Financial Services and General Government: FY2012 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 (EOP), the judiciary, the District of Columbia, and more than two dozen independent agencies. Among those independent agencies are the General Services Administration (GSA), the Office of Personnel Management (OPM), the Small Business Administration (SBA), the Securities and Exchange Commission (SEC), and the United States Postal Service (USPS). The Commodity Futures Trading Commission (CFTC) is funded in the House through the Agriculture appropriations bill and in the Senate through the FSGG bill. CFTC funding is included in all FSGG funding tables in this report.

On February 14, 2011, President Obama issued his FY2012 budget request. The request included a total of $48.72 billion for agencies funded through the FSGG appropriations bill, including $308 million for the CFTC. The President’s request would increase funding $4.03 billion above FY2011 enacted amounts.

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 act provides $44.69 billion for FSGG agencies, including $203 million for the CFTC, for FY2011, a decrease of $1.74 billion below FY2010 enacted amounts.

On July 7, 2011, the House Appropriations Committee reported H.R. 2434, the Financial Services and General Government Appropriations Act, 2012. H.R. 2434 would provide $42.97 billion for agencies funded through the House FSGG Appropriations Subcommittee. In addition, the CFTC would receive $172 million through the FY2012 agriculture appropriations bill, H.R. 2112. Total FY2012 funding provided by the House would be $43.14 billion, about $5.58 billion below the President’s FY2012 request and $1.55 billion less than FY2011 enacted amounts.
Financial Services and General Government: FY2012 Appropriations

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Most Recent Developments

On July 7, 2011, the House Appropriations Committee reported H.R. 2434, the Financial Services and General Government Appropriations Act, 2012.¹ H.R. 2434 would provide $42.97 billion for agencies funded through the House Financial Services and General Government (FSGG) Appropriations Subcommittee. In addition, H.R. 2112, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, 2012, would provide $172 million for CFTC. Total FY2012 funding provided by the House would be $43.14 billion, about $5.58 billion below the President’s FY2012 request and $1.55 billion less than FY2011 enacted amounts. Table 1, below, reflects the status of FSGG legislation at key points in the appropriations process.

Table 1. Status of FY2012 Financial Services and General Government Appropriations

<table>
<thead>
<tr>
<th>Subcommittee</th>
<th>Markup</th>
<th>House Report</th>
<th>Senate Report</th>
<th>Senate Passage</th>
<th>Conference Report</th>
<th>Conference Report Passed</th>
<th>Public Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>House</td>
<td>06/16/11</td>
<td>House Report</td>
<td>Senate Report</td>
<td>Senate Passage</td>
<td>Conference Report</td>
<td>Conference Report Passed</td>
<td>Public Law</td>
</tr>
<tr>
<td>Senate</td>
<td></td>
<td>H.Rept. 112-136</td>
<td></td>
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<td></td>
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</tr>
</tbody>
</table>

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.”² 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.³

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


² 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.

³ 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).
Commerce, Justice, Science, and Related Agencies Subcommittee. 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 FSGG Subcommittee. As a result of this reorganization, the House and Senate FSGG Subcommittees have nearly identical jurisdictions.

Overview

The FSGG appropriations bill includes funding for the Department of the Treasury, the Executive Office of the President (EOP), the judiciary, the District of Columbia, and more than two dozen independent agencies. For each title of the regular FSGG appropriations bill, Table 2 lists the enacted amounts for FY2010 and FY2011, the President’s FY2012 request, and amounts approved by the House Appropriations Committee for FY2012.

Table 2. Financial Services and General Government Appropriations, FY2010-FY2012
(in millions of dollars)

<table>
<thead>
<tr>
<th>Title</th>
<th>FY2010 Enacted</th>
<th>FY2011 Enacted</th>
<th>FY2012 Request</th>
<th>FY2012 House Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title I: Department of the Treasury</td>
<td>$13,465</td>
<td>$13,097</td>
<td>$14,040</td>
<td>$12,168</td>
</tr>
<tr>
<td>Title II: Executive Office of the President</td>
<td>772</td>
<td>706</td>
<td>740</td>
<td>640</td>
</tr>
<tr>
<td>Title III: The Judiciary</td>
<td>6,871</td>
<td>6,907</td>
<td>7,289</td>
<td>6,759</td>
</tr>
<tr>
<td>Title IV: District of Columbia</td>
<td>752</td>
<td>699</td>
<td>717</td>
<td>637</td>
</tr>
<tr>
<td>Title V: Independent Agencies</td>
<td>24,585</td>
<td>23,280</td>
<td>25,937</td>
<td>22,936</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$46,444</strong></td>
<td><strong>$44,689</strong></td>
<td><strong>$48,722</strong></td>
<td><strong>$43,140</strong></td>
</tr>
</tbody>
</table>


Note: Totals include funding for the Commodity Futures Trading Commission (CFTC). The CFTC is funded in the House through the Agriculture appropriations bill and in the Senate through the Financial Services and General Government bill. Figures include rescissions and offsetting collections.

4 The agencies are the FCC, FTC, SEC, and SBA.
5 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.
6 The Commodity Futures Trading Commission is under the jurisdiction of the FSGG Subcommittee in the Senate but not in the House.
FY2012 Appropriations by Title

Title I: The Department of the Treasury

This section examines FY2012 appropriations for the Treasury Department and its operating bureaus, including the Internal Revenue Service (IRS). Table 3 lists the enacted amounts for FY2011, the Obama Administration’s FY2012 request, and the amounts recommended by the House Appropriations Committee for FY2012 in H.R. 2434.

<table>
<thead>
<tr>
<th>Table 3. Department of the Treasury Appropriations, FY2010-FY2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>(in millions of dollars)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>FY2010 Enacted</th>
<th>FY2011 Enacted</th>
<th>FY2012 Request</th>
<th>FY2012 House Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Departmental Offices</td>
<td>$305</td>
<td>$306</td>
<td>$325</td>
<td>$186</td>
</tr>
<tr>
<td>Department-wide Systems</td>
<td>10</td>
<td>4</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Capital Investments</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Terrorism and Financial</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>100</td>
</tr>
<tr>
<td>Intelligence</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Office of Inspector</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>General</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Treasury Inspector</td>
<td>152</td>
<td>152</td>
<td>158</td>
<td>152</td>
</tr>
<tr>
<td>General for Tax</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Administration</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Special Inspector General</td>
<td>23</td>
<td>36</td>
<td>47</td>
<td>42</td>
</tr>
<tr>
<td>General for TARP</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Community Development</td>
<td>247</td>
<td>227</td>
<td>227</td>
<td>183</td>
</tr>
<tr>
<td>Financial Institutions</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fund</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Financial Crimes</td>
<td>111</td>
<td>111</td>
<td>84</td>
<td>111</td>
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<tr>
<td>Enforcement Network</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Financial Management</td>
<td>244</td>
<td>233</td>
<td>219</td>
<td>217</td>
</tr>
<tr>
<td>Service</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alcohol and Tobacco</td>
<td>103</td>
<td>101</td>
<td>98</td>
<td>97</td>
</tr>
<tr>
<td>Tax and Trade Bureau</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Bureau of Public Debt</td>
<td>182</td>
<td>175</td>
<td>166</td>
<td>164</td>
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<tr>
<td>Payment for Losses in</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Shipment</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Internal Revenue Service</td>
<td>12,146</td>
<td>12,122</td>
<td>13,284</td>
<td>11,516</td>
</tr>
<tr>
<td>(total)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Taxpayer Services</td>
<td>2,279</td>
<td>2,274</td>
<td>2,345</td>
<td>2,166</td>
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<tr>
<td>Enforcement</td>
<td>4,904</td>
<td>5,493</td>
<td>5,031</td>
<td>5,227</td>
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<tr>
<td>Enhanced Tax Enforcement</td>
<td>600</td>
<td>0</td>
<td>1,257</td>
<td>0</td>
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<tr>
<td>Operations Support</td>
<td>4,084</td>
<td>4,076</td>
<td>4,299</td>
<td>3,794</td>
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<tr>
<td>Activities</td>
<td></td>
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<tr>
<td>Business Systems</td>
<td>264</td>
<td>264</td>
<td>334</td>
<td>330</td>
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<tr>
<td>Modernization</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Health Insurance Tax</td>
<td>16</td>
<td>16</td>
<td>18</td>
<td>0</td>
</tr>
<tr>
<td>Credit Administration</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rescissions: Treasury</td>
<td>(-90)</td>
<td>(-400)</td>
<td>(-600)</td>
<td>(-630)</td>
</tr>
<tr>
<td>Forfeiture Fund</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$13,465</strong></td>
<td><strong>$13,097</strong></td>
<td><strong>$14,040</strong></td>
<td><strong>$12,168</strong></td>
</tr>
</tbody>
</table>

**Sources:** Appendix, Budget of the U.S. Government, FY2012, H.Rept. 112-136.

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7 This section was authored by Gary Guenther (x7-7742).
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 (particularly money laundering and terrorist financing), collecting tax revenue and 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, while the bureaus undertake 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, Bureau of the Public Debt, Community Development Financial Institutions Fund, 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 central to the responsibilities handled by the Alcohol and Tobacco Tax and Trade Bureau, Financial Crimes Enforcement Network, 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. The exception to this simplified dichotomy is the Internal Revenue Service, 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, FinCEN, ATB, Office of the Inspector General, Treasury Inspector General for Tax Administration, Special Inspector General for the Troubled Asset Relief Program, and the Community Development Financial Institutions Fund. 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 for the services and products they provide.

In FY2011, appropriations for the Treasury Department are distributed among 11 accounts, each of which is described briefly below.

**Departmental Offices (DO):** 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 (OIG):** 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 (TIGTA):** 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 (SIGTARP):** 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 (FinCEN):** 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 (FMS):** 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 (ATB):** 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 (BPD):** 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 (CDFI):** 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 (IRS):** 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.

Brief Summary of FY2011 Appropriations for Treasury Offices and Bureaus

In FY2011, the Treasury Department is receiving $13.097 billion in appropriated funds, or 2.7% less than the amount enacted for FY2010. As usual, the vast share (92.5%) of the funds is being used to finance the operations of the IRS, which is receiving $12.122 billion in FY2011, or 0.2% less than the amount enacted for FY 2010. The remaining $975 million is distributed among Treasury’s other main appropriations accounts in the following amounts: DO (which includes the Office of Terrorism and Financial Intelligence—or TFI—and the Office of Foreign Assets Control), $306 million; department-wide systems and capital investments, $4 million; OIG, $30 million; TIGTA, $152 million; SIGTARP, $36 million; CDFI, $227 million; FinCEN, $111 million; FMS, $233 million; ATB, $101 million; and the BPD, $175 million.

FY2012 Appropriations for Treasury Offices and Bureaus: President’s Budget Request and Congressional Action

President’s Budget Request

The Obama Administration is requesting $14.040 billion (including $600 million in recessions) in appropriations for Treasury in FY2012, or 7.2% more than the amount enacted for FY2011. Under the budget proposal, the IRS would receive $13.284 billion, or about 95% of the total amount. The remaining $756 million would be split among Treasury’s 10 other appropriations accounts in the following amounts: DO, $325 million; departmental systems and capital investments, $0 million; OIG, $30 million; TIGTA, $158 million; SIGTARP, $47 million; CDFI, $227 million; FinCEN, $84 million; FMS, $219 million; ATB, $98 million; and BPD, $166 million. All the accounts except FinCEN, FMS, ATB, and BPD would be funded at or above the amounts enacted for FY2011.

Relative to FY2011, funding for the IRS would rise by $1.162 billion, while appropriations for all other Treasury accounts would fall by $219 million.

Treasury’s budget request is intended, in part, to make further progress in accomplishing the same three “high priority performance” objectives that guided its FY2010 and FY2011 budget requests: (1) repair and reform the U.S. financial system, (2) increase voluntary tax compliance, and (3) significantly increase the volume of paperless transactions with the public. The ways in which the proposed budget addresses each objective are examined below.

Repair and Reform the Financial System

According to Treasury budget documents, the FY2012 budget proposal would allow the Department to take a variety of steps aimed at encouraging the repair and reform of the financial system. Several deserve brief mention here. One step is the implementation of a few key

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provisions of the financial regulatory reform bill enacted in July 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, which is widely known as the Dodd-Frank Act. Under the act, Treasury is responsible for managing the creation of two new independent regulatory agencies (the Consumer Financial Protection Board and the Financial Stability Oversight Council) and is required to create two new offices (the Office of Financial Research and the Federal Insurance Office). Another step involves administering two new programs (the Small Business Lending Fund and the State Small Business Credit Initiative) established by the Small Business Jobs Act of 2010. They are intended to increase the availability of credit to small businesses. In addition, repair and reform of the financial system remains a primary objective of Treasury’s continuing efforts to ensure the viability of government-sponsored enterprises such as the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, promote economic and community development through the CDFI, and manage the TARP program.

These initiatives provide part of the rationale for the Administration’s request for an additional $20 million in appropriations for DO and an additional $11 million in appropriations for SIGTARP. Of the requested increase in DO funding, $5.5 million would be used to acquire the expertise needed to carry out Treasury’s responsibilities under the Dodd-Frank Act.

**Improve Voluntary Tax Compliance**

Improving taxpayer compliance remains a top priority for the Treasury Department in FY2012. As has been the case in recent years, the main concern is the size of the gross federal tax gap, which is the difference between taxes owed and taxes paid in full and on time, before collection actions are taken. This gap reached an estimated $345 billion in 2001, the most recent year for which an estimate is available. Recent sharp rises in the federal budget deficit, coupled with a strong congressional interest in finding additional sources of revenue as part of an effort to eliminate projected budget deficits and shrink the burgeoning federal debt, have intensified the pressure on the Department to do more to collect delinquent taxes.

The budget request would improve voluntary tax compliance through the enactment of several changes in the tax code and targeted investments in IRS enforcement activities, taxpayer service, and business systems modernization. These initiatives are intended to boost tax collections by strengthening tax administration, improving business compliance, and expanding information reporting, “with minimum additional burden on taxpayers.” Treasury officials estimate that the initiatives could increase tax collection by more than $10 billion over the next 10 years. Of the requested $1.162 billion increase in IRS appropriations for FY2012, $795 million (or about 68% of the total) would be used for new enforcement initiatives.

**Significantly Increase Paperless Transactions with the Public**

Treasury’s budget request also assigns a high priority to moving the Department closer to the goal of the paperless processing of all transactions, including payments and collections. Starting in calendar year 2012, individuals receiving Social Security, Supplemental Security Income, Veterans Administration, Railroad Retirement Board, Office of Personnel Management, and Black Lung benefits will be required to receive the payments electronically, through either direct

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9 Treasury Department, *Budget in Brief*, p. 4.
deposit into a bank account or a Treasury Direct Express debit card. Moreover, Treasury will no longer issue paper savings bonds after December 31, 2011. Once the goal of the complete electronic processing of transactions is reached, Treasury expects to save $525 million and 12 million pounds of paper over the following five years.  

While the FY2012 budget request seems to designate no funds for new initiatives to accelerate the move toward complete paperless transactions, funding remains available for two initiatives that are supposed to commence in FY2011. Treasury’s budget request for FY2011 included $22 million in added funding for departmental systems and capital investments. The funds were to be used to create two new programs: Enterprise Content Management (ECM) and the Financial Innovation and Transformation (FIT). ECM is intended to establish a common approach among Treasury offices and bureaus to modernizing their “document-based business processes.” FIT seeks to develop and expand shared government-wide solutions to issues in financial management, such as invoice processing, cash collections, and interagency agreements.

Other Noteworthy Initiatives

The Treasury Department’s budget request for FY2012 would do much more than fund activities aimed at achieving its three strategic goals. A substantial share of the requested funding is intended to enable Treasury’s bureaus to meet their statutory responsibilities and core missions even when budget planning is difficult. Of particular concern are satisfying conflicting demands to cut costs and improve or enhance services at the same time. The budget request addresses this concern in two ways: by providing the required services at a reduced cost in some cases, and by meeting a perceived need for expanded operations through an increase in funding in other cases. Several notable examples of each approach can be found in the budget request.

For instance, the budget request would allow the Treasury Department to reap about $227 million in savings from efficiency improvements and program reductions in FY2012, relative to outlays in FY2011. Planned process improvements at the IRS could yield $190 million in savings; $10.1 million in savings could come from consolidating the administrative and data centers for the FMS; a proposed consolidation of information technology resources at the BPD could provide $6.6 million in savings; consolidating the certification and accreditation operations and data center at TIGTA could produce $2.6 million in savings; $2.1 million could be saved through staffing reductions and improved efficiency in the use of information technology at FinCEN; and planned changes in the departmental offices could provide $15.4 million in savings.

The FY2012 budget request also calls for $92.6 million in appropriations for Treasury’s Office of Terrorism and Financial Intelligence (TFI), or $7.4 million less than the amount specified for that purpose 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 goals, such as arresting the proliferation of nuclear weapons and combating Islamic terrorism. The proposed reduction in funding for TFI may have little impact on its ability to perform its functions, as the reduction would stem from savings from a cutback in staff travel, the elimination

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10 Ibid., p. 4.
11 Ibid., p. 17.
12 Ibid., p. 6.
of overseas support for its Brussels liaison, and increased efficiency in the procurement of contracts, information technology licenses, subscriptions, and supplies.\textsuperscript{13}

Appropriations for improving taxpayer services at the IRS would rise by $114 million under the budget request for FY2012. About $44 million of that amount would be used to raise the level of customer service provided through the agency’s toll-free telephone services, while $33 million would be invested in a multi-year effort to upgrade the IRS.gov website so it can handle expected growth in taxpayer demand for electronic tax information.\textsuperscript{14}

In addition, the budget request would permanently cancel (or withdraw) $600 million and transfer of $30 million to FinCEN from the unobligated balances of the Treasury Forfeiture Fund (TFF). The fund serves as the receipt account for the deposit of assets held by criminal enterprises that have been seized by five federal agencies, including the IRS and the Immigration and Customs Enforcement Bureau at the Department of Homeland Security. Funds in the account normally are 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 withdrawn 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.

The enactment of several tax bills in 2009 and 2010 has placed new demands on the administrative capabilities of the IRS. One such law is proving to be especially challenging: the Patient Protection and Affordable Care Act of 2010 (PPACA; P.L. 111-148). According to the IRS, the act contains more than 40 provisions that modify different aspects of federal tax law between 2010 and 2018.\textsuperscript{15} Some of the provisions needed to be implemented during the 2010 tax year, including a small business tax credit for health insurance, an expanded adoption credit, and a credit for qualified therapeutic discoveries. In 2011, the IRS is to take on the added responsibilities of administering a 10% excise tax on indoor tanning services, an increased penalty for unqualified withdrawals from health savings accounts (HSAs), and a new definition of medical expenses that qualify for flexible spending accounts and HSAs.

To implement and administer the tax provisions in the act, the IRS has determined that additional resources are needed to construct new information technology systems; change existing tax processing systems; expand taxpayer services and outreach; enhance notices, collections, and case management systems to address and resolve taxpayer problems in a timely manner; and conduct properly focused examinations. Funding for these resources is spread mainly among three appropriations accounts: taxpayer services, enforcement, and operations support.

In FY2010 and FY2011, the IRS is obtaining funds for implementing PPACA provisions through transfers from a fund (the Health Insurance Reform Implementation Fund) managed by the Department of Health and Human Services; a total of $179 million had been transferred through late July 2011.\textsuperscript{16} The IRS reportedly has decided that it will not draw upon money in the Fund.

\begin{footnotes}
\item[13] Ibid., p. 13.
\item[14] Ibid., p. 66.
\item[16] Figure obtained through an email exchange with Floyd Williams of the IRS’s congressional liaison office on July 26, 2011.
\end{footnotes}
after FY2011. For FY2012, the IRS is asking Congress for $473 million in appropriations for PPACA implementation. Most of that amount ($391 million) would go into the budget for operations support and be used for the acquisition and development of information technology and infrastructure; about $51 million would come from funds appropriated for enforcement; the remaining $32 million would come out of funds appropriated for taxpayer services.

Noteworthy Assessments of the Administration’s Budget Request for the IRS in FY2012

IRS Oversight Board

The IRS Oversight Board was established by the IRS Reform and Restructuring Act of 1998 mainly to oversee the IRS’s performance in administering the tax laws, managing its operations, and pursuing its strategic goals. Section 7802(d) of the federal tax code requires the Board to review and approve the annual budget proposal submitted by the IRS to the Treasury Department. A critical consideration in the assessment is the extent to which the proposal supports the annual and long-term strategic objectives of the agency. The same tax code provision requires the President to submit the Board’s budget recommendation to Congress together with his budget request for the IRS.

For FY2012, the Board recommends that the IRS receive $13.342 billion in appropriated funds, or $1.220 billion more than the amount enacted for FY2011, nearly $59 million more than the budget request for FY2012, and $1.826 billion more than the amount recommended in the FY2012 appropriations bill (H.R. 2434) reported by the House Appropriations Committee on July 7, 2011. In the Board’s view, its budget recommendation is the “minimum imperative for strong and responsible tax administration.” Of the recommended amount, $2.35 billion would go to taxpayer services, $5.97 billion to enforcement, $4.67 billion to operations support, $334 million to the BSM, and $18 million to the administration of the health insurance tax credit. These amounts are mostly consistent with the budget request. The primary difference is that the Board favors putting more resources into upgrading IRS security systems.

Among its budget recommendations, the Board assigns the top priority to boosting funding for the BSM. This includes any funds in the operations support account used for the development of the information technology infrastructure needed to support the maintenance of BSM elements that already have been implemented. In the Board’s view, increased investment in modernizing the core taxpayer account system for individuals is vital to laying the technological foundation for future advances in IRS operational efficiency, taxpayer service, and tax law enforcement. Nearly 60% (or $157 million) of the recommended BSM budget would go into the Customer Account Data Engine 2 (CADE 2) program. At the current pace of progress, CADE 2 is expected to allow for the daily processing of individual taxpayer accounts beginning with the 2012 filing season. When fully operational, the program will have several tangible benefits for taxpayers,

18 Ibid., p. 37.
including more timely account balance information and faster refunds to the tens of millions of taxpayers who are due a refund each tax year.

Achieving an 80% level of service for IRS’s toll-free telephone lines during FY2012 is the Board’s second highest priority. The level of service, or LOS, measures the percentage of calls that go through to an IRS customer service representative out of all incoming calls over a period. In FY2008, the LOS reached 53%, but it has been rising ever since and stands at 74% says the IRS, in FY2011. In the Board’s estimation, appropriations for taxpayer service should be increased by at least $23.3 million from the amount enacted for FY2011 in order to reach that level of service. Tens of millions of taxpayers still depend on the toll-free telephone service to understand their tax obligations and their eligibility for tax credits and other tax preferences, and to resolve their account balances. Recent changes to the tax laws have boosted demand for the service, a trend that is likely to continue in the next few years, as the IRS begins to implement certain PPACA provisions.

In addition, the Board agrees with the budget request’s estimate that the IRS will require additional funding of $473 million in FY2012 and a staff of 1,269 full-time equivalent employees to implement PPACA provisions. About 83% of the funds would come from the operations support account.21

Congressional Action

House

On July 7, 2011, the House Appropriations Committee reported a bill (H.R. 2434) to fund financial services and general government accounts in FY2012. H.R. 2434 would provide $12.168 billion in appropriations (including $630 in rescissions) for the Treasury Department, or $929 million less than the amount enacted for FY2011 and $1.872 billion less than the amount requested by the Obama Administration. Details on recommended funding for each account and selected issues addressed by the House committee in its report (H.Rept. 112-136) on the bill follow.

Departmental Offices

In its report on H.R. 2434, the House committee recommends that DO receive $186 million in appropriated funds in FY2012, or $120 million less than the amount enacted for FY2011 and $139 million less than the budget request. The report specifies that $7 million of those funds be available until September 30, 2013 for information technology and use by the Office of Critical Infrastructure Protection and Compliance Policy. 22

The House committee also notes that it is carving out a separate appropriations account for the Office of Terrorism and Financial Intelligence from the DO account beginning in FY2012. Though the report gives no explanation for the change, a likely motive is to give the

21 Ibid., p. 4.
appropriations committees more control over how much is spent on TFI operations and how those funds are used.

On the topic of terrorist financing, the House committee directs the Treasury Secretary to submit a report (with no specified deadline) to the House and Senate Appropriations Committees, the House Financial Services Committee, and the Senate Banking Committee on the “potential risks to U.S. financial markets and economy posed by economic warfare and financial terrorism.”

**Office of Terrorism and Financial Intelligence**

The House committee recommends an appropriation of $100 million for TFI in FY2012, or the same amount of appropriated funds that is set aside for the Office in FY2011 and $7.4 million more than the President’s budget request.23

In its report on H.R. 2434, the House committee directs the Office of Foreign Assets Control (OFAC) to submit to the House committee a report (with no specified deadline) on the current number of pending applications seeking licenses for travel to Cuba related to educational exchanges not involving academic study, the number of these licenses issued to date, and OFAC’s plans for speeding up review of applications in the future.

**Office of Inspector General**

The House committee recommends that the OIG receive $30 million in appropriations in FY2012, or the same amount that was enacted for FY2011 and $214,000 less than the amount requested by the Treasury Department.24

**Treasury Inspector General for Tax Administration**

The House committee recommends an appropriation of $152 million to TIGTA in FY2012, or the same amount that was enacted for FY2011 and $6 million less than the budget request.

In its report on H.R. 2434, the House committee directs TIGTA to submit a report to the House and Senate Appropriations Committees no later than 60 days after the enactment of the bill examining the extent to which IRS employees use tax preparation software or hire tax preparation professionals, how much they pay for those services, and how those fees compare to the fees charged the general public for the same services.

**Special Inspector General for the Troubled Asset Relief Program**

The House committee recommends that SIGTARP receive $42 million in appropriated funds for FY2012, or $5.6 million more than the amount enacted for FY2011 but $5.6 million less than the budget request. According to the report on H.R. 2434, initial funding for the program was mandated in the legislation creating TARP (P.L. 111-343), but the funds were limited and decreased over time. Discretionary appropriations have increasingly filled the gap between those mandatory appropriations and the operating expenses of the program.25

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23 Ibid., p. 7.
24 Ibid., p. 9.
25 Ibid., p. 10.
Financial Crimes Enforcement Network

The House committee recommends an appropriation of $111 million for FinCEN in FY2012, or the same amount that was enacted for FY2011 and $26.5 million more than the budget request. Of that amount, $20 million is available until September 30, 2014.

In its report on the bill, the House committee says that the recommended funding is intended to continue the agency’s multi-year effort to modernize information systems and to ensure that FinCEN’s information is readily accessible to state and local law enforcement personnel, field representatives, and the intelligence community. In its budget request, the Treasury Department proposes to reduce funding for making that information more accessible by $3 million.

Treasury Forfeiture Fund

The House committee recommends a rescission of $630 million of unobligated balances in the Fund, or $230 million more than the amount that was enacted for FY2011 and $30 million more than the budget request.

In its report on H.R. 2434, the House committee points out that the size of the Fund has grown rapidly in recent years because of the “exceptionally large” seizures of property and assets from criminal organizations.

Financial Management Service

The House committee recommends $217 million in appropriations for FMS in FY2012, or $16 million less than the amount enacted for FY2011 and $2 million than the budget request. Of that amount, $4 million would be available until September 30, 2014 for upgrading the agency’s information systems.

According to the report on H.R. 2434, funding for FMS can be reduced largely because of the savings in operating costs that FMS expects to realize in FY2012. These savings include greater use of paperless transactions, “space and data consolidation,” and a “revaluation of new systems.”

Alcohol and Tobacco Tax and Trade Bureau

The House committee recommends that ATB receive $97 million in appropriated funds in FY2012, or $4 million less than the amount that was enacted for FY2011 and $979,000 less than the budget request. According to the report on H.R. 2434, the reduction in funding should not affect the agency’s level of service, as recent efforts by ATB to simplify reporting requirements and reduce overhead expenses have lowered its operating costs.

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26 Ibid., p. 11.
27 Ibid., p. 12.
28 Ibid., p. 12.
29 Ibid., p. 13.
Bureau of the Public Debt

The House committee recommends an appropriation of $172 million for the BPD in FY2012, or $13 million less than the amount enacted for FY2011 and about $2 million less than the budget request. Of that amount, $10 million would be available until September 30, 2013. H.R. 2434 contains language that reduces total appropriations by up to $8 million as “definitive security issue fees and Treasury Direct Investor Account Maintenance fees” are collected. 30

Planned cost savings in FY2012 make it possible to reduce funding without affecting the level of service. The savings include greater use of paperless transactions, consolidating the agency’s data center, and “decommissioning its legacy information systems.”

Community Development Financial Institutions Fund

The House committee recommends that CDFI receive $183 million in appropriated funds in FY2012, or $43.5 million less than the amount enacted for FY2011 and $44 million less than the budget request. Of that amount, $12 million would be set aside for grants, loans, technical assistance, and job training for native American, Alaskan, and Hawaiian communities. No funds would be provided for two current programs: Bank on USA and the Health Food Financing Initiative (HFFI). 31

In its report on H.R. 2434, the House committee directs the Government Accountability Office to conduct a study by April 2012 of the extent to which CDFI technical and financial assistance and New Markets Tax Credits (NMTC) are concentrated in urban areas and the contributions to that concentration of the design, administration, and history of the CDFI and the NMTC. The report also directs the Treasury Department to report to the House committee by May 2012 on the operation and effectiveness of the HFFI, including the criteria and processes used to make grant awards.

Internal Revenue Service

The House committee recommends that the IRS receive $11.516 billion in appropriated funds for FY2012, or $606 million less than the amount enacted for FY2011 and $1.768 billion less than the budget request. Funding for the IRS is spread among five accounts: taxpayer services, enforcement, operations support, BSM, and administration of the health insurance tax credit. Recommended appropriations for each are discussed here.

Of the $11.516 billion in recommended appropriations for the IRS, $2.166 billion would be used for taxpayer services. This amount is $108.5 million less than the amount enacted for FY2011 and $179 million less than the budget request. Several taxpayer service grant programs are funded through this account. 32 Under H.R. 2434, “not less than” $5.1 million would be provided for the Tax Counseling for the Elderly program, $9.5 million in grants for low-income taxpayer clinics, and $12 million in grants for Volunteer Income Tax Assistance (VITA). These amounts match the budget request with the exception of VITA grants, which would receive $4 million less. The House committee further recommends that funding for the administration of the health insurance

31 Ibid., p. 15.
32 Ibid., p. 15.
tax credit established by the Trade Act of 2002 (P.L. 107-210) be folded into appropriations for taxpayer services and that “not less than” $15.5 million be used for that purpose in FY2012. In addition, the House committee expresses approval of the IRS’s decision not to develop a pre-filled or simple tax return and makes it clear that it expects the IRS to seek specific authority and appropriations from Congress before embarking on the development of a simple tax return pilot program.33

As reported by the House committee, H.R. 2434 would provide $5.227 billion in appropriations for tax law enforcement in FY2012, or $266 million less than the amount enacted for FY2011 and $740 million less than the budget request. Of that amount, at least $60 million would be used to support IRS’s involvement in the Interagency Crime and Drug Enforcement program. In its report on the bill, the House committee expresses concern over the agency’s recent record of improper payments to taxpayers while administering the first-time home buyer tax credit and the earned income tax credit. As a step in the direction of reducing those erroneous payments, the House committee directs the IRS to submit a report within 180 days of the enactment of the bill on steps it has taken in the past year to reduce improper payments, and the steps it is planning to take in the coming year to prevent improper payments related to all refundable tax credits. Another matter of concern to the House committee is IRS’s role in the implementation of the Patient Protection and Affordable Care Act of 2010 (PPACA). During FY2010 and FY2011, the agency has received transfers totaling over $90 million from the Department of Health and Human Services to implement certain provisions of the act. The House committee prohibits additional transfers. It also prohibits the IRS from using appropriated funds in FY2012 to verify that taxpayers have health insurance and to impose a penalty on those who lack coverage.34 These prohibitions are included in the bill as sections 107 and 108 of the administrative provisions for the IRS.

The House committee recommends that the IRS receive $3.793 billion for operations support in FY2012, or $282 million less than the amount enacted in FY2011 and $827 million less than the budget request. At least $2 million of that amount is intended for the operating expenses of the IRS Oversight Board. In its report on H.R. 2434, the House committee expresses concern about the security of IRS’s information systems, especially their vulnerability to identity theft by hackers trying to steal tax refunds.35 To address this concern, it directs the IRS to submit a report within 30 days of the enactment of the bill on the number of taxpayers who have had their tax return rejected because someone else improperly used their Social Security numbers to commit tax fraud. The report should include such details as the average time taken to resolve such cases and provide a refund, when one is due, and the number of cases that were not resolved within 45 days.

H.R. 2434 would provide $330 million in appropriations for the BSM program in FY2012, or $67 million more than the amount enacted for FY2011 but $4 million less than the budget request.36 As has been the case since the start of the program, the release of those funds is contingent on approval by the House and Senate Appropriations Committees of expenditure plans that have been reviewed the GAO. In its report on the bill, the House committee notes the progress the IRS has made in recent years in developing a new customer account data engine known as CADE 2

33 Ibid., p. 16.
34 Ibid., p. 17.
36 Ibid., p. 19.
and the likely productivity gains among IRS staff that it will make possible. When fully operational, the system would make it possible to store up to 140 million individual taxpayer account records and update them daily, if necessary.

Other Issues

In its report on the bill, the House committee expressed concern about two issues related to the Dodd-Frank Act that do not involve direct appropriations under current law.

One issue is funding in FY2012 for the operations of the Office of Financial Research (OFR), which was created by the Dodd-Frank Act to collect financial data and analyze financial market activities in support of the Financial Stability Oversight Council, which was also created by the act. While OFR’s start-up costs have been covered by transfers of funds from the Federal Reserve, the Office has the authority to cover its operating expenses after it begins to operate on July 21, 2011 through assessments on bank holding companies with total consolidated assets of $50 billion or more and on non-bank financial companies supervised by the Board of Governors of the Federal Reserve.

The House committee holds the view that the OFR should not have unlimited power to charge fees and obligate funds for administrative costs. Thus, language is included in H.R. 2434 that restricts OFR’s obligations to $64.5 million in FY2012.37

A second issue concerns funding in FY2012 for the newly operational Consumer Financial Protection Bureau (CFPB) established by the Dodd-Frank Act. Under section 1017 of the act, the Board receives funds for its start-up and operating costs through transfers from the Federal Reserve. These transfers are capped at 10% of the total operating expenses of the Federal Reserve System in FY2011 (or $404 million), 11% of such expenses in FY2012 (or $445 million), and 12% of such expenses in FY2013 and thereafter (or $485 million). The dollar amounts in FY2013 and thereafter are adjusted for any increases in the employment cost index for total compensation by state and local government workers during the 12 months ending on September 30 of the year before the transfer; the index is computed quarterly by the U.S. Department of Labor. Moreover, funding for the CFPB is not subject to review by the House and Senate Committees on Appropriations. Between early July 2010 and early March 2011, the CFPB requested three fund transfers totaling about $60 million from the Federal Reserve. In its budget request for FY2012, the Treasury Department estimates that the Bureau’s operating budget will amount to $143 million in FY2011 and $329 million in FY2012, as it works to phase in key functions and construct the necessary technological infrastructure.38

Expressing disappointment that the Bureau has not been more “forthcoming” about what it plans to do, how it proposes to accomplish those objectives, and how much it will cost to do so, the House committee recommends that fund transfers from the Federal Reserve and the Bureau’s authority to obligate funds be limited to $200 million in FY2012.39 In addition, to gain more control over the Bureau’s budget and operations in the future, the House committee has added a

37 Ibid., p. 21.
38 See written testimony of Elizabeth Warren, the Special Advisor to the Treasury Secretary for the Consumer Financial Protection Bureau, at a hearing held by the House Subcommittee on Financial Institutions and Consumer Credit on Mar. 16, 2011.
39 House Committee on Appropriations, report to accompany H.R. 2434, p. 8.
provision to H.R. 2434 that would subject funding for the CFPB to the annual appropriations process beginning in FY2013. The House committee also directs the Bureau to submit an operating plan to the House committee within 60 days of enactment of the bill that discusses how the CFPB plans to allocate resources by “type of financial institution, financial product and service, and consumer.”

Another issue, which has nothing to do with the Dodd-Frank Act, deals with funding for Treasury’s Office of Financial Stability (OFS), which administers the Troubled Assets Relief Program (TARP). Under the Emergency Economic Stabilization Act of 2008 (P.L. 110-343), which created OFS and TARP, no limits are placed on appropriations for the Office’s administrative expenses. Since the House committee holds the view that no federal agency should have “unlimited spending authority for administrative expenses,” it recommends that OFS’s authority to obligate funds be limited to $200 million in FY2012. According to the report on H.R. 2434, this amount should be sufficient to meet the Office’s operating costs, as the bill would also terminate a program that OFS has been administering: the Home Affordable Modification Program.

Title II: Executive Office of the President

The FSGG appropriations bill provides funding for all but three offices under the EOP. The White House, the Office of Management and Budget, and the Office of National Drug Control Policy are among the EOP offices funded through FSGG appropriations. Table 4 lists the enacted amounts for FY2010 and FY2011, the President’s FY2012 request, and amounts approved by the House Appropriations Committee for FY2012.

| **Table 4. Executive Office of the President, FY2010-FY2012** (in millions of dollars) |
|---------------------------------|----------------|----------------|----------------|----------------|
| **The White House (total)**     | $208           | $207           | $207           | $195           |
| Compensation of the President  | 0.5            | 0.5            | 0.5            | 0.5            |
| The White House Office (salaries and expenses) | 59     | 58             | 58             | 56             |
| Executive Residence, White House (operating expenses) | 14     | 14             | 14             | 13             |
| White House Repair and Restoration | 3        | 2              | 1              | 1              |
| Council of Economic Advisers    | 4              | 4              | 4              | 4              |
| National Security Council and Homeland Security Council | 12     | 13             | 13             | 12             |

40 Ibid., p. 22.
41 This section was authored by Barbara Schwemle (x7-8655).
42 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.
### Financial Services and General Government: FY2012 Appropriations

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**Note:** FY2011 enacted rescission was applied to the Partnership fund for program integrity account. FY2012 rescission for both the President’s request and House committee approved amounts would apply to the Office of National Drug Control Policy.

### President’s Budget Request and Key Issues

The Administration’s FY2012 budget requested an appropriation (discretionary funds) of $739.3 million for the EOP and funds appropriated to the President, an increase of $34.1 million or 4.8% above the $705.2 million (discretionary funds) enacted for FY2011. The budget requested the same appropriation as that enacted for FY2011 for the Unanticipated Needs account and increased or decreased appropriations for the following accounts:

- The White House Office (-$61,000 or -0.1%), the Executive Residence (-$15,000 or -0.1%), the White House Repair and Restoration (-$1.0 million or -50%).
- The Council of Economic Advisers (+$211,000 or +5.0%), the National Security Council and Homeland Security Council (+$26,000 or +0.2%), and the Office of Administration (+$799,000 or +0.7%).
- The Office of Management and Budget (-$90,000 or -0.1%).
The justification that accompanied the EOP’s budget submission noted that the increase requested for the National Security Council and Homeland Security Council “funds requirements commensurate with supporting the President’s efforts on cybersecurity, Weapons of Mass Destruction, terrorism, transborder security, information sharing, resilience policy, including preparedness and response, and global engagement, as outlined in Presidential Study-Directive 1.” According to the justification, the requested funding increase for the Council of Economic Advisers “supports additional economists required for monitoring the state of the economy for the President and his staff and assisting the President in developing economic policies promoting the growth of the economy, creating jobs, and increasing incomes and standards of living for all Americans.” The appropriation requested for the account entitled Integrated, Efficient and Effective Uses of Information Technology (IEEUIT) would be used “to establish a coherent Federal strategy for centralized, efficient provision of IT services and infrastructure across the Government.”

Federal Drug Control Programs

For the accounts under the Federal Drug Control Programs, the President’s FY2012 budget requested an appropriation of $355.7 million, a decrease of $50.5 million or 12.4% below the $406.2 million enacted for FY2011. The FY2012 budget justification states that the proposed reduction in funding “reflects a reprioritization of resources.” Appropriations for all of the accounts follow.

- Office of National Drug Control Policy (ONDCP, -$3.7 million or -13.5%).
- High Intensity Drug Trafficking Areas Program (HIDTAP, -$38.5 million or -16.1%).
- Other Federal Drug Control Programs (OFDCP, +$3.0 million or +2.1%).
- Counterdrug Technology Assessment Center (CTAC, a rescission of $11.3 million is requested).

House Action

H.R. 2434, as reported by the House Committee on Appropriations would provide an appropriation of $639.5 million for the EOP, which is $65.7 million (-9.3%) less than the FY2011 enacted appropriation and $99.8 million (-13.5%) less than the President’s request. The House report states the House committee’s disappointment “that the Administration’s request did not propose additional reductions for the EOP” and that “Therefore, the Committee has reduced the Salaries and Expenses appropriation for each organization.”

44 Ibid., p. OMB-12.
The appropriations for each of the EOP accounts, as recommended by the House Appropriations committee are as follows:

- The White House Office: $55.5 million; 2.9 million (-5%) less than the FY2011 enacted amount and almost $2.9 million (-4.9%) less than the President’s request. The House committee report states that this amount includes “sufficient funds” for the Office of National AIDS Policy.

- Executive Residence, White House: $13 million; $684,000 (-5.0%) less than the FY2011 enacted amount and $669,000 (-4.9%) less than the President’s request.

- White House Repair and Restoration: $1 million; $1 million (-50%) less than the FY2011 enacted amount and the same as the President’s request.

- Council of Economic Advisers: $4.0 million; $210,000 (-5.0%) less than the FY2011 enacted amount and $421,000 (-9.6%) less than the President’s request.

- National Security Council and Homeland Security Council: $12.4 million; $652,000 (-5%) less than the FY2011 enacted amount and $678,000 (-5.2%) less than the President’s request.

- Office of Administration: $109.3 million; $5.7 million (-5%) less than the FY2011 enacted amount and $6.5 million (-5.6) less than the President’s request. Of the total, $10.7 million would remain available until expended for continued modernization of the information technology infrastructure within the EOP. The office is directed to report annually to the House Committee on Appropriations, at the same time that the President’s budget is submitted, on progress on modernization of information technology, including the amounts obligated and expended and for what purposes, specific milestones achieved, and requirements and specific plans for further investment.

- Office of Management and Budget: $82.6 million; $9.2 million (-10%) less than the FY2011 enacted amount and $9.1 million (-9.9%) less than the President’s request. The House committee encourages OMB and federal agencies to use business management techniques, including continuous process improvement methods, to improve the use of resources. OMB is directed to examine and revise Circular A-94 on cost-benefit analysis, incorporate life-cycle cost analysis, and report to the House Committee on Appropriations on the status of the review within 180 days of the act’s enactment.

- Unanticipated Needs: 0.0; $1 million (-100%) less than the FY2011 enacted amount and the President’s request.

- Partnership Fund for Program Integrity Innovation: 0.0; $20 million less than the President’s request.

- Integrated, Efficient and Effective Uses of Information Technology: 5.0 million; $55 million less than the President’s request. The OMB Director could transfer the funds to one or more agencies to carry out projects and would submit monthly reports to the House and Senate Committees on Appropriations identifying the savings achieved by the government-wide information technology reform efforts.

- Special Assistance to the President: $4.3 million; $227,000 (-5.0%) less than the FY2011 enacted amount and $6,000 (-0.1%) less than the President’s request.
• Official Residence of the Vice President: $307,000; $19,000 (-5.8%) less than the FY2011 enacted amount and the same as the President’s request.

H.R. 2434, as reported, would fund the federal drug control accounts at the following levels:

• ONDCP: $23 million; $4.1 million (-15.1%) less than the FY2011 enacted amount and $413,000 (-1.8%) less than the President’s request. Of the total, $250,000 would remain available until expended for policy research and evaluation. ONDCP is expected “to focus resources on the counter-drug policy development, coordination and evaluation functions which are the primary mission of the Office and the original reason for its existence.”

• HIDTAP: $238.5 million; the same as the FY2011 enacted amount and $38.5 million (+19.3%) more than the President’s request. Of the total, up to $2.7 million could be used for auditing services and related activities. The ONDCP Director would notify the House and Senate Committees on Appropriations of the initial allocation of FY2012 funding among HIDTAs within 45 days after the act’s enactment and of planned uses of discretionary HIDTA funding within 90 days after the act’s enactment.

• OFDCP: $102.0 million; $38.6 million (-27.5%) less than the FY2011 enacted amount and $41.6 million (-29%) less than the President’s request. The appropriation would be allocated as follows: $88.6 million for the Drug-Free Communities Program, $8.9 million for anti-doping activities, $1.9 million for the United States membership dues to the World Anti-Doping Agency, and $2.5 million for competitive discretionary grants. An appropriation is not provided for the anti-drug media campaign.

Section 628(a)(1) of H.R. 2434, as reported, would provide the mandatory appropriation for the compensation of the President ($450,000, including $50,000 for expenses). According to the House Committee on Appropriations report, this is an account “where authorizing language requires the payment of funds.”

Administrative provisions under the appropriation for the EOP and funds appropriated to the President are the following:

• Section 201 would continue to authorize the OMB Director (or other official designated by the President) to transfer up to 10% of appropriations between the White House, Executive Residence at the White House, White House Repair and Restoration, Council of Economic Advisers, National Security Council and Homeland Security Council, Office of Administration, Special Assistance to the President, and Official Residence of the Vice President accounts, after the House and Senate Committees on Appropriations are notified at least 15 days in advance. An appropriation would not be increased by more than 50% by such transfers. The Vice President would approve transfers from the Special Assistance to the President or Official Residence of the Vice President accounts.

• Section 202 would rescind $11.3 million in unobligated balances of prior year appropriations from the Counterdrug Technology Assessment Center.

• Section 203 would prohibit the use of funds to pay the salaries and expenses of any EOP officer or employee to prepare, sign, or approve statements abrogating
legislation passed by the House of Representatives and the Senate and signed by the President.

- Section 204 would require the OMB Director to submit quarterly reports to the House and Senate Committees on Appropriations on the implementation of Executive Order 13563 relating to Improving Regulation and Regulatory Review. The reports would be submitted on January 2, April 2, July 2, and October 1, 2012, and would include information on increasing public participation in the rulemaking process and reducing uncertainty; improving coordination across federal agencies to eliminate redundant, inconsistent, and overlapping regulations; and identifying existing regulations that have been reviewed and determined to be outmoded, ineffective, or excessively burdensome.

- Section 205 would require the OMB Director to report to the House and Senate Committees on Appropriations, within 30 days after the act’s enactment, on the costs of implementing P.L. 111-203, the Dodd-Frank Wall Street Reform and Consumer Protection Act. The report would include the estimated mandatory and discretionary obligations of funds through FY2016, by federal agency and by fiscal year, including (1) the estimated obligations by cost inputs such as rent, information technology, contracts, and personnel; the methodology and data sources used to calculate such estimated obligations; and the specific section of such act that requires the obligation of funds; and (2) the estimated receipts through FY2016 from assessments, user fees, and other fees by the federal agency making the collections, by fiscal year, including the methodology and data sources used to calculate such estimated collections; and the specific section of such act that authorizes the collection of funds.

Section 632 of H.R. 2434, as reported, would prohibit the use of funds for the White House Director of the Office of Health Reform, the Assistant to the President for Energy and Climate Change, 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, and the White House Director of Urban Affairs.

The House committee continues the provision that would prohibit funding for the EOP to request an FBI background investigation except with the express consent of the individual involved or in extraordinary circumstances involving national security at Section 610.

**Title III: The Judiciary**

As a co-equal branch of government, the judiciary presents its budget to the President, who transmits it to Congress unaltered. The President’s FY2012 budget request for $7.29 billion is $423 million more than appropriated for FY2010 and $387 million above FY2011 enacted amounts. **Table 5** lists the enacted amounts for FY2010 and FY2011, the President’s FY2012 request, and amounts approved by the House Appropriations Committee for FY2012.

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46 This section was authored by Lorraine Tong (x7-5846).
Table 5. The Judiciary Appropriations, FY2010-FY2012
(in millions of dollars)

<table>
<thead>
<tr>
<th></th>
<th>FY2010 Enacted</th>
<th>FY2011 Enacted</th>
<th>FY2012 Request</th>
<th>FY2012 House Committee</th>
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<td>$82</td>
<td>$84</td>
<td>$83</td>
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<tr>
<td>Salaries and Expenses</td>
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<td>74</td>
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<tr>
<td>Building and Grounds</td>
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<td>8</td>
<td>9</td>
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<td>U.S. Court of Appeals for the Federal Circuit</td>
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<td>U.S. Court of International Trade</td>
<td>21</td>
<td>21</td>
<td>23</td>
<td>21</td>
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<tr>
<td>Courts of Appeals, District Courts, and Other Judicial Services (Subtotal)</td>
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<td>6,554</td>
<td>6,913</td>
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<td>Salaries and Expenses</td>
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<td>Fees of Jurors and Commissioners</td>
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<td>Federal Judicial Center</td>
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<td>United States Sentencing Commission</td>
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<td>Judicial Retirement Funds</td>
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<td><strong>Total: The Judiciary</strong></td>
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<td><strong>$6,907</strong></td>
<td><strong>$7,289</strong></td>
<td><strong>$6,759</strong></td>
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**Sources:** Consolidated Appropriations Act, 2010 (Division C, P.L. 111-117). H.Rept. 112-136, pp. 110-112. The United States Sentencing figure for the House recommendation of $16.1 included a $0.1 million rescission.

**Notes:** The Judiciary Fiscal Year 2012, Congressional Budget Summary (Washington: February 2011) was also examined. According to the Summary, the FY2012 request for the Judicial Retirement Funds was $103.8 million, and the total judiciary request was $7,293.9 million. All figures are rounded. Columns also may not equal the total due to rounding.

a. Total for the FY2010 enacted amount reflects $10 million (to remain available until September 30, 2011) to assist the federal courts along the southwest border with increased workload, as part of P.L. 111-230 (FY2010 emergency supplemental appropriations for border security, and for other purposes).

b. The House did not include appropriations for judicial retirement funds in Title III, as it has in previous years. Instead, these mandatory funds were included in Section 628 of H.R. 2434. The House provided an additional $334 million in mandatory funding for other judiciary accounts in Title III. Judicial retirement funds recommended in H.R. 2434 are counted in Title III totals in this report to be consistent with prior year calculations.

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).47

Judge Julia S. Gibbons, chair of the Budget Committee of the Judicial Conference of the United States,48 expressed the judiciary’s recognition that the country was undergoing very serious financial difficulties and the need to reduce federal spending. In her April 6, 2011, written testimony submitted to the House Subcommittee on the judiciary’s FY2012 budget request, Judge Gibbons stated that the Judicial Conference proposed a FY2012 budget that reflects the judiciary’s smallest requested percentage increase on record (an estimated 4.3% over the previous year). She asked that “Congress take into account the impact of the legislative process and law enforcement on the jurisdiction and workload of the federal courts, and ensure that the Judiciary continues to have the resources required to perform its statutory duties and to address a growing workload.”49 She noted that the workload of the federal courts could further increase if the

48 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.
49 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, April (continued...)
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. At the FY2012 budget hearing, she stated that one of the biggest cost-containment efforts has been to limit space costs through process improvements and redesigns so that projected rent payments to the General Services Administration are “nearly $400 million below the 2012 rent projection made prior to initiating our cost-containment efforts.”51 The judiciary has also taken steps to control personnel costs by changing salary and performance policies for court staff in order to reduce future compensation costs. These policies are estimated to save compensation costs by $300 million through FY2019. According to Judge Gibbons, containing information technology costs, such as the consolidation of computer servers at a single location, is expected to save $65 million in cost avoidance.52 Director of the Administrative Office of the U.S. Courts James Duff, who also testified, stated that a task force had been formed—comprising representatives from every directorate—to examine ways to curtail spending while maintaining court services to the public.53

Judicial Security54

The safe conduct of court proceedings and security of judges in courtrooms and off-site continue to be a concern. 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.55 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

6, 2011, p. 3. The testimony was given prior to the enactment of the FY2011 FSGG budget.
50 Ibid., pp. 2-3.
51 Ibid., p. 6.
52 Ibid.
54 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.
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. According to the USMS, the Marshals Service now “Assesses, mitigates and deters approximately 1,400 threats and inappropriate communications against the judiciary each year.”

The FY2012 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 first authorized in FY2009 as a result of the judiciary’s stated concerns that FPS was not providing adequate 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 the protective services.

Increased court security enhancements might be necessary should more suspects charged with terrorism be tried in federal courts rather than military tribunals.

**Workload and Southwest Border Issues**

In her April 6, 2011, written testimony to the subcommittee, Judge Gibbons stated that bankruptcy filings are at near record levels due to the downturn in the economy. Such filings increased 29% in 2008, 35% in 2009, and 20% in 2010 to 1,572,597 filings. For 2011, the judiciary projected an additional 20,000 case filings nationwide. She also highlighted the increase in probation and pretrial services. Convicted offenders under the supervision of federal probation officers reached a record 126,642 in 2010 and is projected to increase to 131,000 cases in 2011. Pretrial supervision cases have also grown—110,671 cases in 2010, and a projected increase to 113,000 in 2011.

Judge Gibbons also stated at the hearing, “After several years of steady growth, our criminal workload nationally is projected to decline 2 percent, from 78,213 filings in 2010—an all-time high—to 76,500 filings in 2011.” Between 2000 and 2010, criminal case filings grew 25% nationally with immigration prosecutions in the judicial districts along the southwest border spurring the increase. She emphasized that the federal judiciary does not determine the workload of the courts but must handle the cases that are brought before the courts.

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58 Ibid., pp. 4-5.
59 Ibid., 4.
60 In August 2010, Congress passed H.R. 6080, legislation making FY2010 emergency supplemental appropriations for border security, to provide $600 million to enhance southwest border security. 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.
Judicial Pay

Judicial pay has been an issue of concern to the judiciary for many years. 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 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 last two year-end reports 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. However, federal judges received a salary adjustment in 2009. 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. However, no cost-of-living adjustment was provided to Members of Congress or judges in FY2011. 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. No further action was taken prior to the adjournment of the 111th Congress. Although the Senate Appropriations Committee recommended a 2010 salary adjustment for Justices and judges under Section 307 (S.Rept. 111-43), the enacted FY2010 legislation (P.L. 111-117) did not provide for the salary adjustment.

In the 112th Congress, on March 14, 2011, Senator Dianne Feinstein introduced, S. 569, the Federal Judicial Fairness Act of 2011, legislation similar to S. 2725. The bill, with nine cosponsors, has been referred to the Senate Judiciary Committee where it is pending. The judiciary did not propose a cost-of-living adjustment for federal judges for FY2012.

FY2012 Request

For FY2012, the judiciary requested $7.29 billion in total appropriations, an increase of $386.9 million over the $6.90 billion enacted FY2011. Approximately 86.1% of the requested increase

61 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. 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 have 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.

62 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.

would cover pay adjustments, benefits, and inflation to maintain current services. The FY2012 request included funding for an additional 523 full-time-equivalent (FTE) positions, including 264 FTEs to meet increased workload requirements, 16 FTE magistrate judges and staff, and 9 FTE police officers and associated costs for the Supreme Court. A total of 35,695 FTEs were requested for FY2012, an increase of 1.5% from the estimated 35,172 FTEs in 2011.

The following summarizes the FY2011 enacted amount, the FY2012 judiciary budget request, and the House committee recommendation for FY2012.

**Supreme Court**

The total FY2012 request for the Supreme Court was $84.1 million contained in two accounts: (1) Salaries and Expenses: $75.6 million was requested, a $1.7 million increase over the $73.9 million enacted for FY2011; and (2) Care of the Building and Grounds: $8.5 was requested, a $0.3 million increase over the $8.2 million enacted for FY2011. The total budget FY2012 request was a $2.0 million increase over the FY2011 appropriation of $82.1 million. The request included pay and benefits increases to maintain FY2011 services, and 9 FTE 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 committee recommendation for FY2012 was $74.8 million for the Salaries and Expenses account, and $8.2 million for the Care of Building and Grounds account for a total of $83.0 million, which would include funds for additional police officers as requested.

**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 FY2012 budget request was $35.1 million, which was $2.6 million more than the FY2011 appropriation of $32.5 million. The House committee recommendation for FY2012 was $31.5 million.

**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 FY2012 request was $22.9 million, a $1.5 million increase over the FY2011 appropriation of $21.4 million. The budget request would pay for standard pay and other inflationary adjustments, and to maintain current services. The House committee recommendation for FY2012 was $20.6 million.

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64 *The Judiciary Fiscal Year 2012 Congressional Budget Summary*, p. 5, and *The Judiciary Fiscal Year 2012 Congressional Budget Justification*, p. 6.
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 FY2012 request was $6,912.7 million, a $359.0 million increase over the FY2011 appropriation of $6,553.7 million. The House recommendation for FY2012 was $6,402.9 million.

The total of this budget group comprised the following accounts:

Salaries and Expenses

The FY2012 request for this account was $5,236.2 million, an increase of $232 million over the FY2011 appropriation of $5,004.2 million. According to the budget request, this increase is needed primarily for inflationary and other adjustments to maintain the courts’ current services. The House recommendation for FY2012 was $4,790.9 million.

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 FY2012 request for the Trust Fund account was $5.0 million, a $0.2 million increase from the FY2011 appropriation of $4.8 million. The House committee recommendation for FY2012 was $4.8 million.

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 FY2012 request was $513.1 million, a $46.4 million increase over the FY2011 appropriation of $466.7 million. The request included 50 additional court security officers for new and renovated existing space expected to be delivered in FY2012, changes in operating expenses based on anticipated billings from the Federal Protective Service, and improvements, and enhancements to security systems and equipment. The House recommendation for FY2012 was $500.0 million.

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 cost for this account is driven by the number and type of prosecutions brought by U.S. Attorneys. The FY2012 request for these services was $1,098.7 million, a $73.0 million increase over the FY2011 appropriation of $1,025.7 million. The request includes an additional 61 FTE positions to handle 206,200 defense representations and complex caseloads. The House recommendation for FY2012 was $1,050 million.

**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 FY2012 request was $59.7 million, a $7.4 million increase over the FY2011 appropriation of $52.3 million. The requested increase would be primarily for adjustments to allow payment for statutory fees and expenses. The House recommendation for FY2012 was $57.3 million.

**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 FY2012 request for AOUSC was $88.5 million, a $5.6 million increase over the FY2011 appropriation of $82.9 million. The request would fund adjustments to its base, and maintain current services, including recurring costs such as travel, communications, service agreements, and supplies. Three new positions (two FTEs) were requested for a six-month period to address high priority court support functions (including modernization and consolidation of the judiciary’s nationwide accounting system). AOUSC also receives non-appropriated funds from fee collections and carry-over balances to supplement its appropriations requirements. The House recommendation for FY2012 was $80.0 million.

**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 FY2012 request was $29.0 million, a $1.7 million increase over the FY2011 appropriation of $27.3 million. The request would cover standard pay and other inflationary adjustments, the hiring of one FTE (two positions), and enhanced education and training initiatives. The House recommendation for FY2012 was $26.3 million.

**United States Sentencing Commission**

The commission promulgates sentencing policies, practices, and guidelines for the federal criminal justice system. The FY2012 request was $17.9 million, an $0.8 million increase over the FY2011 appropriation of $16.8 million. The increase would cover pay and other inflationary adjustments. The House recommendation for FY2012 was $16.1 million (which included a rescission of $0.1 million).
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. According to the House report, the FY2012 request was $99.0 million, an $8.6 million increase over the FY2011 appropriation of $90.4 million. The House recommendation for FY2012 was $99.0 million.

General Provision Changes

The House committee recommended new and continuing language under general provisions. The recommended continuing language contained in Sections 301-Section 305 were as follows.

- Section 301, which would continue language to permit funds for salaries and expenses to be available for employment of experts and consultant services (as authorized by 5 U.S.C. 3109). (The judiciary also proposed this section.)
- Section 302, which would continue language to permit up to 5% of any appropriation made available for FY2012 to be transferred between judiciary appropriations accounts, provided that no appropriation shall be decreased by more than 5% or increased by more than 10% by any such transfer except in certain circumstances. In addition, the language would provide that any such transfer shall be treated as a reprogramming of funds under sections 604 and 608 of the bill and shall not be available for obligation or expenditure except in compliance with the procedures set forth in those sections. (The judiciary also proposed this section.)
- Section 303, which would continue language authorizing not to exceed $11,000 to be used for official reception and representation expenses incurred by the Judicial Conference of the United States. (The judiciary also proposed this section.)
- Section 304, which would continue language enabling the judiciary to contract for repairs under $100,000.
- Section 305, which would continue language to authorize a court security pilot program. (The judiciary also proposed this section.)

The House Committee added new language for Sections 306-308, as follows.

- Section 306, which would extend a temporary judgeship in Kansas.
- Section 307, which would rescind $100,000 of prior year unobligated balances from the United States Sentencing Commission.
- Section 308, which would require that the President submit to Congress, without change, proposed supplemental appropriations submitted to the President by the legislative branch and the judicial branch.

65 According to The Judiciary Fiscal Year 2012, Congressional Budget Summary, the FY2012 judiciary request was for $103.8 million.
Title IV: District of Columbia

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). 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. The approved budget must then be transmitted to the President, who forwards it to Congress for its review, modification, and approval.

On April 1, 2011, the mayor of the District of Columbia submitted a proposed $9.6 billion general operating fund budget, including enterprise funds, to the District of Columbia Council. The mayor’s budget includes a proposed plan intended to address a projected $322 million budget shortfall for FY2012.

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 6 shows details of the District’s special federal payments, including the FY2011 enacted amounts, the amounts included in the President’s FY2012 budget request, and the amounts recommended by the House Appropriations Committee for FY2012.

<table>
<thead>
<tr>
<th></th>
<th>FY2010 Enacted</th>
<th>FY2011 Enacted</th>
<th>FY2012 Request</th>
<th>FY2012 House Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resident Tuition Support</td>
<td>$35</td>
<td>$35</td>
<td>$35</td>
<td>$30</td>
</tr>
<tr>
<td>Emergency Planning and Security</td>
<td>15</td>
<td>15</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>District of Columbia Courts</td>
<td>261</td>
<td>243</td>
<td>229</td>
<td>224</td>
</tr>
<tr>
<td>Defender Services</td>
<td>55</td>
<td>55</td>
<td>55</td>
<td>55</td>
</tr>
<tr>
<td>Court Services and Offender Supervision Agency</td>
<td>212</td>
<td>212</td>
<td>217</td>
<td>213</td>
</tr>
<tr>
<td>Public Defender Service</td>
<td>37</td>
<td>37</td>
<td>42</td>
<td>37</td>
</tr>
<tr>
<td>Criminal Justice Coordinating Council</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Judicial Commissions</td>
<td>0.5</td>
<td>0.5</td>
<td>0.5</td>
<td>0.3</td>
</tr>
<tr>
<td>St. Elizabeth Hospital Campus</td>
<td>0</td>
<td>0</td>
<td>18</td>
<td>0</td>
</tr>
</tbody>
</table>

This section was authored by Eugene Boyd (x7-8689).

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

120 Stat. 2028.

87 Stat. 801.

The District of Columbia Budget and General Provisions

The President’s Budget Request

On February 14, 2011, the Obama Administration released its detailed budget requests for FY2012. The Administration’s proposed budget requested $716.7 million in special federal payments to the District of Columbia. Approximately three-quarters ($544.7 million) of this budget request would be targeted to the courts and criminal justice system. The President’s budget also requested $104.1 million in support of education, including $67 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 14.5% of the Administration’s budget request. The President’s total budget request of $716.7 million represents a 2.4% increase from the FY2011 appropriations of $700.1 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 $9.6 billion. After its review, the council revised and approved the District’s budget on May 25, 2011, and forwarded it to the mayor for his signature. The mayor signed the measure on June 29, 2011 and it was transmitted to Congress for its review on July 8, 2011.

House Appropriations Committee

The Financial Services and General Government Appropriations Act of FY2012, as reported by the House Appropriations Committee (H.Rept. 112-136) includes $592.3 million in special federal payments to the District of Columbia. This is $107.9 million less than appropriated in FY2011, and $124.4 million less than requested by the President. The bill would reduce federal support for court operations by $19 million below the amount appropriated for FY2011. It would continue to support elementary and secondary education initiatives in the District, including school vouchers, but at a level $17.7 million less than the amount appropriated for FY2011.
The bill would prohibit the use of federal funds for a needle exchange program, or to enact rules governing medical marijuana, or to support efforts to achieve congressional voting representation for residents of the District. In addition, it would restrict the use of District and federal funds for abortion services except in cases of incest, rape, or the life of the mother was threatened.

**Title V: Independent Agencies**

Title V provides funding for more than two dozen independent agencies which perform a wide range of functions, including the management of federal real property (GSA), the regulation of financial institutions (SEC), and mail delivery (USPS). The President’s FY2012 budget request included $26.89 billion for independent agencies that receive their funding through the FSGG appropriations bill, an increase of $2.31 billion over FY2010 enacted levels and $3.59 billion below FY2011 enacted amounts. Table 7 lists the enacted amounts for FY2010 and FY2011, the President’s FY2012 request, and amounts approved by the House Appropriations Committee for FY2012.

**Table 7. Independent Agencies Appropriations, FY2010-FY2012**

(in millions of dollars)

<table>
<thead>
<tr>
<th>Agency</th>
<th>FY2010 Enacted</th>
<th>FY2011 Enacted</th>
<th>FY2012 Request</th>
<th>FY2012 House Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Conference of the United States</td>
<td>$2</td>
<td>$3</td>
<td>$3</td>
<td>$3</td>
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<td>Christopher Columbus Fellowship Foundation</td>
<td>1</td>
<td>0.5</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Civilian Property Realignment Board</td>
<td>—</td>
<td>—</td>
<td>88</td>
<td>—</td>
</tr>
<tr>
<td>Commodity Futures Trading Commissiona</td>
<td>169</td>
<td>203</td>
<td>308</td>
<td>172</td>
</tr>
<tr>
<td>Consumer Product Safety Commission</td>
<td>118</td>
<td>115</td>
<td>122</td>
<td>111</td>
</tr>
<tr>
<td>Election Assistance Commission</td>
<td>93</td>
<td>16</td>
<td>14</td>
<td>7</td>
</tr>
<tr>
<td>Federal Communications Commissionb</td>
<td>(356)</td>
<td>(336)</td>
<td>(359)</td>
<td>(319)</td>
</tr>
<tr>
<td>Federal Deposit Insurance Corporation: Office of Inspector General (by transfer)c</td>
<td>(38)</td>
<td>(43)</td>
<td>(45)</td>
<td>(45)</td>
</tr>
<tr>
<td>Federal Election Commission</td>
<td>67</td>
<td>66</td>
<td>67</td>
<td>66</td>
</tr>
<tr>
<td>Federal Labor Relations Authority</td>
<td>25</td>
<td>25</td>
<td>26</td>
<td>24</td>
</tr>
<tr>
<td>Federal Trade Commission</td>
<td>169</td>
<td>175</td>
<td>199</td>
<td>155</td>
</tr>
<tr>
<td>General Services Administration</td>
<td>653</td>
<td>-986d</td>
<td>617</td>
<td>-1,758d</td>
</tr>
<tr>
<td>Harry S. Truman Scholarship Foundation</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Merit Systems Protection Board</td>
<td>43</td>
<td>43</td>
<td>44</td>
<td>42</td>
</tr>
<tr>
<td>Morris K. Udall Foundation</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>National Archives and Records Administration</td>
<td>457</td>
<td>417</td>
<td>408</td>
<td>360</td>
</tr>
<tr>
<td>National Credit Union Administration</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>0.5</td>
</tr>
<tr>
<td>Office of Government Ethics</td>
<td>14</td>
<td>14</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td>Office of Personnel Management (total)</td>
<td>20,378</td>
<td>20,828</td>
<td>21,151</td>
<td>21,128</td>
</tr>
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</table>
Financial Services and General Government: FY2012 Appropriations

<table>
<thead>
<tr>
<th></th>
<th>FY2010 Enacted</th>
<th>FY2011 Enacted</th>
<th>FY2012 Request</th>
<th>FY2012 House Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office of Special Counsel</td>
<td>18</td>
<td>18</td>
<td>19</td>
<td>18</td>
</tr>
<tr>
<td>Postal Regulatory Commission</td>
<td>14</td>
<td>14</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td>Privacy and Civil Liberties Oversight Board</td>
<td>2</td>
<td>1</td>
<td>2</td>
<td>-1</td>
</tr>
<tr>
<td>Securities and Exchange Commission</td>
<td>1,095</td>
<td>1,185</td>
<td>1,407</td>
<td>1,185</td>
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<tr>
<td>Selective Service System</td>
<td>24</td>
<td>24</td>
<td>25</td>
<td>24</td>
</tr>
<tr>
<td>Small Business Administration</td>
<td>824</td>
<td>730</td>
<td>985</td>
<td>978</td>
</tr>
<tr>
<td>United States Postal Service</td>
<td>363</td>
<td>331</td>
<td>323</td>
<td>316</td>
</tr>
<tr>
<td>United States Tax Court</td>
<td>49</td>
<td>52</td>
<td>60</td>
<td>51</td>
</tr>
<tr>
<td><strong>Total: Independent Agencies</strong></td>
<td><strong>$24,585</strong></td>
<td><strong>$23,280</strong></td>
<td><strong>$25,937</strong></td>
<td><strong>$22,936</strong></td>
</tr>
</tbody>
</table>


**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.

b. The FCC received all of its funding through the collection of regulatory fees in FY2010 resulting in no direct appropriation. The FCC is expected to be funded entirely by regulatory fees in FY2011 and FY2012 as well. Therefore, the amounts shown for the FCC represent budgetary resources made available to the agency but those amounts are not included in the table totals.

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. GSA’s real property activities are funded through the Federal Buildings Fund (FBF), a multi-billion dollar revolving fund into which rental payments from federal agencies that lease GSA space are deposited. Revenue in the FBF is then made available by Congress each year to pay for GSA’s real property activities. 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. GSA funding levels for FY2011 as enacted and FY2012 as approved by the House Committee on Appropriations are negative because, in each instance, rent paid into the FBF exceeded the amount of new budget authority provided to GSA.

e. Rescission of prior year unobligated balances.

**Civilian Property Realignment Board**

The House Appropriations Committee has recommended $88 million for a new Civilian Property Realignment Board (CPRB) account. The CPRB has not been established, although the White House has proposed such an entity and H.R. 1473, the Civilian Property Realignment Act of 2011, would establish a Civilian Property Realignment Commission. Both proposals envision a committee that would, with input from federal agencies, develop recommendations for the

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71 This section was authored by Garrett Hatch (x7-7822).

72 H.R. 1473 was introduced on May 4, 2011, and was reported by the House Committee on Transportation and Infrastructure, Subcommittee on Economic Development, Public Buildings, and Emergency Management on May 25, 2011. No further action has been taken. For more information on H.R. 1473, see CRS Report R41830, *Civilian Property Realignment Act of 2011 (H.R. 1734): Analysis of Key Provisions*, by Garrett Hatch.
President as to which civilian federal properties should be consolidated, reconfigured, redeveloped, leased, sold, or conveyed. House appropriators wrote that “the Committee believes a Civilian Property BRAC is a meritorious idea deserving of serious consideration. Should the Congress move forth with legislation to create a Civilian Property BRAC, the Committee will lend its support as able.”

**Commodities Futures Trading Commission**

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 Subcommittee in the Senate. P.L. 112-10 provides $203 million for the CFTC for FY2011. The President requested $308 million for the CFTC for FY2012, which would be $105 million more than FY2011 enacted appropriations. The House Appropriations Committee recommended $172 million for FY2012, which would be $136 million less than the President’s request and $31 million below FY2011 enacted appropriations.

**Consumer Product Safety Commission**

The Consumer Product Safety Commission (CPSC) is an independent federal regulatory agency whose mission is to reduce the risk of injury from using consumer products. It endeavors to do so by developing safety standards for consumer products; promoting uniformity between state and local regulations; and conducting or encouraging research into the causes of product-related deaths, illnesses, and injuries and ways to prevent them in the future.

For FY2011, the CPSC is receiving $115 million in appropriated funds, or about $3 million less than the amount enacted for FY2010. The decrease follows several years of substantial growth in CPSC funding. As recently as FY2007, the largest appropriation CPSC ever received (in nominal dollars) was about $62 million. But in fiscal years 2008 through 2010, Congress approved significant increases in funding for the agency, largely to support major reforms initiated by Consumer Product Safety Improvement Act of 2008 (CPSIA, P.L. 110-314). The 110th Congress passed the act largely in response to a series of highly publicized recalls of imported products, particularly unsafe toys and other items manufactured for children.

Section 1574 of the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (P.L. 112-10) directs the Government Accountability Office to conduct a study of the usefulness and reliability of the information on consumer product safety collected by the CPSC through a publicly accessible database that has been up and running since March 11, 2011; the study must

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74 This section was written by Mark Jickling (x7-7784).

75 This section was written by Gary Guenther (x7-7742).
be submitted to the House and Senate Committees on Appropriations no later than October 12, 2011. The database was established by section 6A of the CPSIA and is intended to provide a mechanism for consumers to both report problems with consumer products and investigate the risk of harm associated with specific products. In addition, the database is designed to help the CPSC identify trends in particular product hazards more quickly and efficiently.

For FY2012, the Obama Administration has requested $122 million in appropriations for the CPSC. Such a level of funding would allow the agency to hire an additional 34 full-time equivalent employees (FTEs), bringing the total size of FTE staff to about 584.76 Relative to the FY2011 budget request, the FY2012 proposal would reduce the budget for information technology capital and development by $3.1 million. But it would increase funding for data intake, incident review and investigation by $3.1 million to hire 20 new FTEs; the added funds represent the estimated cost of operating the new public database on consumer product hazards in FY2012. Under the budget request, funding for the replacement of information technology equipment and software would rise by $0.5 million to $1.5 million. In addition, the proposal would allocate $400,000 to the creation of an Office of Education, Global Outreach, and Small Business Ombudsman and set aside $665,000 to hire three FTEs to support financial management oversight.77

In its report on H.R. 2434, the House Appropriations Committee recommends an appropriation of $111 million for the CPSC in FY2012, or $4 million less than the amount enacted for FY2011 and $11 million less than the budget request. Of that amount, $0.5 million would be available until September 30, 2013 for the pool and spa grants program established by the Virginia Graeme Baker Pool and Spa Safety Act (P.L. 110-140).78

The House committee has “strong concerns” about the accuracy and reliability of the information that is being collected through the new public database for consumer product safety information. More specifically, it believes the database is “of little value to consumers and manufacturers” because the information needed to file a report about harm associated with a product through the database is “insufficient.” So until changes are made in the reporting requirements to improve the reliability and accuracy of reports of harm, the House committee wants the $3 million that has been requested to cover expenses linked to the database in FY2012 to be used for other, more effective purposes, such as risk assessment and enforcement. Section 622 of the bill would prohibit the use of appropriated funds to manage the database in FY2012.79

In addition, the House committee has misgivings about the application of section 101 of the CPSIA to youth off-road vehicles. Section 101(a) of the act sets declining limits on the lead content of products designed or intended for children 12 years of age or younger. But section 101(b) authorizes the CPSC to exclude specific products that exceed the lead limits from those limits if it determines on the basis of sound scientific evidence that the lead in such products will not harm the health of children or have an adverse effect on public health or safety. In early 2009, the Specialty Vehicle Institute of America filed a petition to exclude certain parts used in youth motorized recreational vehicles from the lead limits under section 101(b). Though the CPSC

76 See written testimony by Inez Tenenbaum, the Chairman of the Consumer Product Safety Commission, for a hearing held by the House Appropriations Subcommittee on Financial Services and General Government on March 31, 2011.
77 Ibid.
78 House Appropriations Committee, report to accompany H.R. 2434, p. 41.
79 Ibid., p. 71.
denied the petition, it decided to issue a stay of enforcement that lasted from March 11, 2009 to May 1, 2011. In its report on H.R. 2434, the House committee expresses concern that enforcement of the limits under section 101(a) would lead to greater use of adult off-road vehicles by children, and that such an outcome would pose a greater risk of harm to children than exposure to the lead in the components of such vehicles. Section 630 of the bill would exclude youth off-road vehicles and bicycles from the lead limits in the CPSIA.80

**Election Assistance Commission**81

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 included $16.8 million for the EAC, of which $3.25 million was to be transferred to the National Institute of Standards and Technology (NIST). P.L. 102-10, the Department of Defense and Full-Year Continuing Appropriations Act, 2011, provided $16.3 million for the EAC, of which $3.25 million was to be transferred to NIST.

For FY2012, the President’s budget request includes $13.7 million for the EAC, of which $3.25 is to be transferred to NIST. The House Committee on Appropriations recommends $6.9 million for the EAC and notes that the amount is $9.4 million less than in FY2011 and $6.9 million less than the budget request. The Committee recommends the transfer of $1.6 million to NIST, which is $1.8 million less than in FY2011 and $1.6 million less than the request. The House committee also expresses its concern about the EAC’s high management operating costs and the effectiveness of the agency.82

**Federal Communications Commission**83

The Federal Communications Commission, 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

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80 Ibid., p. 72.
81 This section was written by Kevin Coleman (x7-7878).
83 This section was written by Patricia Moloney Figliola (x7-2580).
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, as is the case for FY2012, there is no direct appropriation.

For FY2012, the House Appropriations Committee approved $319,004,000 for agency salaries and expenses with no direct appropriation (all funding will be obtained through the collection of regulatory fees). This level is $16,790,000 less than FY2011 and $39,797,000 less than the administration requested.

The Committee recommendation includes bill language, similar to that included in previous Appropriations Acts, which allows

- collection of $319,004,000 in section 9 (regulatory) fees;
- a prohibition on amounts collected in excess of $319,004,000 from being available for obligation;
- a prohibition on remaining offsetting collections from prior years from being available for obligation;
- retention of $85,000,000 of proceeds from the use of a competitive bidding system.
- up to $4,000 for official reception and representation expenses;
- purchase and hire of motor vehicles; and
- special counsel fees.

The House committee wrote that it remains concerned with the Commission’s decision to begin regulating the Internet, specifically the precedent that this decision sets and its impact on future innovation. Therefore, the House committee included section 621 to prohibit funds for implementation of the Commission’s net neutrality order.

The House committee also wrote that it is aware of concerns related to possible interference to Global Positioning System (GPS) devices due to terrestrial broadband service. The House committee wrote that it remains engaged on this issue and awaits the final report by the Technical Working Group. The House committee approved an amendment introduced by Representatives Austria and Yoder that would prohibit funding for the FCC to remove conditions on or permit certain commercial broadband operations until the FCC has resolved concerns of interference by these operations on GPS devices. The amendment was adopted on a voice vote.

The House committee wrote that it believes that FCC involvement in cybersecurity should not result in regulations or activities that duplicate or contradict the multi-agency cybersecurity mitigation and response efforts being lead by the Departments of Defense and Homeland Security.

The House committee also wrote that it understands the FCC is promulgating a rule to address abuses in intercarrier compensation related to the modernization of the Universal Service Fund. In addition, the House committee wrote it believes that the service that local exchange carriers provide to rural Americans was “important” and encouraged the Commission to maintain a reasonable intercarrier compensation system for rural local exchange carriers.
The House committee wrote that it is concerned about the disparity in access to broadband between Puerto Rico and the 50 states. It cited recent studies that have found that only 31–37 percent of residents of Puerto Rico have adopted broadband measured at the lowest speed tracked by the Commission. The House committee encouraged the Commission to implement policies that increase broadband accessibility and adoption in Puerto Rico.

**Federal Deposit Insurance Corporation: Office of the Inspector General**

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.

P.L. 112-10 provides $43 million for the FDIC OIG for FY2011. The President requested, and the House Appropriations Committee recommended $45 million for FY2012, an increase of $2 million from FY2011 enacted appropriations.

**Federal Election Commission**

The FEC is an independent agency that 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. The FEC also administers the presidential public financing system. In recent years, FEC appropriations have generally been noncontroversial and subject to limited debate in committee or on the House and Senate floors.

For FY2012, the President requested $67.0 million for the FEC. As in recent years, personnel and information technology (IT) expenses are expected to occupy much of the agency’s budget in FY2012. The Commission requested no new full-time equivalent positions over the current allocation of 375. Among other points, the IT budget is expected to cover ongoing improvements to the FEC website and additional hardware and software to manage and publicly disclose campaign finance data.

The House Appropriations Committee recommended an FY2012 appropriation of $66.4 million, $0.65 million less than the President’s requested amount and the same amount appropriated in FY2011. The House committee report and legislative language contain no additional instructions.
except a $5,000 limit on “reception and representation,” a prohibition that has long been included in FEC appropriations provisions.

A separate section of the FSGG bill also addresses campaign finance issues. Section 738 of the FY2012 bill (concerning government-wide provisions) contains a prohibition on requiring government contractors to provide information about their or their employees’ federal campaign contributions, electioneering communications, or independent expenditures as a condition of receiving the contract. As CRS has noted elsewhere, the Obama Administration has reportedly considered issuing an executive order to require additional disclosure of government contractors’ political expenditures. Similar language to that in the FSGG bill has also appeared in other legislation currently before Congress.91

**Federal Trade Commission**92

The Federal Trade Commission (FTC) is an independent agency whose mission is to protect consumers and maintain or enhance competition in a wide range of industries. It does so mainly by enforcing laws that prohibit anticompetitive, deceptive, or unfair business practices, and by educating consumers and business owners to foster informed consumer choices, compliance with the law, and a better understanding of the competitive process.

Operating funds for the agency come from three sources, listed here in descending order of importance: (1) appropriations, (2) pre-merger filing fees under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, and (3) Do-Not-Call registry fees.

In FY2011, appropriations for the FTC totaled $291 million, or $23 million less than the amount requested by the Administration for that year. Pre-merger filing fees are expected to bring in another $93 million, while fees for the Do-Not-Call registry should contribute $21 million. According to an FTC budget document, the agency is allocating 57% of its FY2011 operating funds (or $231 million) to the goal of protecting consumers; the remaining $174 million goes to the goal of maintaining and enhancing competition.93

For FY2012, the Obama Administration is requesting $326 million in appropriations for the FTC, or $37 million more than the amount enacted for FY2011. The additional funds would be used to pay for mandatory contract and building replacement costs, hire 25 new full-time equivalent employees, support increased demand for the FTC’s Consumer Response Systems and Services, improve its ability to investigate and litigate complex cases, acquire up-to-date data on the pharmaceutical industry for use in agency cases and reports, and streamline and modernize the agency’s information systems.94 It is assumed in the budget request that pre-merger filing fees will provide $110 million in added funds, and that Do-Not-Call fees will contribute another $19 million, giving the FTC a total budget in FY2012 of $455 million.

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91 For additional discussion, see the “Potential Policy Considerations for Congress” section of CRS Report R41542, *The State of Campaign Finance Policy: Recent Developments and Issues for Congress*, by R. Sam Garrett.
92 This section was written by Gary Guenther (x7-7742).
94 Ibid., pp. 37-41.
The House Appropriations Committee recommends in the report on H.R. 2434 that the FTC receive $284 million in appropriations in FY2012, or $7 million less than the amount enacted for FY2011 and $42 million less than the budget request. This amount would be supplemented by an estimated $108 million in pre-merger filing fees and $21 million in Do-Not-Call fees, giving the agency an operating budget of $413 million.

Though the House committee’s report says little about the use of the recommended appropriated funds, it does direct the FTC not to issue “principles or guidelines” concerning food marketed to children, unless a “peer-reviewed scientific study” conclusively proves that the most effective way to alter eating habits and reduce the obesity rate is to regulate the marketing of food to children.95 The House committee also expressed the view that the FTC should not rely on any guidance issued by the federal Interagency Working Group on Food Marketed to Children “to engage in enforcement actions under the (Commission’s) existing authority.”

**General Services Administration**96

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 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 7 shows GSA appropriations as enacted for FY2010 and FY2011, as requested by the President for FY-2012, and as recommended by the House for FY2012.

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95 House Appropriations Committee, report to accompany H.R. 2434, p. 46.
96 This section was written by Garrett Hatch (x7-7822).
Table 8. General Services Administration Appropriations, FY2010-FY2012

<table>
<thead>
<tr>
<th>Account</th>
<th>FY2010 Enacted</th>
<th>FY2011 Enacted</th>
<th>FY2012 Request</th>
<th>FY2012 House Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Buildings Fund</td>
<td>$387</td>
<td>-$1,227</td>
<td>$286</td>
<td>-$1,999</td>
</tr>
<tr>
<td>Limitations on Availability</td>
<td>8,544</td>
<td>7,598</td>
<td>9,509</td>
<td>7,224</td>
</tr>
<tr>
<td>Construction and Acquisition</td>
<td>894</td>
<td>82</td>
<td>840</td>
<td>0</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>414</td>
<td>280</td>
<td>869</td>
<td>280</td>
</tr>
<tr>
<td>Installment Payments</td>
<td>141</td>
<td>136</td>
<td>127</td>
<td>127</td>
</tr>
<tr>
<td>Rental of Space</td>
<td>4,805</td>
<td>4,830</td>
<td>5,285</td>
<td>4,700</td>
</tr>
<tr>
<td>Building Operations</td>
<td>2,290</td>
<td>2,270</td>
<td>2,388</td>
<td>2,117</td>
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<tr>
<td>Repayment of Debt</td>
<td>66</td>
<td>71</td>
<td>80</td>
<td>80</td>
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<tr>
<td>Rental Income to Fund</td>
<td>-8,223</td>
<td>-8,871</td>
<td>-9,303</td>
<td>-9,303</td>
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<tr>
<td>Recession</td>
<td>0</td>
<td>-25</td>
<td>0</td>
<td>0</td>
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<tr>
<td>Operating Accounts</td>
<td>$263</td>
<td>$242</td>
<td>$332</td>
<td>$241</td>
</tr>
<tr>
<td>Government-wide Policy</td>
<td>60</td>
<td>67</td>
<td>105</td>
<td>65</td>
</tr>
<tr>
<td>Operating Expenses</td>
<td>73</td>
<td>70</td>
<td>70</td>
<td>68</td>
</tr>
<tr>
<td>Office of Inspector General</td>
<td>59</td>
<td>59</td>
<td>62</td>
<td>59</td>
</tr>
<tr>
<td>e-Government Fund</td>
<td>34</td>
<td>8</td>
<td>34</td>
<td>0</td>
</tr>
<tr>
<td>Acquisition Workforce Fund</td>
<td>—</td>
<td>0</td>
<td>17</td>
<td>0</td>
</tr>
<tr>
<td>Federal Citizens Info. Center</td>
<td>37</td>
<td>34</td>
<td>40</td>
<td>0</td>
</tr>
<tr>
<td>Former Presidents</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Citizen Information and Engagement</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>50</td>
</tr>
<tr>
<td>Recession</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>-5</td>
</tr>
<tr>
<td>Grand Total</td>
<td>$653</td>
<td>-$985</td>
<td>$618</td>
<td>-$1,758</td>
</tr>
</tbody>
</table>


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

The President proposed a limit of $9.509 billion from the FBF’s available revenue for GSA’s real property activities in FY2012, $1.911 billion more than was provided in FY2011. The House Appropriations Committee has recommended $7.224 billion from the FBF be made available to GSA for FY2012, $2.285 billion less than the President’s request and $374 million below the amount provided for FY2011. The President has requested $332 million for GSA’s operating accounts, an increase of $90 million from FY2011 enacted levels. The House Appropriations Committee has recommended $241 million for GSA’s operating accounts, $1 million less than FY2011 enacted amounts and $91 million less than the President requested. The House Appropriations Committee would establish an Information and Engagement for Citizens account, which would replace the e-Government fund and the Federal Citizens Information Center accounts. The House committee wrote that the new account would “provide access and
understanding of Federal information, benefits, and services to citizens, businesses, other
government, and the media.”97

Electronic Government Fund98

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.99 The fund and the
projects it sustains historically have been closely scrutinized by 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,
the E-Government Fund. Congress, however, appropriated no appropriation to the E-Government
Fund in FY2009.100

For FY2012, President Obama requested $34 million for the Electronic Government Fund, $24
million more than the $8 million that was appropriated for FY2011. House appropriators,
however, recommended that the Electronic Government Fund be combined with the Federal
Citizen Services Fund and renamed the “Information and Engagement for Citizens” account and
be appropriated $50 million.101 House appropriators’ said that “[t]he Committee expects the funds
provided for these activities, combined with efficiency gains and resource prioritization, will
result in increased delivery of information to the public and in the ease of transaction with the
government.”102 In FY2011, the Federal Citizen Services Fund was appropriated $34 million. The
combined appropriation for both the Electronic Government Fund and the Federal Citizen
Services Fund in FY2011 was $42 million, or $8 million less than House appropriators’ FY2012
recommendation.

98 This section was written by Wendy Ginsberg (x7-3933).
99 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.”
100 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.
101 H.Rept. 112-136, p. 52. According to S.Rept. 111-238, the Federal Citizen Services Fund provides salaries and
expenses for the Office of Citizen Services, which “provides citizens, businesses, other governments, and the media
with access points to easily obtain Government information and services,” including USA.gov. See U.S. Congress,
Senate Committee on Appropriations, Financial Services and General Government Appropriations Bill, 111th
102 H.Rept. 112-136, p. 52.
Independent Agencies Related to Personnel Management Appropriations

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 8 shows appropriations enacted for FY2011, amounts requested by the President for FY2012, and amounts recommended by the House committee for FY2012, for each of these agencies.


<table>
<thead>
<tr>
<th>Agency</th>
<th>FY2010 Enacted</th>
<th>FY2011 Enacted</th>
<th>FY2012 Request</th>
<th>FY2012 House Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Labor Relations Authority</td>
<td>$24.8</td>
<td>$24.7</td>
<td>$26.4</td>
<td>$24.1</td>
</tr>
<tr>
<td>Merit Systems Protection Board (total)</td>
<td>42.9</td>
<td>42.8</td>
<td>44.5</td>
<td>41.8</td>
</tr>
<tr>
<td>Salaries and Expenses</td>
<td>40.3</td>
<td>40.3</td>
<td>42.1</td>
<td>39.4</td>
</tr>
<tr>
<td>Limitation on Administrative Expenses</td>
<td>2.6</td>
<td>2.6</td>
<td>2.3</td>
<td>2.3</td>
</tr>
<tr>
<td>Office of Personnel Management (total)</td>
<td>20,378.1</td>
<td>20,827.6</td>
<td>21,151.0</td>
<td>21,128.0</td>
</tr>
<tr>
<td>Salaries and Expenses</td>
<td>103.0</td>
<td>97.8</td>
<td>100.0</td>
<td>97.8</td>
</tr>
<tr>
<td>Limitation on Administrative Expenses</td>
<td>112.7</td>
<td>112.5</td>
<td>132.5</td>
<td>112.5</td>
</tr>
<tr>
<td>Office of Inspector General (salaries and expenses)</td>
<td>3.1</td>
<td>3.1</td>
<td>3.8</td>
<td>3.1</td>
</tr>
<tr>
<td>Office of Inspector General (limitation on administrative expenses)</td>
<td>21.2</td>
<td>21.2</td>
<td>21.5</td>
<td>21.2</td>
</tr>
<tr>
<td>Government Payments for Annuitants, Employee Health Benefits</td>
<td>9,814</td>
<td>10,467.0</td>
<td>10,862.0</td>
<td>10,862.0</td>
</tr>
<tr>
<td>Government Payments for Annuitants, Employee Life Insurance</td>
<td>48.0</td>
<td>50.0</td>
<td>52.0</td>
<td>52.0</td>
</tr>
<tr>
<td>Payment to Civil Service Retirement and Disability Fund</td>
<td>10,276.0</td>
<td>10,076.0</td>
<td>9,979.0</td>
<td>9,979.0</td>
</tr>
<tr>
<td>Office of Special Counsel</td>
<td>$18.5</td>
<td>$18.5</td>
<td>$19.5</td>
<td>$19.5</td>
</tr>
</tbody>
</table>

Sources: H.Rept. 112-136. The FY2012 Budget, Appendix, pp. 1241-1242, 1252-1253, 1149-1160, and 1279-1280, and the respective agency FY2012 congressional budget submissions were examined, but the House report numbers were used in the table.

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

a. Mandatory appropriations. For FY2011, the 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 FY2012 states the FY2012 amounts for these accounts as $10,817.0 million (health benefits), $47 million (life insurance), and $10,978.0 million (retirement) at pp. 161-163. The FY2012 Budget Appendix, at pp. 1151-1153, states the same amounts as the budget justification.

b. In FY2012, the House Appropriations Committee did not include funding for three OPM accounts—health benefits, life insurance, and retirement—in Title V of the FSGG bill, as it has in previous years. Instead, funding for these accounts—which are mandatory—was provided in Section 628 of H.R. 2434. In this report, funding for health benefits, life insurance, and retirement is included in Title V to be consistent with prior year calculations. According to the House Committee on Appropriations report, “These are
accounts where authorizing language requires the payment of funds.” The report states that the Congressional Budget Office estimates the following costs: $10,862.0 million for the Government Payment for Annuitants, Employee Health Benefits; $52 million for the Government Payment for Annuitants, Employee Life Insurance; and $9,979.0 million for Payment to the Civil Service Retirement and Disability Fund.

Federal Labor Relations Authority\textsuperscript{103}

The FLRA is an independent federal agency that administers and enforces Title VII of the Civil Service Reform Act of 1978. Title VII is also called the Federal Service Labor-Management Relations Statute (FSLMRS). The FSLMRS 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 and gives the President the authority to exclude other agencies for reasons of national security. Agencies that are excluded from the statute include the Federal Bureau of Investigation (FBI), Central Intelligence Agency (CIA), Government Accountability Office (GAO), National Security Agency (NSA), Tennessee Valley Authority (TVA), Federal Labor Relations Authority (FLRA), Federal Service Impasses Panel (FSIP), and the Secret Service.

The FLRA consists of a three-member authority, the Office of General Counsel, and the FSIP. The three members of the authority and the General Counsel are appointed to five-year terms by the President with the advice and consent of the Senate.

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 FY2012 budget proposed an appropriation of $26.4 million for the FLRA, about $1.7 million, or 6.9%, more than the agency’s FY2011 appropriation of $24.7 million.

H.R. 2434 would provide the FLRA with $24.1 million in funding for FY2012, which is $0.6 million less than the FY2011 appropriation and $2.3 million less than the amount requested by the President.

Merit Systems Protection Board\textsuperscript{104}

The Merit Systems Protection Board (MSPB) is an independent, quasi-judicial agency established to protect the civil service merit system. The MSPB adjudicated appeals primarily involving personnel actions, certain federal employee complaints, and retirement benefits issues.

The President’s budget requested an FY2012 appropriation of $44.5 million, including $42.1 million for Merit Systems Protection Board (MSPB) salaries and expenses, an amount that is $1.7

\textsuperscript{103} This section was written by Gerald Mayer (x7-7815).

\textsuperscript{104} This section was written by Barbara L. Schwemle (x7-8655).
million or 4.0% above the FY2011 funding of $42.8 million. The agency’s FTE employment level is estimated to be 217 for FY2012, six more than the estimated FTE level of 211 for FY2011.

MSPB’s authorization expired on September 30, 2007. 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 and has not been introduced in the 112th Congress.

H.R. 2434, as reported, would provide an appropriation of $41.8 million, including $39.4 million for salaries and expenses, that is $1.1 million (-2.5%) less than the FY2011 enacted amount and $2.7 million (-6.1%) less than the President’s request.

**Office of Personnel Management**

The President’s budget requested an FY2012 appropriation of $100 million for OPM salaries and expenses, an increase of $2.2 million or 2.3% above the FY2011 enacted appropriation of $97.8 million. This amount includes funding of $6 million for the Enterprise Human Resources Integration (HRI) project and $1.4 million for the Human Resources Line of Business (HRLOB) project. The budget also requested appropriations of $132.5 million for trust fund transfers; $3.8 million for Office of Inspector General (OIG) salaries and expenses; and $21.5 million for OIG trust fund transfers for FY2012. These amounts are $20 million (+17.8%), $662,000 (+21.1%), and $385,000 (+1.8%), respectively, above the FY2011 enacted appropriations. The agency’s FTE employment level is estimated to be 5,405 for FY2012, one more than the estimated FTE level for FY2011.

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

H.R. 2434, as reported, would provide appropriations (at the same levels as the FY2011 enacted amounts) of $97.8 million for OPM salaries and expenses, $112.5 million for trust fund transfers, $3.1 million for OIG salaries and expenses, and $21.2 million for OIG trust fund transfers. These amounts are, respectively, $2.2 million, $20 million, $662,000, and $385,000 less than the President’s request.

Section 628(a)(3)(4)(5) of H.R. 2434 would provide the mandatory appropriations for the health benefits, life insurance, and retirement accounts. According to the House Committee on Appropriations report, “These are accounts where authorizing language requires the payment of

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106 This section was written by Barbara L. Schwemle (x7-8655).
107 [FY2012 Budget, Appendix](#), pp. 1149-1150.
funds.” The report states that the Congressional Budget Office estimates the following costs: $10,862.0 million for the Government Payment for Annuitants, Employee Health Benefits; $52 million for the Government Payment for Annuitants, Employee Life Insurance; and $9,979.0 million for Payment to the Civil Service Retirement and Disability Fund.

The House committee report directs OPM to provide a report on the ongoing activities to promote diversity among the workforce and managers and executives to the House and Senate Committees on Appropriations within 180 days after the act’s enactment. The report also states that the House committee encourages federal agencies to increase recruitment efforts within the United States territories.

**Office of Special Counsel**109

The President’s budget requested an FY2012 appropriation of $19.5 million for the Office of Special Counsel (OSC), an amount that is $1 million, or 5.6% above, the FY2011 funding of $18.5 million. The agency’s FTE employment level is estimated to be 112 for FY2012, three more than the estimated FTE level of 109 for FY2011. The agency’s budget submission projected a continued increase in the number of whistleblower disclosure, Hatch Act, and prohibited personnel practice 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 and has not been introduced in the 112th Congress.

H.R. 2434, as reported, would provide an appropriation of $18.0 million that is $461,000 (-2.5%) less than the FY2011 enacted amount and $1.5 million (-7.6%) less than the President’s request.

**National Archives and Records Administration**111

President Obama requested $422.5 million in FY2012 operating expenses for the National Archives and Records Administration (NARA), which is slightly more than its FY2011 appropriation.112 Unlike previous recommendations from the Administration, President Obama combined his requests for operating expenses and the Electronic Records Archive (ERA) because development of ERA was largely completed.113 The Administration recommended that

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109 This section was written by Barbara L. Schwemle (x7-8655).
111 This section was written by Wendy Ginsberg (x7-3933).
112 *The Budget for 2012: Appendix*, p. 1255
113 Appropriation levels for the ERA were reduced in FY2011. In FY2010, the ERA was appropriated $85.5 million. In FY2011, the appropriation was reduced to $71,856,000. The reduction in ERA appropriation levels for FY2011 followed the release of two Government Accountability Office (GAO) reports that raised serious concerns about the implementation of the ERA. One report said that NARA’s oversight of the acquisition processes related to creating the Electronic Record Archive had “weaknesses … in most areas.” See U.S. Government Accountability Office, Electronic Records Archive: National Archives Needs to Strengthen Its Capacity to Use Earned Value Techniques to Manage and (continued...)
appropriators provide $430.7 million for operations and ERA. In FY2011, the President recommended $348.7 million for operating expenses and $85.5 million for the ERA, for a total of $434.2 million—or 7.5% more than his FY2012 recommendation. According to NARA, the ERA will sustain most of the decrease in appropriations because NARA said it cut costs in other areas by “reducing or eliminating a variety of programs.”114 The President also recommended reduction from FY2011 appropriation levels for NARA’s inspector general (a 3.3% decrease, from $4.2 million in FY2011 to $4.1 million in FY2012), repairs and restorations (an 18.3% decrease, from $11.8 million in FY2011 to $9.7 million in FY2012), and the National historic Publications and Records Commission (NHPRC) (a 28.4% decrease, from $7.0 million in FY2011 to $5.0 million in FY2012).

House appropriators recommended NARA receive $360.0 million in FY2012, $57.0 million or 13.7% less than the $417.0 million appropriated in FY2011.115 The House committee recommended that NARA receive $361.0 million in operating expenses, which would include operation of the ERA. This recommendation is $57.0 million (16.8%) less than the FY2011 appropriation for both operating expenses and ERA combined and $47.7 million (11.1%) less than the President’s FY2012 request.

House appropriators recommended the same funding level as requested by the President for NARA's Office of the Inspector General ($4.1 million). The appropriators, however, recommended $8.7 million for repairs and restoration, $3.1 million (26.5%) less than the FY2011 appropriation and $1.0 million (10.0%) less than the President’s request. Appropriators also recommended that NARA direct cost savings from construction projects at the John F. Kennedy Library and the Military Personnel Records Center “toward priorities in NARA’s Capital Improvement Plan for the critical repairs, alterations, and improvements to Archives facilities and Presidential Libraries nationwide.”116 Appropriators recommended $1 million in appropriations for the NHPRC, which is $6.0 million (85.7%) less than appropriated in FY2011 and $4.0 million (80.0%) less than the President’s FY2012 recommendation. The House committee report does not provide a reason for the reduction.

National Credit Union Administration117

The NCUA is an independent federal agency funded entirely by the credit unions that the agency charters, insures, and regulates. The NCUA manages the Community Development Revolving Loan Fund Program (CDRLF). Established in 1979, the CDRLF assists officially designated “low-income” credit unions in providing basic financial services to low-income communities. Low-interest loans and deposits are made available to assist these credit unions. Loans or deposits are normally repaid in five years, although shorter repayment periods may be considered. Technical assistance grants are also available to low-income credit unions. Earnings generated

(...continued)


115 H.Rept. 112-136, p. 55.

116 Ibid., p. 56.

117 This section was written by Darryl Getter (x7-2834).
from the CDRLF are available to fund technical assistance grants in addition to funds provided for specifically in appropriations acts. Grants are available for improving operations as well as addressing safety and soundness issues. P.L. 112-10 provides $1.25 million for technical assistance grants for FY2011. The President’s budget proposal includes $2 million for FY2012, an increase of $750,000 over FY2011 enacted appropriations. The House Committee on Appropriations has recommended $500,000 for FY2012, which would be $1.5 million below the President’s request and $500,000 less than FY2011 enacted appropriations.

Privacy and Civil Liberties Oversight Board

Originally established in 2004 by the Intelligence Reform and Terrorism Prevention Act as an agency within the EOP, 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). The board assumed its new status on January 30, 2008; its FY2009 appropriation was its first funding as an independent agency. 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 is to advise the President and the heads of executive branch departments and agencies on issues concerning, and findings pertaining to, privacy and civil liberties. The board is to provide annual reports to Congress detailing its activities during the year, and board members appear and testify before congressional committees upon request. The PCLOB is currently without members, although in December 2010, President Obama nominated two people to serve on the board.

The President’s FY2012 request for the PCLOB is $1.7 million, which is $700,000 above FY2011 enacted appropriations of $1.0 million. The House Committee on Appropriations has recommended no new appropriations for FY2012 and a rescission of the $1.0 million appropriated for FY2011.

Securities and Exchange Commission

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 on sales of stock and certain other securities transactions. Under the Dodd-Frank Act (P.L. 111-203), these

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118 This section was written by Garrett Hatch (x7-7822).
119 118 Stat. 3638 at 3684.
120 121 Stat. 266 at 352.
122 This section was written by Mark Jickling (x7-7784).
transaction fees are divided between an offsetting account available to appropriators, from which funds for the SEC are drawn, and the Treasury’s general fund.

For FY2012, the Administration has requested $1.407 billion, an increase of $222 million over FY2011 appropriations, which were $1.185 billion (and included a supplementary appropriation of $41 million under P.L. 112-10). The House Appropriations Committee has recommended that the SEC’s FY2012 budget remain at FY2011 levels, that is, $1.185 billion, or $222 million (16%) below the Administration’s request.

Selective Service System123

The Selective Service System (SSS) is an independent federal agency operating with permanent authorization under the Military Selective Service Act.124 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.125 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 Carter asked Congress to authorize standby draft registration of both men and women. Congress approved funds for male-only registration in June 1980. Efforts are underway to allow women to serve in combat units which may lead to the modification of registration to include women.

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.126

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 FY2011 enacted appropriation provided $24.2 million. For 2012, the House language recommends $23.6 million, or a $606,000 reduction over the previous year.

Small Business Administration127

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) and 504/Certified Development Company general business loan programs—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.

123 This section was written by David Burrelli (x7-8033).
124 50 U.S.C. App. §451 et seq.
125 See http://www.sss.gov/.
127 This section was written by Robert Dilger (x7-3110).
For FY2012, the Obama Administration requested that the SBA receive an appropriation of $985.4 million, an increase of $255.7 million (35%) over the FY2011 enacted amount of $729.7 million (P.L. 112-10, the Department of Defense and Full-Year Continuing Appropriations Act, 2011). The Administration recommended an appropriation of $427.3 million for salaries and expenses. Included in that amount is $160.2 million for non-credit programs, such as Historically Underutilized Business Zones (HUBZones), Microloan Technical Assistance, the National Women’s Business Council, Native American Outreach, the Service Corps of Retired Executives (SCORE), Small Business Development Centers, Veteran’s Business Development, and Women’s Business Centers.

The Administration also requested $18.4 million for the SBA’s Office of Inspector General (not including $1.0 million to be transferred from the Disaster Loans Program account), $9.1 million for the SBA’s Office of Advocacy, $0.0 for the SBA’s surety bond guarantees revolving loan fund (the Administration indicated that there are sufficient funds in reserve to cover the cost of claim defaults), $363.3 million for the SBA’s business loan programs ($3.765 million for microloan subsidy costs, $211.6 million for other loan subsidy costs, and $147.9 million for administrative costs), and $167.3 million for the SBA’s disaster loan programs.

The Administration’s budget request would also support up to $27.0 billion in business loan guarantees (up to $16.5 billion for 7(a) loans, up to $7.5 billion for 504/Certified Development Company loans, and up to $3.0 billion for Small Business Investment Company debentures) and up to $12.0 billion in guarantees of trust certificates for the secondary market guarantee program.

The House Committee on Appropriations recommended that the SBA receive a FY2012 appropriation of $978.3 million, a $248.6 million (34.1%) increase over the FY2011 enacted amount of $729.7 million and a decrease of $7.1 million (-0.7%) from the Administration’s request of $985.4 million.

The House Committee on Appropriations recommended that the SBA receive an appropriation of $422.3 million for salaries and expenses ($5.0 million less than the Administration’s request). Included in that amount is $170.75 million for non-credit programs ($10.5 million more than the Administration’s request), such as Historically Underutilized Business Zones (HUBZones), Microloan Technical Assistance, the National Women’s Business Council, Native American Outreach, the Service Corps of Retired Executives (SCORE), Small Business Development Centers, Veteran’s Business Development, and Women’s Business Centers.

The House Committee on Appropriations also recommended $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), $9.1 million for the SBA’s Office of Advocacy, $0.0 for the SBA’s surety bond guarantees revolving loan fund (the Administration indicated that there are sufficient funds in reserve to cover the cost of claim defaults), $363.3 million for the SBA’s business loan programs ($3.765 million for microloan subsidy costs, $211.6 million for other loan subsidy costs, and $147.9 million for administration), and $167.3 million for the SBA’s disaster loan programs. The Administration had requested $18.4 for the SBA’s Office of Inspector General (not including $1.0 million to be transferred from the Disaster Loans Program account) and the amounts the House Committee on Appropriations recommended for the remaining accounts.

The House Committee on Appropriations’ recommendation would support up to $28.0 billion in business loan guarantees (up to $17.5 billion for 7(a) loans, up to $7.5 billion for 504/Certified Development Company loans, and up to $3.0 billion for Small Business Investment Company
debentures) and up to $12.0 billion in guarantees of trust certificates for the secondary market guarantee program. The Administration had recommended up to $27.0 billion in business loan guarantees (up to $16.5 billion for 7(a) loans, up to $7.5 billion for 504/Certified Development Company loans, and up to $3.0 billion for Small Business Investment Company debentures) and up to $12.0 billion in guarantees of trust certificates for the secondary market guarantee program.

The SBA’s FY2011 appropriation is $729.7 million (after an across-the-board recession of 0.2%), a reduction of $94.3 million from the FY2010 appropriated amount of $824.0 million (P.L. 112-10, the Department of Defense and Full-Year Continuing Appropriations Act, 2011). The SBA’s FY2011 appropriation includes $433.4 million for salaries and expenses, $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), $236.0 million for business loans ($3.0 million for microloan subsidy costs, $80.0 million for other loan subsidy costs, and $153.0 million for administrative costs), and $45.5 million for the disaster loans program account.

The SBA's FY2011 appropriation supports up to $28.0 billion in business loan guarantees (up to $17.5 billion for 7(a) loans, up to $7.5 billion for 504/Certified Development Company loans, and up to $3.0 billion for Small Business Investment Company debentures) and up to $12.0 billion in guarantees of trust certificates for the secondary market guarantee program.

United States Postal Service

The U.S. Postal Service (USPS) generates nearly all of its funding—about $67 billion annually—by charging users of the mail for the costs of the services it provides. However, Congress does provide an annual appropriation to compensate the USPS for revenue it forgoes in providing free mailing privileges to the blind and overseas voters. Congress authorized appropriations for these purposes in the Revenue Forgone Reform Act of 1993 (RFRA). 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. 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. Under the PAEA, both the

128 This section was written by Kevin Kosar (x7-3968). Also see CRS Report RS21025, The Postal Revenue Forgone Appropriation: Overview and Current Issues, by Kevin R. Kosar.
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.135

For FY2012, the

- USPS and the President have requested $78.2 million, and the House Appropriations Committee has authorized $78.2 million;136
- PRC and the President have proposed $14.5 million, and the House Appropriations Committee has authorized $13.9 million;137 and
- USPSOIG and the President have proposed $244.4, and the House Appropriations Committee has authorized $237.8 million.138

The President would eliminate the $29 million annual RFRA reimbursement payment,139 and it would require the Office of Personnel Management to refund to the USPS $6.9 billion in Federal Employee Retirement System overpayments. These funds would be transferred to the USPS over a 30-year period and would provide it with $550 million in FY2011. The President also has advocated revising the USPS’s Retiree Health Benefits Fund payment schedule to reduce the USPS’s required FY2011 payment of $5.5 billion (due September 30, 2011) by $4 billion.140

The House Appropriations Committee’s legislation makes no mention of the annual $29 million RFRA appropriation. Furthermore, it would require “that 6-day delivery and rural delivery of mail shall continue at not less than the 1983 level.” The Committee’s report also “commends the efforts of the USPS to be fiscally responsible,” but

strongly urges the USPS to hold public meetings, take into consideration the input of residents, and provide fiscal justification before any major changes in delivery service are made. The USPS is one of the few Federal government entities that every American depends on a daily basis and it is important that their service is reflective of the world’s premier mail delivery organization. The Committee urges the USPS to continue its efforts at achieving cost reductions without compromising services.

135 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.
136 The USPS received an appropriation of $115.7 million in FY2011, $86.7 million for revenue forgone, and the annual $29 million RFRA reimbursement.
137 The PRC received an appropriation of $14.3 million in FY2011.
138 The USPSOIG received an appropriation of $243.9 million in FY2011.
United States Tax Court\textsuperscript{141}

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 \textit{United States Code}. The court is headquartered in Washington, DC, but its judges conduct trials in many cities across the country.

H.R. 1473 provides $52 million for the USTC for FY2011. The President has requested $60 million for FY2012, an increase of $8 million increase over FY2011 enacted appropriations. The House Committee on Appropriations has recommended $51 million for FY2012, which would be $9 million less than the President’s request and $1 million less than FY2011 enacted appropriations.

General Provisions Government-Wide\textsuperscript{142}

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.\textsuperscript{143} 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.

\textit{Selected Government-wide General Provisions for FY2012}

- Prohibits the use of funds to implement, administer, enforce, or apply the rule entitled “Competitive Area” published by the Office of Personnel Management in the Federal Register on April 15, 2008. (Section 732 of the budget proposal. Not included in H.R. 2434, as reported.)

- During FY2012, for each employee who retires under the Civil Service Retirement System or the Federal Employees’ Retirement System during workforce restructuring or receives a payment as an incentive to separate, the separating agency shall remit to the Civil Service Retirement and Disability Fund an amount equal to the Office of Personnel Management’s average unit cost of processing a retirement claim for the preceding fiscal year. (Section 733 of the budget proposal. Not included in H.R. 2434, as reported.)

- Funds made available and used for Pay for Success projects in this or any other Act would support performance-based awards that are designed to promote innovative strategies to reduce the aggregate level of government investment needed to achieve successful outcomes and impose minimal administrative requirements on service providers, so as to allow for maximum flexibility to improve efficiency and effectiveness. The OMB Director would issue guidance to federal agencies on carrying out such projects. (Section 734 of the budget proposal. Not included in H.R. 2434, as reported.)

\textsuperscript{141} This section was written by Garrett Hatch (x7-7822).

\textsuperscript{142} This section was written by Barbara L. Schwemle (x7-8655).

\textsuperscript{143} For FY2012, the provisions are listed in the \textit{Budget, Appendix} at pp. 9-13.
Financial Services and General Government: FY2012 Appropriations

- Prohibits the use of funds to require any entity submitting an offer for a federal contract to disclose political contributions. (Section 738 of H.R. 2434, as reported. Not included in the budget proposal.)

Cuba Sanctions\(^\text{144}\)

The House Appropriations Committee-approved version of the FY2012 Financial Services and General Government Appropriations bill, H.R. 2434, has two provisions regarding Cuba sanctions. The first provision, in Section 618 of the bill, would continue to clarify the definition of “payment of cash in advance” for U.S. agricultural and medical sales to Cuba to “be interpreted as payment before the transfer of title to, and control of, the exported items to the Cuban purchaser.” Such a provision had first been included in the FY2010 omnibus appropriations measure (P.L. 111-117, Section 619 of Division C) and was continued in FY2011 in the full-year continuing appropriations measure (P.L. 112-10). The second provision, in Section 901 of the bill, would roll back President Obama’s easing of restrictions on family travel and remittances in 2009 and the President’s easing of restrictions on remittances for non-family members and religious institutions in 2011. This provision became part of the bill during the House Appropriations Committee’s markup on June 24, 2011, when the House committee approved an amendment by Representative Mario Diaz-Balart amendment by voice vote.

Payment Provisions for U.S. Exports to Cuba

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 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.”\(^\text{145}\)

\(^{144}\) This section was written by Mark P. Sullivan (x7-7689). For additional information, see CRS Report RL31139, Cuba: U.S. Restrictions on Travel and Remittances, and CRS Report R41617, Cuba: Issues for the 112th Congress.

\(^{145}\) U.S. Department of the Treasury, Testimony of Robert Werner, Director, OFAC, before the House Committee on Agriculture, March 16, 2005.
Since 2002, the United States has been one of Cuba’s largest suppliers of food and agricultural products, although the level of U.S. exports has declined in the past two years. Cuba has purchased over $3.6 billion in products from United States since the enactment of TSRA.¹⁴⁶ 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, and in 2010, they fell again to $368 million, a 31% drop from 2009. In the first quarter of 2011, U.S. exports to Cuba amounted to about $93 million, almost a 20% drop from the same period in 2010. Analysts cite Cuba’s shortage of hard currency as the main reason for the decline.

As noted above, Congress took action in FY2010 and FY2011 appropriations measures to define “payment of cash in advance” as used in TSRA as payment before the transfer of title to, and control of, the exported item to the Cuban purchaser. This overturned OFAC’s February 2005 clarification that payment had to be received before vessels could leave U.S. ports. Section 618 of H.R. 2434 would continue this interpretation of the term “payment of cash in advance” for agricultural and medical exports to Cuba under TSRA in FY2012.

U.S. Restrictions on Travel and Remittances

Restrictions on travel to Cuba have been a key and often contentious component in U.S. efforts to isolate Cuba’s communist government since the early 1960s. Under the George W. Bush Administration, restrictions on travel and on private remittances to Cuba were tightened. In 2003, the Administration eliminated travel for people-to-people educational exchanges unrelated to academic coursework. In 2004, the Administration further restricted family and educational travel, eliminated the category of fully-hosted travel, and restricted remittances so that they could only be sent to the remitter’s immediate family. Initially there was mixed reaction to the Administration’s 2004 tightening of Cuba travel and remittance restrictions, but opposition to the policy grew, especially within the Cuban American community regarding the restrictions on family travel and remittances.

Under the Obama Administration, Congress took action in 2009 to ease some restrictions on travel to Cuba by including two provisions in the FY2009 omnibus appropriations measure (P.L. 111-8), which President Obama signed into law on March 11, 2009. The first provision eased restrictions on family travel, which the Treasury Department implemented by issuing a general license for such travel as it existed prior to the Bush Administration’s tightening of family travel restrictions in 2004. The second provision eased travel restrictions related to the marketing and sale of agricultural and medical goods to Cuba, and required the Treasury Department to issue a general license for such travel. Subsequently, in April 2009, President Obama announced that his Administration would go further and allow unlimited family travel and family remittances. Regulations implementing these changes were issued in September 2009. The new regulations also included the authorization of general licenses for travel transactions for telecommunications-related sales and for attendance at professional meetings related to commercial telecommunications.

¹⁴⁶ U.S. trade statistics are from Global Trade Atlas, which uses Department of Commerce Statistics.
In January 2011, the Obama Administration announced policy changes further easing restrictions on travel and remittances. The measures (1) increase purposeful travel to Cuba related to religious, educational, and people-to-people exchanges; (2) allow any U.S. person to send remittances to non-family members in Cuba (up to $500 per quarter) and make it easier for religious institutions to send remittances for religious activities; and (3) permit all U.S. international airports to apply to provide services to licensed charter flights. These new measures, with the exception of the expansion of eligible airports, are similar to policies that were undertaken by the Clinton Administration in 1999, but subsequently curtailed by the Bush Administration in 2003-2004.

The Obama Administration maintains that the policy changes will increase people-to-people contact, help strengthen Cuban civil society, and make Cuban people less dependent on the Cuban state. The changes are being taken at the same time that the Cuban government is laying off thousands of state workers and increasing private enterprise through an expansion of the authorized categories for self-employment.

Policy groups in favor of increased U.S. engagement with Cuba largely praised the Administration’s action as a significant step forward in reforming U.S.-Cuban relations and as an important means to expand the flow of information and ideas to Cuba and to increase the income of Cubans working in the expanding private sector. The Miami-based Cuban American National Foundation (CANF) strongly supported the Administration’s policy changes. According to CANF President Francisco “Pepe” Hernández: “A greater ability to send remittances in conjunction with increased contact and communication with those on the island will help to break the chains of dependency that the Castro regime has used to oppress those inside Cuba.”

In contrast, policy groups opposed to easing U.S. sanctions have criticized the Administration, maintaining that the policy changes will help prop up Cuba’s repressive government when it is most vulnerable because of the difficult economic situation. Opponents of the policy changes argue that sending dollars via increased travel by Americans and increased remittances will actually help the Cuban government maintain in place its repressive policies. They also argue that easing the restrictions on travel and remittances will not bring about respect for human rights in Cuba.

As noted above, Section 901 of H.R. 2434 would roll back President Obama’s easing of restrictions on family travel and remittances, remittances for non-family members, and remittances for religious institutions. Specifically, the provision would repeal any amendments to certain sections of the Cuban Assets Control Regulations relating to family travel (31 CFR 515.560(a)(1) and 31 CFR 515.561), carrying remittances to Cuba (31 CFR 515.560(c)(4)(i)), and sending remittances to Cuba (31 CFR 515.570) made since January 2009. According to the provision, such regulations would be restored and carried out as in effect on January 19, 2009, “notwithstanding any guidelines, opinions, letters, Presidential directives, or agency practices relating to such regulations issued or carried out after such date.” If the measure were enacted: family travel would again be limited to once every three years for a period of up to 14 days to visit immediate family members only, and would require a specific license from OFAC; licensed travelers would be allowed to carry just $300 in remittances compared to the $3,000 currently allowed.

allowed; family remittances would be limited to $300 per quarter compared to no limits today; non-family remittances restored by the Obama Administration in 2011, up to $500 per quarter, would not be allowed; and the general license for remittances to religious organizations would be eliminated, although such remittances would still be permitted via specific license on a case-by-case basis.¹⁴⁹

The House Appropriations Committee report to the bill (H.Rept. 112-136) requires a report from OFAC on the current number of pending applications seeking specific licenses to conduct people-to-people exchanges, i.e. educational exchanges not involving academic study pursuant to a degree program under the auspices of an organization that sponsors and organizes such programs to promote people-to-people contact. The report would also require information on the number of these licenses that OFAC has approved to date, its plan for getting through the current queue of license applications, and its plan for expeditiously reviewing those applications in the future. This reporting requirement was added to the report via an amendment offered by Representative Jeff Flake approved by voice vote during the House committee’s June 24, 2011 markup of the bill. A U.S. Treasury Department spokesman subsequently confirmed on July 1, 2011, that nine U.S. organizations promoting people-to-people contact had received licenses to bring U.S. visitors to Cuba.¹⁵⁰

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¹⁴⁹ For activities authorized under a general license, there is no need to obtain special permission from OFAC, while for those activities requiring a specific license, OFAC reviews applications on a case-by-case basis.

¹⁵⁰ Peter Orsi, “U.S. Licensing Travel Operators to Start Up Legal Cuba Trips, Treasury Department Says,” Associated Press, July 1, 2011.
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