[170] Ibid., p. 100.

[171] 41 U.S.C. § 433(h)(3)(A).

[172] U.S. Congress, Senate Committee on Appropriations, *Financial Services and General Government Appropriations Bill, 2011*, p. 152; 41 U.S.C. § 405(d)(5)(A), (C), and (J).

[173] This section was written by L. Elaine Halchin, Analyst in American National Government, Government and Finance Division.

[174] Section 728 states: "[n]one of the funds appropriated or otherwise made available by this act *or any other Act* may be used.... " (U.S. Office of Management and Budget," *Budget of the U.S. Government, Appendix, Fiscal Year 2011*, (Washington, DC: U.S. Government Printing Office, 2010) p. 12.) (Italics added for emphasis.) The words in this phrase—"or any other act"—are "not words of futurity. They merely refer to any other appropriation act of the same fiscal year." (U.S. Government Accountability Office, *Principles of Federal Appropriations Law, Third Edition, Volume I*, GAO-04-261SP, January 2005, p. 2-36, at http://www.gao.gov/special.pubs/d04261sp.pdf.)

[175] U.S. Office of Management and Budget, *Budget of the U.S. Government, Appendix, Fiscal Year 2011*, p. 12.

While details are not yet available, the Senate Appropriations Committee's report on S. 3677 suggests that Section 734 contains a prohibition similar to the one found in Section 728 (see above).[176]

Service Contract Inventory

Section 741 of S. 3677 would, if implemented, make technical modifications to Section 743 of P.L. 111-117, which requires executive agencies to compile inventories of their service contracts. Technical changes to Section 743(a)(3) and Section 743(a)(3)(G), respectively, would do the following: expand the inventory contents to include task orders awarded pursuant to service contracts, and specify how to determine the number and work location of contractor and subcontractor employees. Whereas Section 743(e)(2)(B) of P.L. 111-117 directs each agency to give "special management attention to functions closely associated with inherently governmental functions," the technical change effected by Section 741 would require each agency to ensure that service "contracts exclude to the maximum extent practicable functions that are closely associated with inherently governmental functions."[177]

Finally, Section 741 would establish a requirement for a new report. An executive agency could not begin, plan for, or announce a public-private competition involving the conversion of a function performed by government employees to contractor performance until after it has submitted a report to OMB. The report would include "actions taken to convert from contractor to Federal employee performance functions that are not inherently governmental, closely associated with governmental functions, critical, or should not otherwise be reserved for performance by Federal employees."[178]

Cuba Sanctions[179]

Background

Since the early 1960s, U.S. policy toward communist Cuba has consisted largely of efforts to isolate the island nation through comprehensive economic sanctions, including prohibitions on U.S. financial transactions—the Cuban Assets Control Regulations (CACR)—that are administered by the Treasury Department's Office of Foreign Assets Control (OFAC).

Despite current U.S. economic sanctions policy, some U.S. commercial agricultural exports to Cuba have been allowed since 2001 pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000, or TSRA (Title IX of P.L. 106-387). However, there are numerous restrictions and licensing requirements for these exports. For instance, exporters are denied access to U.S. private commercial financing or credit, and all transactions must be paid for in cash in advance or with financing from third countries. The Bush Administration tightened sanctions on

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[176] U.S. Congress, Senate Committee on Appropriations, *Financial Services and General Government Appropriations Bill, 2011*, report to accompany S. 3677, 111th Cong., 2nd sess., July 29, 2010, p. 138.

[177] Ibid., p. 155. (Italics in original.)

[178] Ibid., p. 156. (Italics in original.)

[179] This section was written by Mark P. Sullivan, Specialist in Latin American Affairs, Foreign Affairs, Defense, and Trade Division. For additional information, see CRS Report R40193, *Cuba: Issues for the 111th Congress*, by Mark P. Sullivan.

Cuba in February 2005 by further restricting how U.S. agricultural exporters may be paid for their product. OFAC amended the CACR to clarify that the term "payment of cash in advance" for U.S. agricultural sales to Cuba means that the payment is to be received prior to the shipment of the goods. This differed from the practice of being paid before the actual delivery of the goods, a practice that had been utilized by many U.S. agricultural exporters to Cuba since such sales were legalized in late 2001. U.S. agricultural exporters and some Members of Congress strongly objected to this "clarification" on the grounds that the action constituted a new sanction that violated the intent of TSRA, and could jeopardize millions of dollars in U.S. agricultural sales to Cuba. Then OFAC Director Robert Werner maintained that the clarification "conforms to the common understanding of the term in international trade."[180]

Since 2002, the United States has been one of Cuba's largest suppliers of food and agricultural products. Cuba has purchased over $3.5 billion in agricultural products from the United States since late 2001.[181] Overall U.S exports to Cuba rose from about $7 million in 2001 to $404 million in 2004 and to a high of $712 million in 2008, far higher than in previous years, in part because of the rise in food prices and because of Cuba's increased food needs in the aftermath of several hurricanes and tropical storms that severely damaged the country's agricultural sector. In 2009, however, U.S. exports to Cuba declined to $533 million, 25% lower than the previous year. The decline was largely related to Cuba's shortage of hard currency.[182] In 2010, U.S. agricultural exports to Cuba fell to $370 million, a 30% drop from 2009. Analysts again cite Cuba's shortage of hard currency as the main reason for the decline.

Legislative Action

In December 2009, Congress took action in the FY2010 omnibus appropriations measure (Section 619 of Division C of the Consolidated Appropriations Act, 2010, P.L. 111-117) to define, during FY2010, "payment of cash in advance" as used in TSRA as payment before the transfer of title to, and control of, the exported items to the Cuban purchaser. This overturned OFAC's February 2005 clarification that payment had to be received before vessels could leave U.S. ports. Supporters of the provision maintained that it restored congressional intent on the matter, and would make it easier for U.S. agricultural producers to export to Cuba, while opponents maintained that the provision constituted a foreign policy change included in a must-pass spending bill without appropriate congressional consideration.[183] The Administration issued regulations implementing this provision in early March 2010. The regulations maintained that the definition applied to items delivered by September 30, 2010, or delivered pursuant to a contract entered into by September 30, 2010, and shipped within 12 months of the signing of the contract.[184]

For FY2011, the Senate Appropriations Committee-reported version of the Financial Services and General Government Appropriations bill, S. 3677 (S.Rept. 111-238) included, in Section 621, a

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[180] U.S. Department of the Treasury, Testimony of Robert Werner, Director, OFAC, before the House Committee on Agriculture, March 16, 2005.

[181] U.S. trade statistic are from *Global Trade Atlas*, which uses Department of Commerce Statistics.

[182] Larry Luxner. "Cash-Strapped Cuba Cut U.S. Food Imports by 26% in '09," *CubaNews*, February 2010, p. 2.

[183] "New Law Lets Cuba Pay U.S. Suppliers Directly," *CubaNews*, December 2009; Rosella Brevetti, "Agriculture: Senate OKs Provision Facilitating U.S. Agricultural Exports to Cuba," *International Trade Reporter*, December 17, 2009.

[184] *Federal Register*, March 10, 2010, pp. 10996-10997.

provision that would continue to define during FY2011 "payment of cash in advance" under TSRA as payment before the transfer of title to, and control of, the exported items to the Cuban purchaser. No further action was taken on the bill. While the House Appropriations Committee version of the bill was not officially introduced, it reportedly would have included a provision similar to that in the Senate bill that would continue to clarify the requirement for payment of cash in advance for agricultural goods sold to Cuba under TSRA.[185]

While the 111th Congress did not complete action on the FY2011 Financial Services and General Government Appropriations measure, it approved a series of short-term continuing resolutions and then in April 2011 ultimately approved a full-year measure (P.L. 112-10, the Department of Defense and Full-Year Continuing Appropriations Act of 2011) under conditions provided in enacted FY2010 appropriations measures. This essentially continued the "payment of cash in advance" provision until through FY2011.

Several legislative initiatives introduced in the 111th Congress would have permanently changed the definition of "payment of cash in advance" for export sales to Cuba under TSRA, but no action was completed on these measures.[186] Most notably, on June 30, 2010, the House Agriculture Committee reported out H.R. 4645 (Peterson), which would have permanently changed the definition of "payment of cash in advance," allowed direct transfers between U.S. and Cuban financial institutions for payment for products sold to Cuba under TSRA, and also would have lifted all restrictions on travel to Cuba. The House Committee on Foreign Affairs was scheduled to hold a markup of the bill on September 29, 2010, but postponed its consideration, and in the aftermath of the November 2010 U.S. legislative elections no further action was taken.

[185] House Committee on Appropriations, Subcommittee on Financial Services and General Government, "Statement of Chairman José E. Serrano, FY2011 Financial Services and General Government Appropriations Bill," July 29, 2010.

[186] For a broader discussion and listing of bills that would ease restrictions on U.S. agricultural exports to Cuba, see CRS Report R40193, *Cuba: Issues for the 111th Congress*, by Mark P. Sullivan.

Appendix.

Table A-1. Financial Services and General Government Appropriations, FY2008-FY2011

(in millions of dollars)

	FY2008 Enacted	FY2009 Enacted	FY2010 Enacted	FY2011 Requested
Department of the Treasury	$12,263	$12,687	$13,465	$13,970
Executive Office of the President	680	728	772	760
The Judiciary	6,246	6,481	6,861	7,330
District of Columbia	610	742	752	730
Independent Agencies	24,840	23,942	24,585	25,430
Total	**$44,639**	**$44,582**	**$46,434**	**$48,219**

Sources: Financial Services and General Government Appropriations Act, 2009 (P.L. 111-8), House Appropriations Committee Print, Consolidated Appropriations Act, 2010 (P.L. 111-117), Appendix, U.S. Government Budget, FY2011.

Notes: Figures include Commodity Futures Trading Commission (CFTC) funding. All figures are rounded, and columns also may not equal the total due to rounding.

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