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Department of Homeland Security: FY2013 Appropriations

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Summary

This report describes the FY2013 appropriations for the Department of Homeland Security (DHS). The Administration requested $39.510 billion in adjusted net discretionary budget authority for DHS for FY2013, as part of an overall budget of $59.501 billion (including fees, trust funds, and other funding that is not appropriated or does not score against the budget caps). The request amounted to a $90 million, or 0.2%, decrease from the $39.600 billion enacted for FY2012 through the consolidated appropriations act (P.L. 112-74).

Congress did not enact final FY2013 appropriations legislation prior to the beginning of the new fiscal year. From October 1, 2012, through March 26, 2013, the federal government (including DHS) operated under the terms of P.L. 112-175, a part-year continuing resolution. While operating under this resolution, two major events impacted the DHS budget. First, Hurricane Sandy struck the east coast of the United States, which started a legislative process that resulted in enactment of legislation that provided $50.7 billion in disaster relief and emergency appropriations, including $12.072 billion for DHS, and $9.7 billion in additional borrowing authority for the National Flood Insurance Program. Weeks later, On March 1, 2013, an across-the-board reduction in budget authority, or sequestration, was ordered as required under the terms of the Budget Control Act (P.L. 112-25). The Office of Management and Budget's sequestration report indicated that DHS would lose $3.191 billion as a result of sequestration.

On March 26, 2013, the President signed into law P.L. 113-6, the FY2013 Consolidated and Further Continuing Appropriations Act. Division D of that act is the Department of Homeland Security Appropriations Act, 2013, which includes $39.646 billion in adjusted net discretionary budget authority for DHS. Two across-the-board cuts unrelated to the March 1 sequestration that were included in the final legislation to ensure the bill complies with discretionary budget caps reduced this by $54 million to $39.592 billion. According to a DHS operating plan for FY2013, after the impact of sequestration, P.L. 113-6 provided $38.348 billion in adjusted net discretionary budget authority for DHS.

This report will be updated as events warrant.

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Most Recent Developments

Table 1. Legislative Status of FY2013 Homeland Security Appropriations

Subcommittee Markup		H.Rept. 112-469	House Passage H.R. 5855	S.Rept. 112-169	Senate Passage	House Passage H.R. 933	Senate Amended H.R. 933		Public Law 113-6
House	Senate						Senate	House	
5/9/12 (vv)	5/15/12 (vv)	5/16/12 (28-21)	6/7/12 (234-182)	5/22/12 (27-3)	—	3/6/13 (267-151)	3/20/13 (73-26)	3/21/13 (318-109)	3/26/13

Notes: (vv) = voice vote, (uc) = unanimous consent.

February 13, 2012—President's FY2013 Budget Request Submitted

For FY2013, the Administration requested $39.510 billion in adjusted net discretionary budget authority for DHS, as part of an overall budget request of $59.032 billion (including fees, trust funds and other funding that is not appropriated or does not score against the budget caps). This request amounts to a $90 million (0.2%) decrease below the $39.600 billion enacted for FY2012. The overall estimated size of the DHS budget for FY2013 is $681 million (1.1%) below the budget of $59.713 billion estimated for FY2012.[1]

May 22, 2012—Senate Committee Approves S. 3216

The Senate Committee on Appropriations reported its version of the FY2013 DHS Appropriations bill on May 22, 2012 by a vote of 27-3. This report uses Senate-reported S. 3216 and the accompanying report (S.Rept. 112-169) as the source for Senate-reported appropriations numbers. The Senate bill as approved by the committee would have provided a net discretionary appropriation of $39,514 million for DHS for FY2013, not including $254 million for overseas contingency operations and $5,481 million for disaster relief that would be paid for by adjustments to the discretionary spending cap under the BCA. With those exclusions, the Senate-reported bill would have provided less than $4 million above the Administration's request, and $87 million (0.2%) below the amount provided under P.L. 112-74.

[1] Department of Homeland Security, *Congressional Budget Justifications, Budget Tables and Explanation of Changes for General Provisions, FY2013*, p. 1.

June 7, 2012—House Passes H.R. 5855

On June 7, 2012, the House passed H.R. 5855 with several amendments. This report uses House-passed H.R. 5855 and the accompanying report (H.Rept. 112-492) as the source for House-passed appropriations numbers. After floor action the House bill carried a net discretionary appropriation of $39,114 million for DHS for FY2013. Several floor amendments used management accounts as offsets, leaving funding for those activities 27% below the requested level. Increases proposed above the committee-recommended level for DHS activities included Customs and Border Protection's Border Security Fencing, Infrastructure, and Technology account, Coast Guard's Operating Expenses account, the Federal Emergency Management Agency's Urban Search and Rescue Response activities and grant programs.

September 28, 2012—President Signs Six-Month CR

The President signed H.J.Res. 117 into law as P.L. 112-175 on September 28, 2012. This public law was a continuing resolution (CR) that allowed for the federal government to continue operations in absence of regular appropriations through March 27, 2013, at an annualized rate of $1.047 trillion. It passed the House by a vote of 329-91 on September 13, 2012, and the Senate by a vote of 62-30 on September 22, 2012.

March 26, 2013—President Signs the FY2013 Consolidated and Further Continuing Appropriations Act

On March 26, 2013, the President signed H.R. 933 into law as P.L. 113-6, the FY2013 Consolidated and Further Continuing Appropriations Act. Division D of that act is the Department of Homeland Security Appropriations Act, 2013, which includes $39.646 billion in adjusted net discretionary budget authority for DHS. According to Office of Management and Budget calculations, two across-the-board cuts unrelated to the March 1 sequestration that were included in the final legislation to ensure the bill complies with discretionary budget caps reduced the thet discretionary budget authority by $52.4 million. $38.348 billion in adjusted net discretionary budget authority from P.L. 113-6 was available for DHS to use after the impact of sequestration, according to the *U.S. Department of Homeland Security Fiscal Year 2013 Post-Sequestration Operating Plan.*

Note on Most Recent Data

Data used in this report for FY2012 amounts are taken from the President's Budget Documents, as well as H.Rept. 112-492 and S.Rept. 112-169 from the 112th Congress. Information on the FY2013 request is from the President's Budget Documents, the FY2013 *DHS Congressional Budget Justifications*, and the FY2013 DHS *Budget in Brief.* Information on the House-passed FY2013 DHS Appropriations bill is from H.R. 5855 and H.Rept. 112-492, while information on the Senate-reported version of the same is from S. 2316 and S.Rept. 112-169. Information on the continuing resolution is from H.J.Res. 117. Information on the final resolution of FY2013 appropriations for the department comes from P.L. 113-6 and the accompanying Senate explanatory statement. Post-sequester funding levels are drawn from the *U.S. Department of Homeland Security Fiscal Year 2013 Post-Sequestration Operating Plan* dated April 26, 2013. Historical funding data used in the appendices are taken from the *Analytical Perspectives* volume of the FY2006-FY2014 President's Budget request documents. Except when discussing total amounts for the bill as a whole, all amounts contained in this report are in budget authority and rounded to the nearest million.

Background

Department of Homeland Security

The Homeland Security Act of 2002 (P.L. 107-296) transferred the functions, relevant funding, and most of the personnel of 22 agencies and offices to the new Department of Homeland Security created by the act. Appropriations measures for DHS have generally been organized into five titles:

- Title I contains appropriations for the Office of Secretary and Executive Management (OSEM), the Office of the Under Secretary for Management (USM), the Office of the Chief Financial Officer, the Office of the Chief Information Officer (CIO), Analysis and Operations (A&O), and the Office of the Inspector General (OIG).
- Title II contains appropriations for Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), the Transportation Security Administration (TSA), the Coast Guard (USCG), and the Secret Service.[2]
- Title III contains appropriations for the National Protection and Programs Directorate (NPPD), Office of Health Affairs (OHA) Federal Emergency Management Agency (FEMA).[3]
- Title IV contains appropriations for U.S. Citizenship and Immigration Services (USCIS), the Science and Technology Directorate (S&T), and the Federal Law Enforcement Training Center (FLETC).
- Title V contains general provisions providing various types of congressional direction to the department.

The structure of the bill is not automatically symmetrical between House and Senate versions. Additional titles are sometimes added to address special issues: For example, the FY2012 House full committee mark-up added a sixth title to carry a $1 billion emergency appropriation for the Disaster Relief Fund (DRF). The Senate version carried no additional titles beyond what is described above. Although the structure of the components in the proposed FY2013 appropriations bills were largely parallel, there were some differences in the structure of subcomponents and accounts which is noted throughout the body of the report.

302(a) and 302(b) Allocations

In general practice, the maximum budget authority for annual appropriations (including DHS) is determined through a two-stage congressional budget process. In the first stage, Congress sets overall spending totals in the annual concurrent resolution on the budget. Subsequently, these

[2] The U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) program was appropriated within Title II through the FY2007 appropriation. The FY2008 appropriation transferred US-VISIT, as proposed by the Administration, to the newly created National Protection & Programs Directorate (NPPD) in Title III. Division E of P.L. 110-161, the DHS Appropriations Act, 2008, enacted this reorganization. The FY2013 budget request proposes a further reorganization, splitting the program between CBP and ICE.

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

amounts are allocated among the appropriations committees, usually through the statement of managers for the conference report on the budget resolution. These amounts are known as the 302(a) allocations. They include discretionary totals available to the House and Senate Committees on Appropriations for enactment in annual appropriations bills through the subcommittees responsible for the development of the bills. In the second stage of the process, the appropriations committees allocate the 302(a) discretionary funds among their subcommittees for each of the appropriations bills. These amounts are known as the 302(b) allocations. These allocations must add up to no more than the 302(a) discretionary allocation and form the basis for enforcing budget discipline, since any bill reported with a total above the ceiling is subject to a point of order. 302(b) allocations may be adjusted during the year by the Appropriations Committee by issuing a report delineating the revised suballocations as the various appropriations bills progress towards final enactment.

The FY2012 appropriations bills were the first appropriations bills that were affected by the Budget Control Act (BCA), which established discretionary security and nonsecurity spending caps for FY2012 and FY2013, and overall caps that will govern the actions of appropriations committees in both houses. For FY2013, the BCA had set a separate cap of $686 billion for security spending, defined to include the Departments of Defense and Veterans Affairs, Budget Function 150 for all international affairs programs, the National Nuclear Security Administration, and the Intelligence Community Management Account that funds the offices of the Director of National Intelligence. All other spending was capped at $361 billion out of the total of $1.047 trillion. In addition, the BCA allows for adjustments that would raise the statutory caps to cover funding for overseas contingency operations/Global War on Terror, emergency spending, and, to a limited extent, disaster relief and appropriations for continuing disability reviews and for controlling health care fraud and abuse. In the absence of a budget resolution for FY2013, these levels became the basis for enforcement in the Senate. In the House, the lower levels agreed to in the House-passed budget resolution (H.Con.Res. 112) were made effective for purposes of enforcement in the House by H.Res. 614 and H.Res. 643.

Reductions from the Stated Funding Levels in P.L. 113-6 and the Accompanying Senate Explanatory Statement

Sequestration

The Budget Control Act (BCA)[4] tasked a Joint Select Committee on Deficit Reduction to develop a federal deficit reduction plan for Congress and the President to enact by January 15, 2012. Because deficit reduction legislation was not enacted by that date, an automatic spending reduction process established by the BCA was triggered; this process consists of a combination of sequestration and lower discretionary spending caps, initially scheduled to begin on January 2, 2013. The “joint committee” sequestration process for FY2013 required the Office of Management and Budget (OMB) to implement across-the-board spending cuts at the account and program level to achieve equal budget reductions from both defense and nondefense funding at a percentage to be determined after enactment, under terms specified in the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA),[5] as amended by the BCA. For further

[4] P.L. 112-25.

[5] Title II of P.L. 99-177, 2 U.S.C. 900-922.

information on the Budget Control Act, see CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan.

The American Taxpayer Relief Act (ATRA),[6] enacted on January 2, 2013, made a number of significant changes to the procedures in the BCA that will take place during FY2013. First, the date for the joint committee sequester to be implemented was delayed for two months, until March 1, 2013. Second, the dollar amount of the joint committee sequester was reduced by $24 billion. Third, the statutory caps on discretionary spending for FY2013 (and FY2014) were lowered.[7]

Pursuant to the BCA, as amended by ATRA, President Obama ordered that the joint committee sequester be implemented on March 1, 2013.[8] The accompanying OMB report indicated a dollar amount of budget authority to be canceled to each account containing non-exempt funds.[9] Sequestration was applied at the program, project, and activity (PPA) level within each account.[10] Because sequestration was implemented at the time that a temporary continuing resolution was in force, the reductions were calculated on an annualized basis and will be apportioned throughout the remainder of the fiscal year.[11] The post-sequestration numbers in this report are derived from the FY2013 DHS operating plan, which only includes a breakdown of resources provided through P.L. 113-6. It does not calculate—and this report does not speak to—the sequestration of resources provided in P.L. 113-2, the FY2013 supplemental appropriation for disaster relief.

Across-the-Board Cuts

Taken together, sections 3001 and 3004 of P.L. 113-6 are intended to eliminate any amount by which the new budget authority provided in the act exceeds the FY2013 discretionary spending limits in section 251(c)(2) of the Balanced Budget and Emergency Deficit Control Act, as amended by the Budget Control Act of 2011 and the American Taxpayer Relief Act of 2012. As enacted, Section 3001 provides two separate across-the-board rescissions—one for "nonsecurity" budget authority and one for "security" budget authority[12]—to be applied at the program, project, and activity level. DHS falls under the "security" category, and therefore receives a 0.1% across-the-board cut. This across-the-board cut was made to bring the bill's budget authority as calculated by the Congressional Budget Office in line with the FY2013 discretionary spending limits.

However, the Office of Management and Budget is the final arbiter of whether those spending limits have been exceeded. Therefore, Section 3004 provides two other separate across-the-board

[6] P.L. 112-240.

[7] For further information on the changes to BCA procedures made by ATRA, see CRS Report R42949, *The American Taxpayer Relief Act of 2012: Modifications to the Budget Enforcement Procedures in the Budget Control Act*, by Bill Heniff Jr.

[8] White House, President Obama, Sequestration Order for Fiscal Year 2013 Pursuant to Section 251A of the Balanced Budget and Emergency Deficit Control Act, As Amended, March 1, 2013, available at http://www.whitehouse.gov/sites/default/files/2013sequestration-order-rel.pdf.

[9] Executive Office of the President, Office of Management and Budget, *OMB Report to the Congress on the Joint Committee Sequestration for Fiscal Year 2013*, March 1, 2013, available at http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/fy13ombjcsequestrationreport.pdf.

[10] Ibid., pp. 11, 13.

[11] Ibid, p. 5. For general information on continuing resolutions, see CRS Report R42647, *Continuing Resolutions: Overview of Components and Recent Practices*, by Jessica Tollestrup.

[12] As defined in Section 250(c)(4)(A) and (B) for the Balanced Budget and Emergency Deficit Control Act of 1985 as amended.

rescissions—again, one for nonsecurity budget authority and one for security budget authority—to be applied at the program, project, and activity level. The section requires the percentages to be increased if OMB estimates that additional rescissions are needed to avoid exceeding the limits. Subsequent to the enactment of P.L. 113-6, OMB calculated that additional rescissions of 0.032% of "security" budget authority (which would apply to DHS) and 0.2% of "nonsecurity" budget authority would be required.[13]

Since these cuts were intended to reduce the amount of discretionary budget authority in the bill, funding that is not included in that total—specifically funding for Overseas Contingency Operations/Global War on Terror and funding designated as being for disaster relief under the Budget Control Act—are not subject to the across-the-board cuts. All tables and references to funding levels in this report include CRS calculations of the effect of both these across-the-board cuts.

Table 2 shows DHS's initial 302(b) allocations for FY2013, and comparable figures for FY2012 and the President's request for FY2013.

Table 2. FY2012 and FY2013 302(b) Discretionary Allocations for DHS

(budget authority in billions of dollars)

FY2012 Comparable	FY2013 Request Comparable	FY2013 House Allocation	FY2013 Senate Allocation	FY2013 Enacted Comparable	FY2013 Operating Plan
39.600[a]	39.485	39.117	39.514	39.592	38.348[b]

Source: U.S. Congress, House Appropriations, Homeland Security, *FY2012 Homeland Security Bill - Summary Table*, 112th Congress, 1st session, May 12, 2011, and U.S. Congress, House Appropriations, *Revised Suballocation to Subcommittees Fiscal Year 2012 Budget Authority and Outlays*, 112th Congress, 1st session, June 14, 2011, p. 2, CBO's March 21, 2013, summary of total discretionary appropriations for H.R. 933 as cleared by Congress for the President's Signature, and OMB's report of April 25, 2013 pursuant to sections 3001 and 3004 of P.L. 113-6.

Notes: Amounts may not total due to rounding. "FY2013 Enacted Comparable" is based on application of OMB-calculated across-the-board cuts to the adjusted net discretionary budget authority for DHS under Division D of P.L. 113-6 as reflected in the comparative statement of new budget authority for FY2013 in the Senate's explanatory statement accompanying H.R. 933.

a. This authority does not include the $258 million for overseas contingency operations or the separately passed disaster relief of $6,400 million covered through adjustments to the discretionary spending cap set by the Budget Control Act.

b. The Administration's scoring of one of the general provisions in the bill is $258 million higher than the Congressional Budget Office's scoring. The FY2013 Operating Plan column reflects the Administration's unadjusted scoring, as do all columns in this report with post-sequestration figures.

Adjustments to the Caps Under BCA

Three of the four justifications outlined in the BCA for adjusting the caps on discretionary budget authority have played a role in DHS's appropriations process. Two of these—emergency spending and overseas contingency operations/Global War on Terror—are not limited. No adjustment was madefor emergencies for FY2012 for DHS, and $258 million was provided for Coast Guard overseas contingency operations under P.L. 112-331.

[13] OMB determined that these two additional rescissions would be necessary on April 4, 2013. The OMB Director is required to submit a report to the appropriations committees specifying the amount of the reduction at the account level by April 26, 2013. For further information, see OMB, "Consolidated and Further Continuing Appropriations Act, 2013," *Budget Enforcement Act (7-Day-After Reports)*, April 4, 2013, p. 54, available at http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/7_day_after/bea_report_hr933_04-04-13.pdf.

The third justification—disaster relief—is limited. Under the BCA, the allowable adjustment for disaster relief is determined by the Office of Management and Budget (OMB), using the following formula:

> Limit on disaster relief cap adjustment for the fiscal year = Rolling average of the disaster relief spending over the last ten fiscal years (throwing out the high and low years) + the unused amount of the potential adjustment for disaster relief from the previous fiscal year.

For FY2013, OMB determined the allowable adjustment for disaster relief to be $11,779 million, [14] which was fully exercised, including $6,400 million in pre-sequestration resources through the FEMA Disaster Relief Fund in P.L. 113-6.[15]

Appropriations for the Department of Homeland Security

Summary of DHS Appropriations

Table 3 includes a summary of funding included in the FY2012 regular DHS appropriations bill, the Administration's FY2013 appropriations request, the House-passed and Senate-reported versions of the FY2013 appropriations bill broken down by title, and the final DHS appropriations legislation included in Division D of P.L. 113-6, prior to the impact of sequestration. The final column indicates the post-sequester level reported by DHS.

Table 3. Department of Homeland Security Appropriations by Title, FY2012-FY2013

(in millions of dollars of discretionary budget authority, rounded)

Title	FY2012 Enacted	FY2013 Request	House-passed H.R. 5855	Senate-reported S. 3216	P.L. 113-6 (pre-sequester)	DHS Plan (sequestered)[a]
Title I: Departmental Management and Operations	1,132	1,279	1,020	1,102	1,086	1,057
Title II: Security, Enforcement and Investigations	31,527	30,759	30,946	30,975	31,267	30,184
Title III: Protection, Preparedness, Response, and Recovery	5,680	5,911	5,930	5,971	5,921	5,595
Title IV: Research and Development, Training, and Services	1,332	1,561	1,510	1,535	1,520	1,457
Title V: General Provisions	-71	0	-292	-68	-203	54[b]
Total	**39,600**	**39,510**	**39,114**	**39,514**	**39,592**	**38,348**

[14] Office of Management and Budget, *OMB Final Sequestration Report to the President and Congress for Fiscal Year 2012*, Washington, DC, January 18, 2012, pp. 7-8.

[15] The remainder of the allowable adjustment was used to support the DRF as well in P.L. 113-2. For discussion of that legislation, see CRS Report R42869, *FY2013 Supplemental Funding for Disaster Relief*, coordinated by William L. Painter and Jared T. Brown.

Source: H.Rept. 112-331, H.R. 5855, H.Rept. 112-492, S.Rept. 112-169, CRS analysis of P.L. 113-6, the accompanying Senate explanatory statement, and the DHS FY2013 Post-Sequestration Operating Plan dated April 26, 2013.

Notes: The standard legislative practice is to group rescissions with the bill's general provisions, often resulting in that title scoring as net negative budget authority. The budget request usually includes proposed rescissions in the budget request for the impacted component. The FY2012 column reflects the impact of $204 million in rescissions, while the Administration proposed $25 million in rescissions for FY2013. The House Appropriations Committee recommended $292 million in rescissions, while the Senate Appropriations Committee recommended $192 million. P.L. 113-6 included $307 million in explicit rescissions in Division D, while the larger package included two across-the-board rescissions of 0.1% and 0.032% that are reflected in the P.L. 113-6 column. Totals may not add due to rounding.

a. The FY2013 Operating Plan column reflects the Administration's unadjusted scoring, as do all columns in this report with post-sequestration figures.

b. The Administration's scoring of one of the general provisions in the bill is $258 million higher than the Congressional Budget Office's scoring.

Federal Civilian Employee Pay Raise

The Administration proposed a 0.5% pay increase for all civilian federal employees in its budget request. Almost all DHS employees are considered civilians, with the significant exception of Coast Guard military personnel.

The House rejected the proposed civilian pay raise, and that decision is reflected in a slight reduction in all appropriations that fund civilian salaries. The Senate Appropriations Committee, recommended funding the pay raise.

Neither the part-year continuing resolution (P.L. 112-175) nor P.L. 113-6 provides the resources for a civilian pay raise.

DHS Appropriations: Comparing the Components

Unlike some other appropriations bills, breaking down the DHS bill by title does not provide a great deal of transparency into where DHS's appropriated resources are going. The various components of DHS vary widely in the size of their appropriated budgets. **Table 4** and **Figure 1** show DHS's pre-sequester discretionary budget authority for FY 2013 broken down by component, from largest to smallest.

Table 4 presents the raw numbers, while **Figure 1** presents the same data in a graphic format, with additional information on the disaster relief and overseas contingency operations adjustments to the allocation allowed under the Budget Control Act (P.L. 112-25). While they are reflected in the second to last line of **Table 4**, **Figure 1** does not include the impact of the bill's general provisions. These provisions include rescissions of prior-year budget authority, which reduced the net budget authority in the act to the totals discussed earlier in this report.

The left column shows discretionary budget authority provided in P.L. 113-6 as scored against the bill's budget allocation, while the right column shows that plus resources available under the adjustments to the discretionary budget cap available under the BCA, including additional resources for DHS provided in P.L. 113-2, the Supplemental Disaster Relief Appropriations Act, 2013.[16] For the purposes of this report, funding provided under these adjustments is not treated as appropriations.

[16] For additional information about the content of P.L. 113-2 see CRS Report R42869, *FY2013 Supplemental Funding for Disaster Relief*, coordinated by William L. Painter and Jared T. Brown.

Table 4. DHS Appropriations by Component, FY2012-FY2013

(in billions of dollars, rounded)

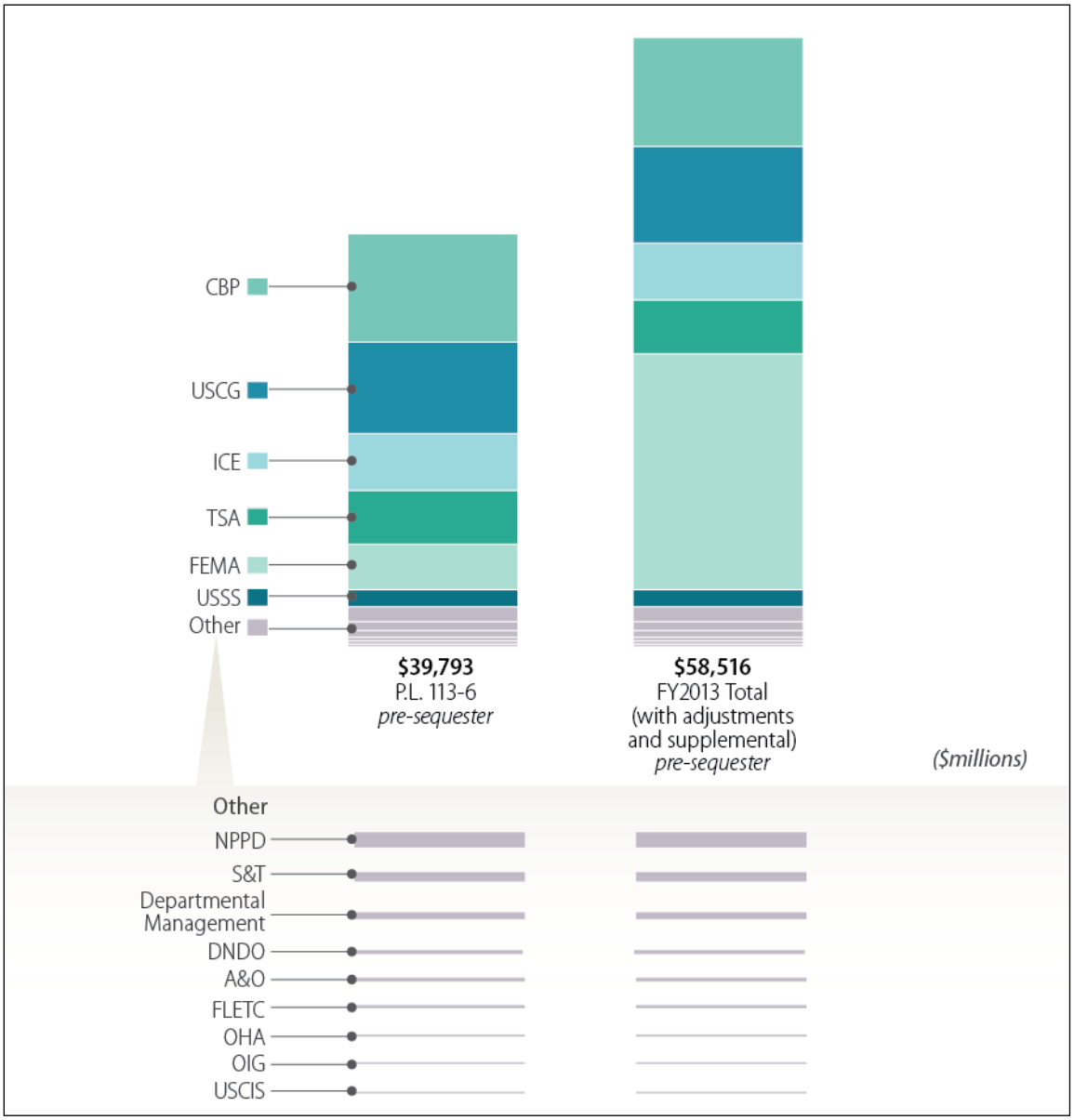
Component	P.L. 113-6 (presequester)	P.L. 113-6 adjustments (presequester)	P.L. 113-2 adjustments (presequester)	FY2013 total (presequester)
Customs and Border Protection (CBP)	10.36	0	*	10.36
U.S. Coast Guard (USCG)	8.72	.25	.27	9.25
Immigration and Customs Enforcement (ICE)	5.43	0	*	5.43
Transportation Security Administration (TSA)	5.15	0	0	5.15
Federal Emergency Management Agency (FEMA)[0]	4.35	6.40	11.78	22.53
U.S. Secret Service (USSS)	1.61	0	*	1.61
National Protection and Programs Directorate (NPPD)	1.44	0	0	1.44
Science & Technology Directorate (S&T)	0.83	0	*	0.84
Departmental Management	0.64	0	0	0.64
Domestic Nuclear Detection Office (DNDO)	0.32	0	*	0.32
Analysis & Operations (A&O)	0.32	0	0	0.32
Federal Law Enforcement Training Center (FLETC)	0.26	0	0	0.26
Office of Health Affairs (OHA)	0.13	0	0	0.13
Office of the Inspector General (OHA)	0.12	0	0	0.12
U.S. Citizenship and Immigration Services (USCIS)	0.11	0	0	0.11
General Provisions (net, not reflected visually in Figure 1)	-0.20	0	0	-0.20
Total	**39.59**	**6.65**	**12.07**	**58.31**

Source: CRS analysis of P.L. 113-2 and P.L. 113-6.

Notes: Table does not reflect non-appropriated resources available to DHS components.

Figure 1. Department of Homeland Security Appropriations by Component, FY2013 (Pre-Sequester)

(in millions of dollars, rounded)



Source: H.R. 5855, H.Rept. 112-492, S.Rept. 112-169, and CRS analysis of P.L. 113-6 and accompanying Senate explanatory statement.

Chart Abbreviations: CBP, Customs and Border Protection; USCG, U.S. Coast Guard; ICE, Immigration and Customs Enforcement; TSA, Transportation Security Administration; FEMA, Federal Emergency Management Administration; USSS, U.S. Secret Service; NPPD, National Protection and Programs Directorate; S&T, Science and Technology Directorate; DNDO, Domestic Nuclear Detection Office; A&O, Analysis and Operations; FLETC, Federal Law Enforcement Training Center; OHA, Office of Health Affairs; OIG, Office of the Inspector General; USCIS, U.S. Citizenship and Immigration Services; DBA, discretionary budget authority; Adj, adjustments to the discretionary budget caps established by the Budget Control Act.

Note: Amounts may not total due to rounding. Figure does not display rescissions and other general provisions, or reflect non-appropriated resources available to DHS components.

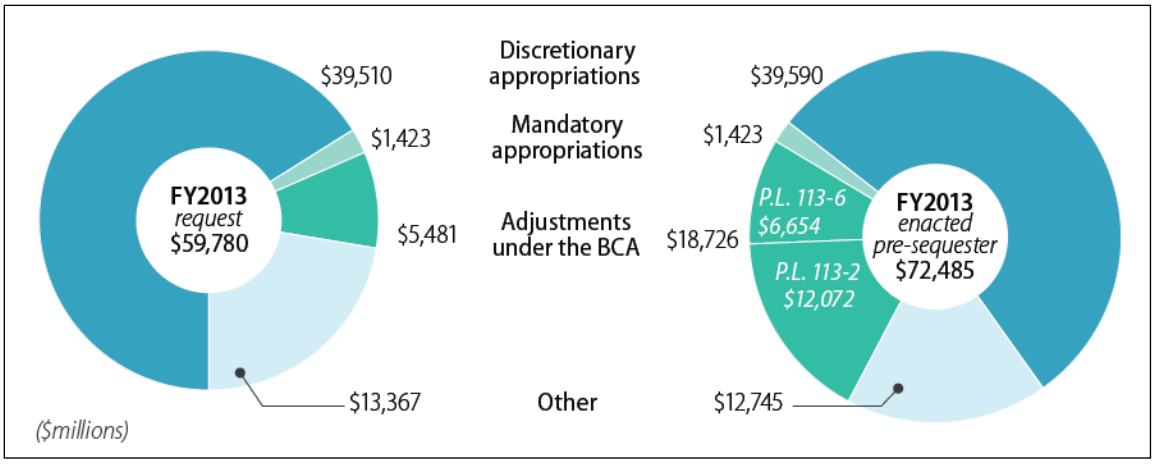
DHS Appropriations Compared to the Total DHS Budget

It is important to note that **Figure 1**, even with its accounting for discretionary cap adjustments, does not tell the whole story about the resources available to individual DHS components. Much of DHS's budget is not derived from discretionary appropriations. Some components, such as TSA, rely on fee income or offsetting collections to support a significant amount of their activities. Less than 4% of the budget for CIS is provided through direct appropriations—the rest relies on fee income.

Figure 2 highlights how much of the DHS budget is not funded through discretionary appropriations. It presents a comparison of the Administration's FY2013 budget request and the enacted budget for FY2013 prior to the impact of sequestration, showing the discretionary appropriations, mandatory appropriations, and adjustments under the Budget Control Act, in the context of the total amount of budgetary resources available to DHS, as well as other non-appropriated resources. The graphic reflecting FY2013 enacted funding includes funding provided through P.L. 113-2, the Disaster Relief Appropriations Act, 2013. Some of the amounts shown in these graphs are derived from the Administration's budget request documents, and therefore do not exactly mirror the data presented in congressional documents, which are the source for the other data presented in the report.

Figure 2. DHS Gross Budget Breakdown: FY2013 Request v. FY2013 Enacted (presequester)

(millions of dollars in budget authority, rounded)



Source: CRS analysis of DHS FY2013 Budget Request, DHS FY2014 budget request, P.L. 113-2, P.L. 113-6, and the accompanying Senate explanatory statement.

Notes: Amounts may not total due to rounding. Includes rescissions of prior-year budget authority.

DHS Appropriations Trends: Size

Table 5 presents DHS appropriations, as enacted, for FY2003 through FY2013. The appropriation amounts are presented in current dollars and are not adjusted for inflation or sequestration. The amounts shown in **Table 5** represent enacted amounts at the time of the start of the next fiscal year's appropriation cycle (with the exception of FY2009 and FY2011)—defined as the filing of the first committee report to accompany a version of a DHS appropriations bill. In instances which a previous year's data are not reflected in the report, as was the case for data for FY2011, the alternative source is noted.

Table 5. DHS Appropriations, FY2003-FY2013

(in millions of nominal dollars)

Fiscal Year	Budget Authority (pre-sequester)
FY2003	29,069[a]
FY2004	30,175
FY2005	30,642[b]
FY2006	31,679[c]
FY2007	35,311[d]
FY2008	38,817[e]
FY2009	41,205
FY2010	49,891[f]
FY2011	43,405
FY2012	47,698[g]
FY2013	58,316[h]

Sources: FY2008 data are from Division E of P.L. 110-161, and tables in the Joint Explanatory Statement for Division E, published in the Congressional Record, December 17, 2007, pp. H16107-H16121 (incorporating amendments to the budget request). FY2009 data are taken from S.Rept. 111-31. FY2010 data are from S.Rept. 111-222, P.L. 111-212, and P.L. 111-230. FY2011 data are from the *DHS Expenditure Plan for Fiscal Year 2011*, and FY2012 data are from CRS analysis of H.Rept. 112-331 and P.L. 112-77. FY2013 data are from CRS analysis of P.L. 113-2 and P.L. 113-6 and its accompanying Senate explanatory statement.

Notes: Amounts may not total due to rounding. Amounts do not include supplemental appropriations or rescissions that were enacted subsequent to the enactment of each appropriations bill.

a. S.Rept. 108-86 reported the FY2003 enacted amount as $29,287 million. CRS was unable to identify the reason for this discrepancy. For the purposes of this table the House number was used to maintain consistency with other fiscal years.

b. Amount does not include $4,703 million in advance appropriations for Project Bioshield.

c. Amount does not include $2,508 million in advance appropriations for Project Bioshield.

d. Amount includes $1,829 million in emergency budget authority that was enacted as a part of the FY2007 DHS Appropriations Act (P.L. 109-295).

e. Amount includes $2,710 million in emergency funding for DHS enacted by Division E of P.L. 110-161.

f. Includes net $5,754 million in supplemental spending (P.L. 111-212, P.L. 111-230).

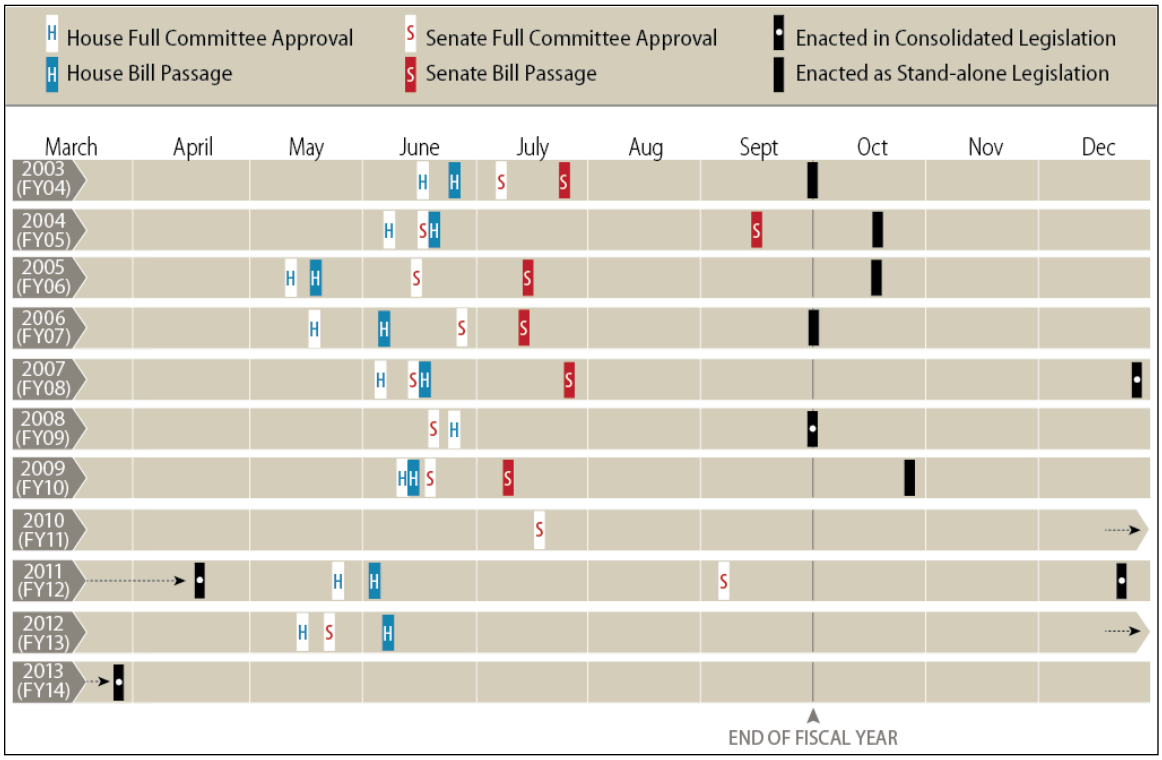
g. Includes $6,400 million in supplemental disaster relief spending (P.L. 112-77).

h. Represents presequester resources, and includes supplemental, OCO, and disaster relief spending of $18,726 million.

DHS Appropriations Trends: Timing

The House Appropriations Committee's full committee markup of H.R. 5855 on May 16, 2012, was the second earliest in the history of the DHS appropriations bill. The Senate Appropriations Committee's full committee markup of S. 3216 on May 22, 2012 was the earliest the Senate has ever marked up the DHS appropriations bill. Nevertheless, P.L. 113-6 represented the second-latest enactment of finalized annual appropriations for the department. **Figure 3** shows the history of the timing of the DHS appropriations bills as they have moved through various stages of the legislative process.

Figure 3. DHS Appropriations Legislative Timing



Source: CRS analysis.

Notes: Final action on the FY2011 appropriation for DHS did not occur until April 2011. Final action on the FY2013 appropriation for DHS did not occur until March 2013.

Title I: Departmental Management and Operations

Title I of the DHS appropriations bill provides funding for the department's management activities, Analysis and Operations (A&O) account, and the Office of the Inspector General (OIG). The Administration requested $1,279 million for these accounts in FY2013, an increase of $147 million above the enacted level. The House-passed bill would have provided $1,020 million, a decrease of 20.2% from the requested level and 9.9% below FY2012. The Senate-reported bill would have provided $1,102 million, 13.8% below the request and 2.7% below FY2012.

After the across-the-board cuts made under Division G of P.L. 113-6, the act provides $1,086 million in appropriations for Title I, a decrease of 15.1% from the requested level and 4.1% below FY2012. The operating plan for DHS for FY2013 indicates sequestration reduced this to $1,026 million, prior to any transfers or reprogrammings that might mitigate the impact of sequestration in some areas and exacerbate it in others.

Table 6 lists the enacted amounts for the individual components of Title I for FY2012, the Administration's request for these components for FY2013, the House-passed and Senate-reported appropriations for the same, the enacted level in P.L. 113-6 and the post-sequester level of available resources from P.L. 113-6 reported by DHS.

Table 6. Title I: Departmental Management and Operations, FY2012-FY2013
(budget authority in millions of dollars)

		FY2013 Appropriation				
	FY2012 Enacted	**Request**	**House-passed**	**Senate-reported**	**P.L. 113-6 (presequester)**	**DHS Plan (sequestered)**
Office of the Secretary and Executive Management	133	134	122	133	130	130
Office of the Under Secretary for Management	236	222	180	220	218	218
Office of the Chief Financial Officer	51	55	50	54	51	51
Office of the Chief Information Officer	257	313	242	248	243	238
Analysis and Operations	338	322	317	324	322	306
DHS Headquarters Consolidation[a]	0	89	0	0	0	0
Office of the Inspector General[b]	117	144	109	123	121	114
Net Budget Authority: Title I	**1,132**	**1,279**	**1,020**	**1,102**	**1,086**	**1,057**
Total Gross Budgetary Resources for Title I Components before Transfers	**1,132**	**1,279**	**1,020**	**1,102**	**1,086**	**1,057**

Sources: H.Rept. 112-331, H.R. 5855, H.Rept. 112-492, S.Rept. 112-169, CRS analysis of P.L. 113-6, the accompanying Senate explanatory statement, and the DHS FY2013 Post-Sequestration Operating Plan dated April 26, 2013.

Notes: Totals may not add due to rounding.

a. This line only reflects funding for DHS Headquarters Consolidation included in Title I of the DHS appropriations legislation. $30 million is provided in FY2013 appropriations through the general provisions of the legislation. Other funding has been provided under Coast Guard accounts in previous years.

b. The Office of the Inspector General also receives transfers from FEMA to pay for oversight of disaster-related activities that are not reflected in these tables.

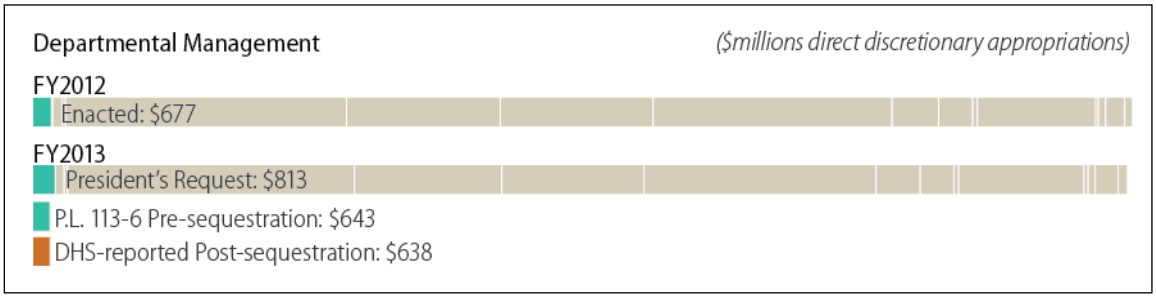
Departmental Management[17]

The departmental management accounts cover the general administrative expenses of DHS. They include the Office of the Secretary and Executive Management (OSEM), which is comprised of the Immediate Office of the Secretary and 12 entities that report directly to the Secretary; the Under Secretary for Management (USM) and its components—the offices of the Chief Administrative Officer (OCAO), Chief Human Capital Officer (OCHCO), Chief Procurement

[17] Prepared by Barbara L. Schwemle, Analyst in American National Government, Government and Finance Division.

Officer (OCPO), and Chief Security Officer (OCSO); the Office of the Chief Financial Officer (OCFO); and the Office of the Chief Information Officer (OCIO). The Administration has usually requested funding for the consolidation of its headquarters here as well.

In this section and in each section hereafter, a graphic follows that provides a numeric and graphic representation of the discretionary appropriation provided to each element of DHS described in the report. This graphic provides a quick reference to the relative size of the component to others in DHS as well as to the previous year's enacted level, the FY2013 request, the enacted level in P.L. 113-6, and DHS-reported post-sequester level for FY2013.



FY2013 Request

The FY2013 request compared to the FY2012 enacted appropriations as follows: OSEM, $134 million, an increase of $1 million (0.7%); USM, $222 million, a decrease of $14 million (5.9%); OCFO, $55 million, an increase of $5 million (9.0%); and OCIO, $313 million, an increase of $55 million (21.5%). The total request for departmental management activities in Title I for FY2012 was $724 million, not including the $89 million for the consolidation of DHS headquarters on the campus of St. Elizabeths, an effort discussed elsewhere in the report. See **Table 7** for additional detail.

Office of the Secretary and Executive Management (OSEM)

The Administration requested $134 million for OSEM. The Administration's budget proposed separate line items for three offices—the Office of International Affairs, the Office of State and Local Law Enforcement, and the Private Sector Office—that are currently funded under the Office of Policy.

Two program changes funded through this request were for the Citizenship and Immigration Services Ombudsman: $135,000 to continue the training program—"Counter Violent Extremism Through Community Partnerships"—for state, local, and federal law enforcement personnel; and more than a million dollars to allow the office "to further provide policy advice, investigations, and training" related to ICE Secure Communities and 287(g) programs.[18]

Under Secretary for Management (USM)

The Administration requested $222 million for the USM and 902 full-time employee equivalents (FTEs). Several program changes were proposed under this appropriation:

[18] U.S. Department of Homeland Security, *Departmental Management and Operations, Office of the Secretary and Executive Management, Congressional Justification, Fiscal Year 2013*, pp. OSEM-28 and OSEM-30.

- The Immediate Office of the Under Secretary for Management (OUSM) includes an increase of $441,000 for the transfer of the Directives function from the Office of the Chief Administrative Officer to the OUSM;
- The OCHCO includes $26 million for salaries and expenses and $10 million for Human Resources Information Technology,[19] including a requested increase of almost $2 million to realign the Safety function from the OCAO to the OCHCO; and
- The USM includes $5 million for continued improvements to the Nebraska Avenue Complex.

Office of the Chief Financial Officer (OCFO)

The Administration requested $55 million for the OCFO, including $6.7 million for the Financial Systems Modernization effort. According to the OCFO justification, the money will be used to complete the implementation of "a new core financial system at the Federal Emergency Management Agency" in FY2013. The "new financial system is needed ... to accurately account for, track, and report on FEMA resources, and meet minimum federal financial system processing requirements."[20]

Office of the Chief Information Officer (OCIO)

The Administration requested $313 million for the OCIO. Within the OCIO account, Infrastructure and Security Activities requested $122 million, including $65 million "to fully complete the data center migration activities for CBP, TSA, and USCIS." The justification stated that "execution of the planned timeline" for the migration "will enable continued closures of the major Component data centers and achieve the Secretary's goal of the Department's consolidation to two data centers across the enterprise."[21]

House-Passed H.R. 5855

H.R. 5855, as reported by the House Committee on Appropriations, would have provided the following appropriations as compared with the President's request: OSEM, $122 million ($12 million or 8.5% less); USM, $213 million ($9 million or 4% less); OCFO, $50 million ($5 million or 9% less); OCIO, $242 million ($71 million or 23% less). The total funding recommended by the House Appropriations committee for management activities under Title I was $627 million. This would have represented a decrease of $97 million, or 13.4%, from the President's request, not including the handling of the DHS Headquarters project. These reductions were justified by the committee not only on the basis of the need to cover the lack of revenue from unrealized funding proposals that were intended to offset the cost of the bill, but also due to failure to comply with several statutory requirements laid out in previous appropriations bills.

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[19] Human Resources Information Technology (HRIT) "supports the overall Mission of the Human Capital Business Systems (HCBS) portfolio to implement and manage a consolidated suite of modernized human resource information technology business solutions by means of leveraging current enterprise solutions, reducing redundancies, and increasing the functionality of HR systems across the Enterprise." (U.S. Department of Homeland Security, *Departmental Management and Operations, Under Secretary for Management, Congressional Justification*, Fiscal Year 2013, p. USM-12.)

[20] U.S. Department of Homeland Security, *Departmental Management and Operations, Office of the Chief Financial Officer, Congressional Justification, Fiscal Year 2013*, pp. OCFO-9 – OCFO-10.

[21] U.S. Department of Homeland Security, *Departmental Management and Operations, Office of the Chief Information Officer, Congressional Justification, Fiscal Year 2013*, p. OCIO-19.

On June 6, 2013, during floor consideration of the bill, a number of amendments were offered that used departmental management accounts as offsets. In total, the amendments that passed would have further reduced the budget for management by almost $33 million. The four largest were:

- H.Amdt. 1236, to decrease funds for the Office of the Under Secretary for Management by $7,667,000 and increase funds for the Federal Emergency Management Agency Urban Search and Rescue Response System by $7,667,000, agreed to by voice vote;
- H.Amdt. 1237, to reduce funds for the Office of the Under Secretary for Management by $10 million and increase funds for the Federal Emergency Management Agency State and Local Programs by $10 million, agreed to on a 211-202 vote (Roll No. 348);
- H.Amdt. 1238, to reduce funds for the Office of the Under Secretary for Management by $10 million and increase funds for U.S. Customs and Border Protection Security Fencing, Infrastructure, and Technology by $10 million agreed to on a 302-113 vote (Roll No. 352); and
- H.Amdt. 1239, to reduce funds for the Office of the Under Secretary for Management by $5 million and increase funds for Firefighter Assistance Grants by $5 million, agreed to by voice vote.

These amendments would have left the USM with an appropriation of $180 million, $41 million (18.6%) less than the requested level. See **Table 7** for additional detail.

Office of the Secretary and Executive Management (OSEM)

Within OSEM, funding of up to $45,000 was recommended for official reception and representation expenses, of which $17,000 was for international programs within the Office of Policy and activities related to the visa waiver program. These reception and representation expenses were the target of an amendment offered by Representative Flake, who proposed using the funds to increase U.S. Customs and Border Protection Salaries and Expenses by $43,000. The amendment was agreed to in the House by a voice vote on June 6, 2012.

OSEM was also the target of significant provisions withholding appropriated funds from use. Some $71 million would have been withheld from obligation until all reports that were required, by statute, to be submitted with or in conjunction with the FY2014 budget request were received by the committee.[22] A general provision (Section 549) went further, proposing to bar the use of Coast Guard-operated fixed wing aircraft by the Secretary of DHS, her deputy, the Commandant of the Coast Guard, or the Vice Commandant, except in case of emergency, until two key reports were submitted to the House and Senate appropriations committees.[23]

In addition, funding of $5 million was proposed to be withheld "from obligation for the Office of General Counsel until a final overseas aircraft repair station security regulation has been published."

Under Secretary for Management (USM)

Under the USM appropriation, more than $124 million would have been withheld from obligation until the Committee received all reports that were, by statute, required to be submitted with or in

[22] H.Rept. 112-492, p. 8.

[23] H.R. 5855, pp. 83-85.

conjunction with the FY2014 budget request. The House Appropriations Committee recommended a reduction of $7 million (10%) from the requested level for OCPO for "failure to comply with the statutory requirement to submit on time a comprehensive acquisition report with quarterly updates."[24]

Office of the Chief Financial Officer (OCFO)

Under the OCFO account, more than $29 million would have been withheld from obligation until the Committee received all reports and plans that were, by statute, required to be submitted with or in conjunction with the FY2014 budget request. The report also expressed the view that the House Appropriations Committee did not intend for the appropriations liaisons in OCFO—which were established to ensure the Appropriations Committees have the necessary access to budgetary information—to serve as intermediaries between the committees and department components. The report stated that "the Committee expects to hear from relevant components on their areas of responsibility directly."[25]

Office of the Chief Information Officer (OCIO)

The House-recommended appropriation of $242 million for the Office of the Chief Information Officer would be allocated to two sub-appropriations: $117 million for salaries and expenses and $125 million for development and acquisition of information technology equipment, software, services, and related activities. The House-recommended appropriation also included $27 million for Information Technology Services and $55 million for Security Activities. The House report stated that the committee supported "the migration of component resources to the Department's two consolidated data centers,"[26] but would not have provided the proposed $65 million for the migration because of the significant shortfalls in the President's budget request mentioned above.

Senate-Reported S. 3216

S. 3216, as reported by the Senate Committee on Appropriations, would have provided the following appropriations, as compared with the President's request: OSEM, $133 million ($1 million or 0.8% less); USM, $220 million ($2 million or 0.7% less); OCFO, $54 million ($2 million or 3.1% less); and OCIO, $248 million ($65 million or 20.7% less). The total funding provided by the Senate-reported bill for departmental management in Title I would have been $655 million. This would have represented a decrease of $69 million, or 9.5%, from the President's request, not including the funding for DHS headquarters consolidation at St. Elizabeths. See **Table 7** for additional detail.

Office of the Secretary and Executive Management (OSEM)

The Senate committee report highlighted a requested programmatic increase for the Office for Civil Rights and Civil Liberties (OCRCL), "including $1,327,000 for OCRCL to ensure that the Department's immigration efforts comply with all applicable civil rights statutes and constitutional requirements."[27] Even with this increase the Senate committee-recommended

[24] Ibid, p. 19.

[25] Ibid., p. 23.

[26] Ibid., p. 24.

[27] S.Rept. 112-169, p. 12.

budget for OCRCL was down by roughly $1 million (3.5%) from FY2012 levels, although it would have matched the level requested for the office by the Administration.

The committee report noted that DHS discontinued funding for its historian, who was tasked with maintaining the historical record of DHS, and encouraged the Secretary to fill the position again using funds provided in FY2013.[28]

The committee report also noted that funding for reception and representation expenses was reduced by 15% for FY2012 and was proposed to be further reduced by 10% for FY2013 "In recognition of a more constrained budget environment and to limit opportunities for waste and abuse."[29]

Under Secretary for Management (USM)

According to the report, the committee's recommendation under the USM would have included "funding for robust oversight of major acquisitions, recruitment and development of a skilled workforce, and security measures to safeguard DHS personnel, property, facilities, and information." The report stated that reductions in funding for individual offices below the request, unless otherwise specifically addressed, were "due to a constrained budget environment and to focus limited resources on the Department's critical operational missions."[30] For the OCHCO, an appropriation of $35 million was recommended by the Senate Appropriations Committee, $1 million below the request, with the reduction coming in the Salaries and Expenses account.

Office of the Chief Information Officer (OCIO)

For the OCIO, the Senate Appropriations Committee-recommended appropriation of $248 million would have included $121 million for salaries and expenses and $127 million to be available through FY2015 for technology investments across the department that are overseen by the OCIO, including $57 million for development and acquisition of information technology equipment, software, services, and related activities. $65 million for data center migration would have been carried in a general provision in Title V, bringing the total in the bill for the OCIO to the level of the Administration's request. The committee report noted that investment in data center consolidation is expected to result in savings of nearly $3 billion by 2030.[31]

P.L. 113-6 and the DHS Operating Plan for FY2013

The law provides these appropriations (pre-sequester), as compared with the President's request: OSEM, $130 million ($4.3 million or 3.2% less); USM, $218 million ($3.5 million or 1.6% less); OCFO, $51 million ($4 million or 7.2% less); and OCIO, $243 million ($69 million or 22% less). The total funding provided by the law for departmental management in Title I is $643 million. This represents a decrease of $170 million or 21% from the President's request.

According to the DHS Operating Plan, of the management accounts, only OCIO was subject to a funding reduction based on sequestration. This is in part because sequestration was calculated against the part-year appropriation provided under P.L. 112-175. Under that particular circumstance, 2 USC 903 outlines a crediting mechanism that can be exercised that reduces the

[28] Ibid., pp. 12-13.

[29] Ibid., p. 15.

[30] Ibid., p. 17.

[31] Ibid., p. 25.

amount of sequestration applied to activities where the final FY2013 appropriation was below a baseline calculated by OMB. See **Table 7** for additional detail on funding.

Among the provisions and directives included in P.L. 113-6 was direction for the DHS CIO to submit to the appropriations committees, with the President's budget proposal for FY2014, a multi-year investment and management plan, to include each of fiscal years 2013 through 2016, for all information technology acquisition projects funded under the CIO or by multiple components through reimbursable agreements.

The Senate's explanatory statement also directs:[32]

- The Secretary to provide a report detailing all costs of official and nonofficial travel for each trip taken by the Secretary and the Deputy Secretary from FY2008 to the present, within all DHS appropriations;
- The Secretary to submit the contingency plan to address gaps between actual and budgeted collections of user fees mandated in the FY2010 DHS appropriations conference report as soon as possible, and a revised plan no later than 90 days after Act's enactment date, to the appropriations committees;
- The USM to submit, with the President's FY2014 budget proposal, a Comprehensive Acquisition Status Report (CASR) including the information specified in the FY2012 DHS appropriations joint explanatory statement, and to provide quarterly updates thereafter, within 45 days after the end of each quarter, to the appropriations committees.
- DHS to submit a detailed report on the implementation of the balanced workforce strategy to the appropriations committees, and to include, with the President's annual budget request, a detailed justification of any planned insourcing or outsourcing initiatives.
- The CFO to continue providing briefings, at least semiannually, on its financial systems modernization efforts.

Table 7 outlines the funding levels for existing management accounts. Funding numbers for P.L. 113-6 reflect across-the-board spending cuts relative to FY2012 enacted amounts, but do not reflect the impact of sequestration. The "DHS Plan" column provides the department's assessment of budgetary resources available through P.L. 113-6 after sequestration was applied, as of April 26, 2013. It does not represent a final funding level as the department is likely to undertake transfers and reprogramming to mitigate the impact of sequestration in some areas.

[32] *Congressional Record*, vol. 159, March 11, 2013, pp. S1546-S1548, available at http://www.gpo.gov/fdsys/pkg/CREC-2013-03-11/pdf/CREC-2013-03-11-pt1-PgS1287.pdf#page=256.

Table 7. DHS Management Account Appropriations, FY2012-FY2013

(budget authority in millions of dollars)

		FY2013 Appropriation				
	FY2012 Enacted	Request	House-passed	Senate-reported	P.L. 113-6 (presequester)	DHS Plan (sequestered)
Office of the Secretary and Executive Management	**133**	**134**	**122**	**133**	**130**	**130**
Immediate Office of the Secretary	5	4	4	4	4	4
Immediate Office of the Deputy Secretary	2	2	2	2	2	2
Office of the Chief of Staff	2	2	2	2	2	2
Executive Secretary	8	8	7	8	8	8
Office of Policy	40	44[a]	41	44	44	44
Office of Public Affairs	6	6	5	6	5	5
Office of Legislative Affairs	6	6	5	6	6	6
Office of Intergovernmental Affairs	3	3	2	3	2	2
Office of General Counsel	22	22	20	22	21	21
Office of Civil Rights and Civil Liberties	23	22	20	22	22	22
Citizenship and Immigration Services Ombudsman	6	6	5	6	6	6
Privacy Officer	8	8	8	8	8	8
Office of Counternarcotics Enforcement	2	0	0	0	0	0
Floor Amendment	—	—	* [b]	—	—	—
Under Secretary for Management	**236**	**222**	**180**	**220**	**218**	**218**
Immediate Office of the Under Secretary	3	3	3	3	3	3
Office of Security	70	69	69	69	69	69
Office of the Chief Procurement Officer	78	73	66	73	72	72

		FY2013 Appropriation				
	FY2012 Enacted	Request	House-passed	Senate-reported	P.L. 113-6 (presequester)	DHS Plan (sequestered)
Office of the Chief Human Capital Officer	39	36	36	35	35	35
Office of the Chief Administrative Officer	46	41	40	40	40	40
Floor Amendments	—	—	-33[c]	—	—	—
Office of the Chief Financial Officer	**51**	**55**	**50**	**54**	**51**	**51**
Office of the Chief Information Officer	**257**	**313**	**242**	**248**	**243**	**238**
DHS Headquarters Consolidation[d]	**0**	**89**	**0**	**0**	**0**	**0**
Total, Departmental Management	**677**	**813**	**594**	**655**	**643**	**638**

Sources: H.Rept. 112-331, H.R. 5855, H.Rept. 112-492, S.Rept. 112-169, CRS analysis of P.L. 113-6, the accompanying Senate explanatory statement, and the DHS FY2013 *Post-Sequestration Operating Plan* dated April 26, 2013.

Notes: Amounts may not total due to rounding.

a. This number for the Office of Policy reflects the existing structure of that office. The Administration proposed separating the Office of International Affairs, Office of State and Local Law Enforcement and the Private Sector Office from of the Office of Policy in its FY2013 budget request. The proposal was not supported in the FY2013 appropriations process.

b. H.Amdt. 1232, to reduce funds for the Office of the Secretary and Executive Management by $50,000 and increase funds for Security, Enforcement, and Investigations U.S. Customs and Border Protection Salaries and Expenses by $43,000, was agreed to by voice vote on June 6, 2012.

c. Four amendments passed the House that impacted this account by a total of $32.667 million. These are listed in the text describing the House-passed bill.

d. This line only reflects funding for DHS Headquarters Consolidation included in Title I of the DHS appropriations legislation. Other funding has been provided under Coast Guard accounts and in general provisions in previous years. See the section below for more explicit funding details.

Issues for Congress

The reports of the House and Senate Appropriations committees that accompany H.R. 5855 and S. 3216 identified several issues before the department, including the Administration's proposal to add separate line items under OSEM for three offices, new revenue assumptions underlying the department's budget, the department's chronic lateness in submitting plans and reports required by statute, and conference spending by the department. Brief discussions of each of these issues follow.

Proposed Separate Line Items

The Administration's budget proposed separate line items for three offices—the Office of International Affairs (OIA), the Office of State and Local Law Enforcement (SLLE), and the Private Sector Office (PSO)—that are currently funded under the Office of Policy. Under the proposal, each of the offices would have directly reported to the OSEM. This proposal was rejected at each stage of the legislative process, including P.L. 113-6. The House committee noted that none of the offices are headed by individuals who are Senate-confirmed. Stating that the "proposal is inconsistent with the goal of a more streamlined department and of reducing administrative overhead" and that "international affairs policy formulation and coordination" is "an inherently appropriate function of the Office of Policy," the House committee report "directs the Department to report ... on the potential of establishing an external affairs office that might include, consolidate, and streamline the PSO and SLLE functions, and those of other existing external affairs offices (namely the Offices of Legislative Affairs, Intergovernmental Affairs, and Public Affairs) that currently report to the Secretary."[33] The Senate committee report noted that DHS has not provided "a compelling rationale for why these offices need to be stand alone entities" and that "these functions have been performed adequately within the Office of Policy."[34]

Revenue Assumptions

The Administration's budget included three legislative proposals that would increase the budgetary resources available to Department: an increase in the aviation security fee, authorization for the use of customs fee revenues, and authority for the CBP to enter into reimbursement agreements with outside parties to provide customs services.

The House rejected all three proposals, while the Senate included all three. The House committee report noted in the Chief Financial Officer's section that "the President's budget once again assumes that new revenue will be realized in the coming fiscal year," and that in the case of the new aviation security fee increase, the Congressional Budget Office estimates "a shortfall of $115 million" in the DHS budget because the assumptions are dependent "on enactment of new legislative authority that is outside the jurisdiction of the Committee."[35] According to the report:

> As this Committee has underscored repeatedly over the past several Congresses, such an approach to budgeting is unrealistic and requires this Committee to take drastic measures to offset the unnecessary gap. The Committee reiterates its message—it rejects such budgetary legerdemain. The consequences, in terms of additional reductions to Department requests, are evident throughout this bill. If and when such proposals are enacted into law, the Committee will take them into account as it drafts legislation, and the Department should keep the Committee informed of any progress in this regard. However, until that occurs, such proposals will not be treated as relevant to its appropriations work.[36]

P.L. 113-6 included a general provision allowing CBP to initiate pilot projects for entering into reimbursable agreements to provide customs services. It did not include either other revenue provision.[37]

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[33] H.Rept. 112-492, pp. 8-9.

[34] S.Rept. 112-169, p. 12.

[35] H.Rept. 112-492, p. 22.

[36] Ibid., p. 22.

[37] P.L. 113-6, Section 560 (127 Stat. 378-380).

Plans and Reports Required by Statute

The House committee report expressed concern about the late submission of plans and reports and plans that are required by statute to be transmitted to Congress and, therefore, withheld a portion of funding from departmental management accounts as detailed in the section on FY2013 House-reported actions. According to the report:

> The Department has been egregiously late in responding to Congressional direction, including failing to submit the majority of statutorily required reports on time. This failure to comply with the law is wholly unacceptable.... The investment plans, expenditure plans, reports, and justifications outlined by the Committee are essential if it is to help DHS better protect the American people and live up to exacting standards of fiscal responsibility.
>
> Such plans are vital to the Committee's oversight work, yet in far too many instances such plans—which should reflect decisions already made by the Department to align current program priorities with resources—have been inexcusably late, incomplete, or have not yet been submitted at all. In some cases, expenditure plans that should have been submitted at the beginning of a fiscal year to show how the Department planned to expend its funding, instead have been submitted well after the end of the fiscal year.
>
> The Committee expects the Department to comply with these statutory requirements, with regard to both content and schedule. The Committee notes that the majority of statutorily required reports and plans are presently more than three months late.... [38]

The Senate-reported bill proposed withholding 59% of the budgets of OSEM, USM and CFO though a general provision "until all statutorily required expenditure reports are submitted on time." This generally would have had the same effect as the House provision (the House withholdings, proposed as fixed numbers, were roughly 58% of the committee recommended levels), but House floor action reduced the USM budget to the point that if its provisions were to become law for FY2013, 70% of the USM budget would have been withheld.

Section 562 of P.L. 113-6 withholds 20% of the budgets of OSEM, USM, and CFO until the all the reports and plans due by May 1 under the bill have been submitted.

Conference Spending

The House committee report, noting the findings of the General Services Administration (GSA) inspector general with regard to GSA conference spending and the necessity for better "oversight of expenditures during the current fiscal climate," would require the department's Office of Inspector General to report on "whether the Department has effective procedures in place to ensure compliance with all applicable Federal laws and regulations on travel, conferences, and employee awards programs."[39] The report would be submitted to the Committee within 30 days after the act's enactment. New general provisions related to conference spending were also included in the House and Senate bills.

Both bills included a provision requiring a quarterly report to the DHS OIG on every "conference, ceremony or similar event" that costs the government more than $20,000. The OIG would then report to the committee after the end of FY2013 on the department's spending on these events. The Senate provision went on to restrict the use of grants or contracts funded by the department to fund conferences unrelated to the original purpose of the grant or contract award, and bars the use of funds for travel or conference activities that do not comply with OMB Memorandum M-

[38] Ibid., pp. 6, 10, and 11.

[39] Ibid., p. 16.

12-12, which provides government-wide direction on spending on travel, conferences, real property, and fleet management.[40] Section 3003 of Division G of P.L. 113-6 requires government-wide reporting on conference costs to departmental inspectors general or senior ethics officials, and mirrors the Senate's additional provisions on the subject.

Both bills also would have limited the number of employees that can attend an overseas conference. The House would have limited attendance to 50 employees of DHS at any single conference outside the United States, unless the conference is a training or operation conference for law enforcement, and the majority of federal attendees are law enforcement officers. The Senate would have capped attendance at 50 employees per DHS component, unless the Secretary notified the Appropriations committees in advance that attendance is important to the national interest.[41] Section 569 of P.L. 113-6 mirrors the Senate language.

DHS Headquarters Consolidation[42]

The Department of Homeland Security's headquarters footprint occupies more than 7 million square feet of office space in about 45 separate locations in the greater Washington, DC, area. This is largely a legacy of how the department was assembled in a short period of time from 22 separate federal agencies that were themselves spread across the National Capital region. The fragmentation of headquarters is cited by the department as a major contributor to inefficiencies, including time lost shuttling staff between headquarters elements; additional security, real estate, and administrative costs; and reduced cohesion among the components that make up the department.

To unify the department's headquarters functions, the department and General Services Administration (GSA) approved a $3.4 billion master plan to create a new DHS headquarters on the grounds of St Elizabeths in Anacostia. According to GSA, this would be the largest federal office construction since the Pentagon was built during World War II. $1.4 billion of this project was to be funded through the DHS budget, and $2 billion through the GSA.[43] According to DHS, $1,366 million has been invested in the project so far through FY2012—$434 million through DHS and $933 million through GSA.[44] Phase 1A of the project—a new Coast Guard headquarters facility—is nearing operational status with the funding already provided by Congress.

Not all DHS functions in the greater Washington, DC, area are slated to move to the new facility. The Administration has sought funding several times in recent years for consolidation of some of those other offices to fewer locations to save money on lease costs.

FY2013 Request

The Administration requested $89 million for the activities related to the St. Elizabeths DHS headquarters project as part of the budget for departmental operations. The funding was requested for a highway interchange that would handle some of the increased traffic generated by the

[40] H.R. 5885, Section 557; S. 3216, Section 556; and OMB Memorandum M-12-12, May 11, 2012.

[41] H.R. 5885, Section 556; S. 3216, Section 557.

[42] Prepared by William L. Painter, Analyst in Emergency Management and Homeland Security Policy, Government and Finance Division.

[43] U.S. Congress, House Committee on Appropriations, Subcommittee on Homeland Security, *Homeland Security Headquarters Facilities*, 111th Cong., 2nd sess., March 25, 2010 (Washington: GPO, 2010), pp. 335-366.

[44] Some of GSA's investment in St. Elizabeths would have been required without the DHS headquarters to stabilize and maintain the structures on the federally owned site.

consolidated headquarters facility.[45] This is an element that would support the project, but that has not traditionally been funded through the Homeland Security appropriations bill. Usually these types of infrastructure elements would have been funded through the budgets of the General Services Administration or Department of Transportation. The Administration also requested $24.5 million under the Coast Guard operating expenses budget for the cost of moving the Coast Guard into its new facility in the third quarter of FY2013. No other requests for funding for the DHS consolidated headquarters project were included in the budget submission to Congress.

House-Passed H.R. 5855

The House Appropriations Committee recommended no funding for the highway interchange or any part of the St. Elizabeths project through the management accounts, noting the irregularity of funding a highway interchange through the Homeland Security bill. The bill would have provided the Administration's requested funding for the Coast Guard to move to the new facility. In addition, $10 million would have been provided through the Coast Guard's construction budget to provide additional support for the project.

In the report accompanying H.R. 5855, the committee noted the following:

> The Committee recommends no new construction funding in the bill for new Departmental Headquarters Consolidation expansion. This is $89,000,000 below the request. Funding is included, as requested, as part of the Coast Guard appropriation to cover the costs associated with completing the move of the Coast Guard headquarters to St. Elizabeths. Associated with this, as described below, is additional funding under Coast Guard construction to ensure completion of the current project, improve site access, and support analysis for follow on work and any necessary planning adjustments for schedule, scope, and cost.
>
> …
>
> The Committee understands that the Department, through USM, is actively exploring options to creatively modify or consolidate current leases, in the expectation that a permanent headquarters construction site will be significantly delayed or amended. The Committee encourages the Department to continue this effort and to inform the Committee of its progress in consolidation no later than 90 days after the date of enactment of this Act, including a revised schedule and cost estimates. Further, as noted above, the Committee includes $10,000,000 under the Coast Guard Acquisition, Construction, and Improvements account to complete Phase 1 of construction, ensure Coast Guard will be able to move in 2013 and that there will be no obstacles to access and transportation into the site, and to support orderly planning and analysis for the overall project.[46]

In the minority views accompanying the report, the ranking members of the subcommittee and full committee noted the following:

> The bill also fails to provide the $89 million for site access, including necessary road and interchange improvements, for DHS personnel to access the new DHS headquarters. The new DHS headquarters project has been shortchanged over the past few years, causing repeated schedule delays and increasing the costs from $3.4 billion to just over $4 billion if all three phases are constructed. In the interim, the Coast Guard may be the only tenant at this new facility for the next 3–5 years, as the bill funds only this relocation in 2013. The

[45] Department of Homeland Security, *Departmental Management and Operations Fiscal Year 2013 Congressional Justification*, DHS Headquarters Consolidation Project, Washington, DC, February 2012, pp. 1-2.

[46] H.Rept. 112-492, pp. 19-20.

> bill does not include any funding for Phase 2, which was to begin construction for DHS central headquarters and FEMA.[47]

No amendments were considered on the House floor addressing DHS headquarters consolidation.

Senate-Reported S. 3216

The Senate Appropriations Committee recommended $89 million for the highway interchange, although it was funded as a part of the Under Secretary for Management's office through a general provision rather than as a stand-alone appropriation in departmental operations as it was requested. The committee also recommended full funding for the Coast Guard's move under Coast Guard operating expenses. No funding was provided for the project through the Coast Guard construction budget. An attempt was made to use the $89 million for the highway interchange as an offset for an unrelated amendment in full committee markup of the bill. The amendment failed, and the funding remained in the reported version of the legislation.

In the report accompanying S. 3216, the committee noted the following:

> Pursuant to section 549, a total of $89,000,000 is provided for ''Office of the Under Secretary for Management'' for costs associated with headquarters consolidation and mission support consolidation. The Under Secretary shall submit an expenditure plan no later than 90 days after the date of enactment of this act detailing how these funds will be allocated, including a revised schedule and cost estimates for headquarters consolidation. Quarterly briefings are required on headquarters and mission support consolidation activities, including any deviation from the expenditure plan. According to the Department, an updated plan is being developed in coordination with the General Services Administration to complete the headquarters consolidation project in smaller, independent segments that are more fiscally manageable in the current budget environment. The Department expects this updated plan to be completed by the end of summer 2012 and it is to be submitted to the Committee upon its completion. The Committee expects the plan to identify the discrete construction segments, the associated resource requirements for each segment, and the proposed timeline for requesting funding to complete each segment.[48]

P.L. 113-6 and the DHS Operating Plan for FY2013

P.L. 113-6 provided no funding for headquarters consolidation in Title I of the legislation. $29 million is provided in a general provision for "necessary expenses to plan, acquire, design, construct, renovate, remediate, equip, furnish, improve infrastructure, and occupy buildings and facilities for the department headquarters project and associated mission support consolidation." According to the DHS operating plan, this amount was not reduced through sequestration.

Analysis and Operations[49]

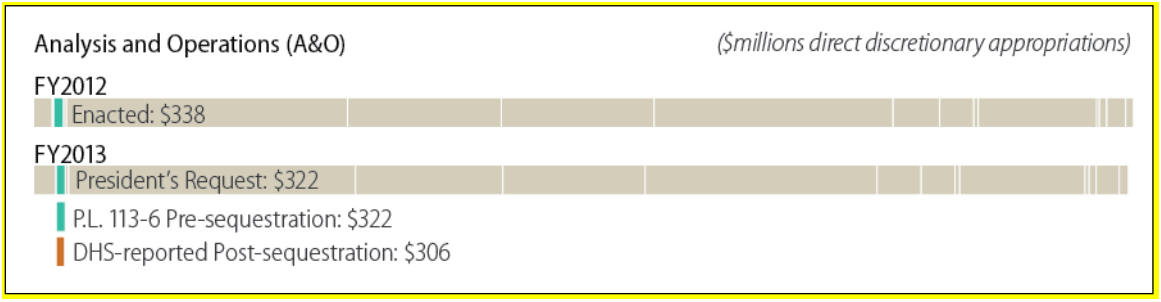
Funds included in the Analysis and Operations account support both the Office of Intelligence and Analysis (I&A) and the Office of Operations Coordination and Planning (OPS). I&A is responsible for managing the DHS intelligence enterprise and for collecting, analyzing, and sharing intelligence information for and among all components of DHS, and with the state, local, tribal, and private sector homeland security partners. Because I&A is a member of the intelligence

[47] H.Rept. 112-492, p. 204.

[48] S.Rept. 112-169, p. 20.

[49] Prepared by Jerome P. Bjelopera, Specialist in Organized Crime and Terrorism, Domestic Social Policy Division.

community,[50] its budget comes in part from the classified National Intelligence Program.[51] OPS develops and coordinates departmental and interagency operations plans. It also manages the National Operations Center, the primary 24/7 national-level hub for domestic incident management, operations coordination, and situational awareness, fusing law enforcement, national intelligence, emergency response, and private sector information.



FY2013 Request

The FY2013 request for the Analysis and Operations account was $322 million, a decrease of $16 million (4.7%) from the enacted FY2012 level of $338 million. The account request included funding for 849 FTE, a decrease of 2 FTE from 2012.

House-Passed H.R. 5855

H.R. 5855 would have provided $317 million for the Analysis and Operations account, $4.5 million (1.4%) below the amount in the President's FY2013 request. The recommendation was $21 million (6.1%) less than the amount enacted in FY2012.

According to H.Rept. 112-492, the House Committee on Appropriations also recommended denying the proposed:

- increase in executive service salaries for the Office of Operations Coordination and Planning;
- increase in funding associated with the Air Domain Intelligence Integration Element; and
- decrease to Cybersecurity Analysis (thus restoring funding for this function).

No changes to those positions were made in House floor action.

[50] The intelligence community (IC), as defined in 50 USC 401a(4), includes the Central Intelligence Agency, the National Security Agency, the National Reconnaissance Office, the National Geospatial-Imagery Agency, the Defense Intelligence Agency, the Bureau of Intelligence and Research of the State Department, the Office of Intelligence and Analysis of the Treasury Department, DHS's I&A as well as intelligence elements within the Federal Bureau of Investigation, the Drug Enforcement Administration, the Department of Energy, the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard.

[51] The National Intelligence Program "funds Intelligence Community (IC) activities in six Federal departments, the Central Intelligence Agency, and the Office of the Director of National Intelligence. The IC provides intelligence collection, the analysis of that intelligence, and the responsive dissemination of intelligence to those who need it—including the President, the heads of Executive Departments, military forces, and law enforcement agencies." See http://www.gpo.gov/fdsys/pkg/BUDGET-2013-BUD/pdf/BUDGET-2013-BUD-8.pdf.

Senate-Reported S. 3216

The Senate Appropriations Committee recommended $324 million for the Analysis and Operations account. This would have been a decrease of $14 million (4.1%) below the enacted FY2012 amount of $338 million and an increase of $2 million (0.6%) from the President's FY2013 request. It would have been an increase of $7 million (2.2%) above the amount passed in the House.

According to S.Rept. 112-169, the Senate Committee on Appropriations required DHS's Chief Intelligence Officer to submit an expenditure plan for FY2013 no later than 60 days after the enactment of the appropriations bill. The Committee directed DHS to focus the plan on I&A's functions that provide unique expertise or serve intelligence customers who are not supported by other components of the intelligence community. The Committee also directed I&A to continue its semi-annual briefings on the State and Local Fusion Centers program.

P.L. 113-6 and the DHS Operating Plan for FY2013

P.L. 113-6 (pre-sequester) provides $322 million for the Analysis and Operations account and falls between the $317 million in H.R. 5855 and the $324 million in S. 3216. The P.L. 113-6 figure is the same as the President's FY2013 request and 4.7% below FY2012. The explanatory statement reiterated the House's rejection of increases for executive service salaries and the Air Domain Intelligence Integration Element, as well as the Senate's direction regarding an expenditure plan and the semi-annual briefing on fusion centers.

The operating plan for DHS for FY2013 indicates sequestration reduced this to $306 million, prior to any transfers and reprogrammings that might mitigate the impact of sequestration in some areas and exacerbate it in others.

Issues for Congress

Some Members of Congress have voiced concerns about I&A's mission. For example, in January 2012, Representative Sue Myrick stated that "I&A historically has suffered from a lack of focus in its mission. This challenge partially stems from vague or overlapping authorities in some areas."[52] Representative Myrick made these comments in an opening statement for a House of Representatives Permanent Select Committee on Intelligence Subcommittee on Terrorism, Human Intelligence, Analysis, and Counterintelligence hearing about DHS's role in the intelligence community.[53] The hearing centered on a report about DHS's intelligence mission issued by the Aspen Institute.[54] While not specifically covering I&A, the report suggested that intelligence activities at DHS should avoid duplication of efforts—such as general analysis of terrorist activities—performed by other agencies. Rather, according to the Aspen Institute,

[52] U.S. Congress, House Permanent Select Committee on Intelligence, Subcommittee on Terrorism, Human Intelligence, Analysis and Counterintelligence, *The Role of DHS in the IC: A Report by the Aspen Institute*, 112th Cong., 2nd sess., January 18, 2012, Opening Statement (as prepared) by Rep. Sue Myrick, p. 1, http://intelligence.house.gov/sites/intelligence.house.gov/files/documents/011812MyrickOpeningStatement.pdf.

[53] See U.S. Congress, House Permanent Select Committee on Intelligence, Subcommittee on Terrorism, Human Intelligence, Analysis, and Counterintelligence, *The Role of DHS in the IC: A Report by the Aspen Institute*, 112th Cong., 2nd sess., January 18, 2012, http://intelligence.house.gov/hearing/subcommittee-terrorism-humint-analysis-and-counterintelligence-role-dhs-ic-report-aspen.

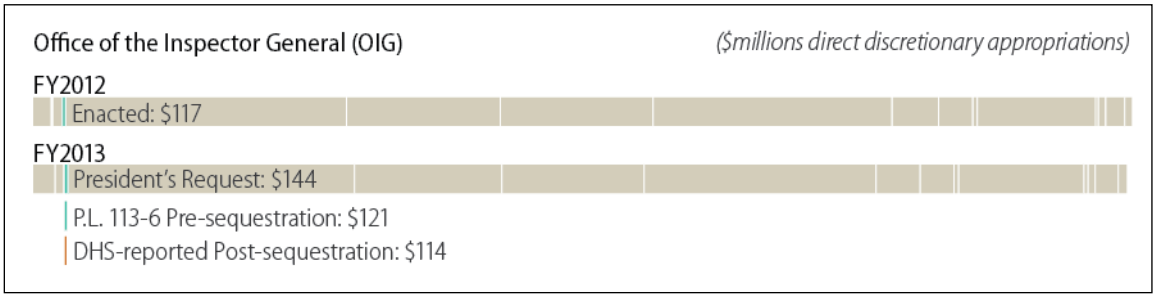
[54] Aspen Institute, *Homeland Security and Intelligence: Next Steps in Evolving the Mission*, January 18, 2012, http://www.aspeninstitute.org/publications/homeland-security-intelligence-next-steps-evolving-mission.

> DHS's mandate should allow for collection, dissemination, and analytic work that is focused on more specific homeward-focused areas. First, the intelligence mission could be directed toward areas where DHS has inherent strengths and unique value (e.g., where its personnel and data are centered) that overlap with its legislative mandate. Second, this mission direction should emphasize areas that are not served by other agencies, particularly state/local partners whose needs are not a primary focus for any other federal agency.[55]

The language in S.Rept. 112-169 requiring DHS to provide an expenditure plan centered around I&A's functions also highlighted concerns regarding I&A's mission, particularly its potential duplication of intelligence efforts by other federal agencies.

Office of the Inspector General[56]

The DHS Office of the Inspector General (OIG) is intended to be an independent, objective body that conducts audits and investigations of the department's activities to prevent waste, fraud and abuse; keeps Congress informed about problems within the department's programs and operations; ensures DHS information technology is secure pursuant to the Federal Information Security Management Act; and reviews and makes recommendations regarding existing and proposed legislation and regulations to the department. The OIG reports to Congress and the Secretary of DHS.[57]



FY2013 Request

The OIG requested $144 million. New funding of $2.6 million was requested to fulfill the directive of the Implementing the Recommendations of the 9/11 Commission Act (P.L. 110-53) "that the OIG conduct audits of all states that received FEMA grant funds to prevent, prepare for, protect against, or respond to natural disasters, acts of terrorism, and other disasters." According to the DHS justification, the new appropriation "will allow the OIG to conduct most of the remaining 23 audits in FY2013 and position the OIG to complete all 61 audits by the deadline."[58]

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[55] Ibid., p. 3.

[56] Prepared by Barbara L. Schwemle, Analyst in American National Government, Government and Finance Division, and William L. Painter, Analyst in Emergency Management and Homeland Security Policy, Government and Finance Division.

[57] H.Rept. 112-469, p. 25.

[58] U.S. Department of Homeland Security, *Office of Inspector General, Audits, Inspections and Investigations, Congressional Justification, Fiscal Year 2013*, p. OIG-9.

House-Passed H.R. 5855

The House-passed bill included $109 million for the DHS OIG. Expressing "dissatisfaction with the quality of communication with the Committee with regard to border corruption investigations, and in particular, issues with coordinating these with ICE and CBP,"[59] the committee reduced the OIG appropriation by $10 million specifically for that reason. Furthermore, the Committee chose to fund $24 million of the OIG's budget through a transfer from FEMA's Disaster Relief Fund—rather than through direct appropriations from the treasury—specifically to pay for disaster-related audits and investigations. No changes were made to these provisions on the House floor.

Senate-Reported S. 3216

The Senate-reported bill included $123 million ($21 million less than the President's request) for the base appropriation for the DHS OIG. Like the House-passed bill, the Senate-reported bill expected $24 million to come from FEMA's Disaster Relief Fund (DRF), thus providing a net $3 million increase above the request. The Senate committee report indicated that the additional funding was to be used for investigating corruption and criminal conduct at CBP and ICE, and that the recommendation included the increase requested to complete all audits mandated under P.L. 110-53 of the State Homeland Security Program and grants under the Urban Area Security Initiative grants by the August 20, 2014, deadline.

P.L. 113-6 and the DHS Operating Plan for FY2013

After the across-the-board cuts but prior to applying sequestration, the Consolidated and Further Continuing Appropriations Act of 2013 (P.L. 113-6) provides $121 million in net budget authority for the OIG for FY2013, an increase of $4 million (3.4%) from last year's appropriation and a decrease of $23 million (15.6%) from the President's request. However, the legislation also includes a $24 million transfer from the Disaster Relief Fund, which was not included in the request and roughly brings the gross budgetary resources available to the OIG in line with the request.

Sequestration reduced OIG budget authority by roughly $7 million, according to the DHS FY2013 expenditure plan. The plan projected gross total resources for the OIG in FY2013 to be $138 million, $3 million less than the FY2012 enacted levels.

Issues for Congress

OIG Mandates

Both House and Senate bills and reports required the OIG to conduct reviews and provide reports, briefings, or determinations to the Appropriations Committees on a variety of matters including

- An expenditure plan for its budget, and monthly reports on transfers from the DRF;
- Steps taken to ensure the integrity of CBP and ICE officers;
- DHS expenditures on special events;
- DHS non-competitive contract awards; and
- Reviews of the operations of local law enforcement under 287(g) agreements.

[59] Ibid., p. 26.

In addition the House directed that the OIG:

- Report on whether DHS has effective procedures in place to ensure compliance with all applicable federal laws and regulations on travel, conferences, and employee awards programs;
- Continue to conduct "red team" inspections of TSA screening;
- Brief the Committee on its assessment of adjudication fraud detection reforms by United States Citizenship and Immigration Services; and
- Review excessive delays in determinations concerning FEMA's public assistance programs.

The Senate did not include those provisions, but instead directed in a general provision that the OIG provide a review of FEMA's application of its own rules regarding awarding public assistance funds for debris removal. This was reiterated in Section 565 of Division D of P.L. 113-6.

While not all of these provisions were explicitly reiterated in the explanatory statement accompanying P.L. 113-6, the explanatory statement notes that the language carried in the House and Senate reports "should be complied with and carry the same emphasis as the language included in the explanatory statement," unless the act or explanatory statement specifically negate that report language. No such negation was included.

Although in many cases these tasks represent new work for the OIG, with the exception of integrity investigations of ICE and CBP officers in P.L. 113-6, no additional funding is dedicated for this work.

OIG Organization

The Senate explanatory statement accompanying P.L. 113-6 expressed a shared concern of the House and Senate appropriations committees that the current organization of the OIG hinders its independence and ability to report its results in a timely fashion. The statement directs GAO to review the organizational structure of the OIG, how it is organized to report the results of its audits and investigations, and whether its reporting functions are improperly placed in the office to maintain its compliance with independence standards. The report also notes that the OIG has a large number of senior positions filled by officials in acting roles, which may hinder its ability to fulfill its duties.

Title II: Security, Enforcement, and Investigations

Title II of the DHS appropriations bill, which includes over three-quarters of the budget authority provided in the legislation, contains the appropriations for U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), the Transportation Security Administration (TSA), the U.S. Coast Guard (USCG), and the U.S. Secret Service (USSS). The Administration requested $30,759 million for these accounts in FY2013, a decrease of $768 million (2.4%) below the enacted level. The House-passed bill would have provided $30,946 million, an increase of 0.6% from the requested level and 1.8% below FY2012. The Senate-reported bill would have provided $30,974 million, 0.7% above the request and 1.8% below FY2012.

After the across-the-board cuts made under Division G of P.L. 113-6, the act provides $31,267 million in appropriations for Title II, an increase of 1.7% from the requested level and 0.8% below FY2012. The operating plan for DHS for FY2013 indicates sequestration reduced this to

$30,184 million, prior to any transfers or reprogrammings that might mitigate the impact of sequestration in some areas and exacerbate it in others.

Table 8 lists the enacted amounts for the individual components of Title II for FY2012, the Administration's request for these components for FY2013, the House-passed and Senate-reported appropriations for the same, the enacted level in P.L. 113-6, and the post-sequester level of available resources from P.L. 113-6 reported by DHS.

Table 8. Title II: Security, Enforcement, and Investigations, FY2012-FY2013

(budget authority in millions of dollars)

		FY2013 Appropriation				
	FY2012 Enacted	**Request**	**House-passed**	**Senate-reported**	**P.L. 113-6 (presequester)**	**DHS Plan (sequestered)**
Customs and Border Protection						
Salaries and Expenses	8,680	9,011	8,366	8,770	8,282	7,878
Automation Modernization	334	328	700	328	719	683
Border Security Fencing, Infrastructure, and Technology	400	327	334	327	324	324
Air and Marine Interdictions	504	436	519	507	798	758
Facilities Management	237	244	253	244	233	221
US-VISIT[a]	0	0	0	279	0	0
Appropriation	**10,155**	**10,345**	**10,172**	**10,454**	**10,356**	**9,864**
Fees, Mandatory Spending, and Trust Funds	1,502	1,626	1,516	1,516	1,516	1,436
Total Budgetary Resources	11,657	11,971	11,689	11,971	11,873	11,298
Immigration and Customs Enforcement						
Salaries and Expenses	5,529	5,297	5,236	5,295	5,387	5,109
Automation & Infrastructure Modernization	22	31	232	31	33	33
Construction	0	5	5	5	5	5
Appropriation	**5,551**	**5,332**	**5,474**	**5,330**	**5,426**	**5,147**
Fees, Mandatory Spending, and Trust Funds	312	312	312	312	312	296
Total Budgetary Resources	5,863	5,644	5,786	5,642	5,738	5,442
Transportation Security Administration						
Aviation Security (net funding)	3,224	2,914	2,971	2,702	2,976	2,823
Surface Transportation Security	135	124	126	124	124	122
Transportation Threat Assessment and Credentialing (net funding)	164	193	192	193	192	184

		FY2013 Appropriation				
	FY2012 Enacted	Request	House-passed	Senate-reported	P.L. 113-6 (presequester)	DHS Plan (sequestered)
Transportation Security Support	1,032	970	929	970	953	934
Federal Air Marshals	966	930	880	930	907	875
Appropriation	**5,521**	**5,130**	**5,098**	**4,919**	**5,152**	**4,938**
Fees, Mandatory Spending, and Trust Funds	2,320	2,515	2,400	2,715	2,399	2,274
Total Budgetary Resources	7,841	7,645	7,498	7,633	7,551	7,212
U.S. Coast Guard						
Operating Expenses[b]	7,051	6,791	6,765	7,073	7,066	6,871
Environmental Compliance & Restoration	14	13	12	13	13	12
Reserve Training	134	133	116	133	132	131
Automation Modernization	—	—	45	—	—	—
Acquisition, Construction, & Improvements	1,404	1,217	1,429	1,471	1,543	1,472
Research, Development, Testing, and Evaluation	28	20	20	20	20	20
Health Care Fund Contribution[c]	262	203	203	203	203	203
Discretionary Appropriation	**8,634**	**8,377**	**8,589**	**8,659**	**8,723**	**8,709**
Fees, Mandatory Spending, and Trust Funds	1,654	1,640	1,640	1,640	1,833	1,822
Overseas Contingency Operations Adjustment	258	0[d]	0	254	240	240
Total Budgetary Resources	10,546	10,017	10,229	10,553	10,800	10,531
U.S. Secret Service						
Salaries and Expenses	1,661	1,544	1,556	1,556	1,554	1,472
Acquisition, Construction, and Improvements	5	57	57	57	57	54
Appropriation	**1,667**	**1,601**	**1,613**	**1,613**	1,611	1,527
Fees, Mandatory Spending, and Trust Funds	245	250	250	250	250	245
Total Budgetary Resources	1,912	1,851	1,863	1,863	1,861	1,772
Net Discretionary Budget Authority: Title II	**31,527**	**30,759**	**30,946**	**30,974**	**31,267**	**30,184**
Total Budgetary Resources for Title II Components before Transfers	**37,813**	**37,128**	**37,070**	**37,662**	**37,825**	**36,498**

Sources: H.Rept. 112-331, H.R. 5855, H.Rept. 112-492, S.Rept. 112-169, CRS analysis of P.L. 113-6, the accompanying Senate explanatory statement, and the DHS FY2013 Post-Sequestration Operating Plan dated April 26, 2013.

Notes: Amounts may not total due to rounding. Fee revenues included in the "Fees, Mandatory Spending, and Trust Funds" lines are projections.

a. The Administration proposed in the FY2013 budget request moving US-VISIT from NPPD and dividing it between ICE and CBP. As is reflected here, the Senate proposed moving the resources to CBP, then transferring $18 million to ICE. The House only partially funded the transfer, and did so through the existing appropriations structure.

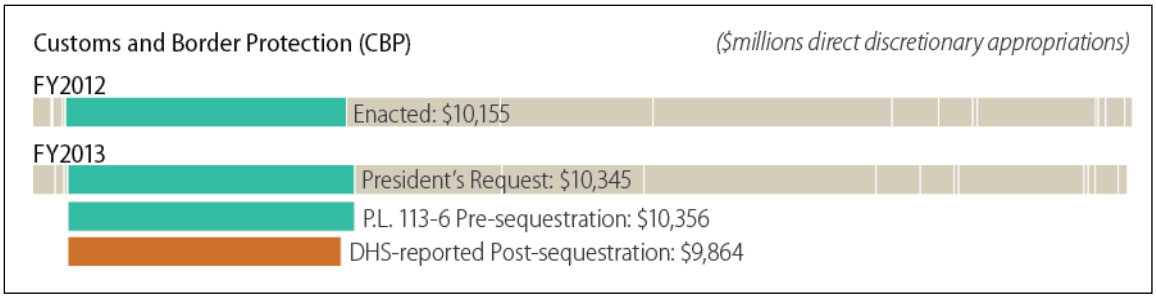
b. Overseas contingency operations funding is displayed in this line, but is not added to the appropriations total, in accordance with the appropriations committees' practices for subtotaling this account. This funding is not reflected in the total appropriation for the Coast Guard.

c. This is permanent indefinite discretionary spending, and therefore scores as being in the bill, despite not being explicitly appropriated in the bills' legislative language.

d. $254 million was requested as a permissive transfer from the Department of Defense to cover the Coast Guard's overseas contingency operations costs. However, these charts do not track activity in other appropriations bills or transfers.

Customs and Border Protection[60]

CBP is responsible for security at and between ports of entry (POE) along the border, with a priority mission of preventing the entry of terrorists and instruments of terrorism. CBP officers inspect people (immigration enforcement) and goods (customs enforcement) at POEs to determine if they are authorized to enter the United States. CBP officers and U.S. Border Patrol (USBP) agents enforce more than 400 laws and regulations at the border to prevent illegal entries.



CBP's major programs include *Border Security Inspections and Trade Facilitation*, which encompasses risk-based targeting and the inspection of travelers and goods at POEs; *Border Security and Control between Ports of Entry*, which includes the Border Patrol; *Air and Marine Interdiction*; *Automation Modernization*, which includes customs and immigration information technology systems; *Border Security Fencing, Infrastructure, and Technology* (BSFIT); *Facilities Management*; and a number of immigration and customs user *Fee Accounts*. See **Table 8** for account-level detail for all of the agencies in Title II, and **Table 9** for subaccount-level detail for CBP appropriations and funding for FY2012-FY2013.

Funding numbers for P.L. 113-6 reflect across-the-board spending cuts relative to FY2012 enacted amounts (i.e., P.L. 112-74 and P.L. 112-77), but they do not reflect additional spending cuts required by sequestration pursuant to the Budget Control Act of 2011 (P.L. 112-25). The "DHS Plan" column provides the department's assessment of post-sequester resources provided

[60] Prepared by Marc R. Rosenblum, Specialist in Immigration Policy, Domestic Social Policy Division.

by P.L. 113-6 as of April 26, 2013. It does not represent a final funding level as the department is likely to undertake transfers and reprogramming to mitigate the impact of sequestration in some areas.

FY2013 Request

The Administration requested an appropriation of $10,345 million in net budget authority for CBP for FY2013, an increase of $190 million (1.9%) over the enacted FY2012 level of $10,155 million. The Administration's total request included $1,626 million in fees, mandatory spending, and trust funds, for a gross budget request of $11,971 million, which is a $320 million (2.8%) increase from the enacted FY2012 level of $11,651 million.

The request included the following program changes from FY2012:

- Transfer of most of the U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) program from the National Protection Programs Directorate (NPPD) into CBP, with a $261.5 million increase to CBP;
- Increase of $31 million for the operation and maintenance of the Automated Targeting System (ATS), which screens incoming cargo and travelers, and of $38.7 million for the Office of Intelligence and Investigative Liaison and $8 million for the National Targeting Center, both of which work with the ATS to improve security-related targeting rules (see "Cargo Security" below);
- Increase of $13 million for the Container Security Initiative, which scans certain U.S.-bound cargo in foreign ports (see "Cargo Security" below);
- Increase of $10 million for intellectual property rights enforcement and of $3 million to expand CBP's Centers for Excellence and Expertise, which work with certain industries to facilitate the import process;
- Decrease of $68.2 million for the Office of Air and Marine Interdictions (OAM) from acquisition of fewer new aircraft than in the last two fiscal years, and a decrease of $7.1 million for Air and Marine salaries from fewer air missions;
- Decrease of $52.3 million in management and administration staffing and services from savings related to human resources activities and administrative staff and expenses within the Office of the Commissioner, the Office of Information Technology, the Office of Administration, and the Office of Public Affairs;
- Decrease of $41.2 million in fleet acquisition and management from deferring acquisition of new non-mission critical vehicles and reducing fuel and maintenance costs;
- Decrease of $36.8 million for information technology infrastructure and support by deferring replacement of equipment and technical upgrades;
- Decrease of $31 million for nonintrusive inspection (NII) operations and maintenance by relying exclusively on currently fielded NII equipment;
- Decrease of $21.1 million in CBP officer overtime expenses, $9.2 million in field support staff salaries and expenses from reductions in operational support, and $7 million in Air and Marine salaries and expenses from reducing low priority missions;
- Decrease of $14.7 million in training expenses by reducing certain specialized training programs; and

- Decrease of $12.3 million in CBP transportation program from lower workload requirements (due to fewer apprehensions) and cost reductions from a new transportation contract.

House-Passed H.R. 5855

The House approved $10,172 in net budget authority for CBP for FY2013, an increase of $17 million (0.2%) from last year's appropriation and a decrease of $173 million (1.7%) from the President's request. Under the House-passed bill, CBP would have received $11,689 in gross budget authority, which would have been a $37 million (0.3%) increase over last year's level and a $283 million (2.4%) decrease from the President's request.

These numbers included several amendments to the House-reported version of the bill, including amendments to add $43,000 to CBP salaries and expenses to support completion of a staffing model; to add $10 million to the BSFIT account to fund communications infrastructure in border communities; and to cut $3 million from the BSFIT appropriation (a cut targeting environmental mitigation), with $624,000 added to the Office of Air and Marine Interdiction's Operations, Maintenance and Procurement account.[61]

Senate-Reported S. 3216

The Senate Appropriations Committee proposed $10,454 million in net budget authority for CBP for FY2013, an increase of $299 million (3.0%) from last year's appropriation and of $109 million (1.1%) from the President's request. The Senate-reported bill included $11,971 in gross budget authority, which would have been a $319 million (2.7%) increase over last year's appropriation and a $0.6 million decrease from the President's request.

P.L. 113-6 and the DHS Operating Plan for FY2013

After the across-the-board cuts but prior to applying sequestration, the Consolidated and Further Continuing Appropriations Act of 2013 (P.L. 113-6) provides $10,356 million in net budget authority for CBP for FY2013, an increase of $201 million (0.02%) from last year's appropriation and of $12 million (0.001%) from the President's request. P.L. 113-6 includes $11,872 million in gross budget authority, which is a $98 million (.01%) decrease below last year's appropriation and a $222 million increase (0.02%) over the President's request.

Sequestration further reduced CBP budget authority by roughly an additional $575 million, according to the DHS FY2013 expenditure plan. The plan projected gross total spending in FY2013 for CBP to be $11,298 million, $353 million less than the FY2012 enacted levels.

[61] The rules of the House require that appropriations amendments not increase either budget authority or outlays for the coming fiscal year. The Border Security, Fencing, Infrastructure, and Technology (BSFIT) account draws down its resources more slowly than the Office of Air and Marine interdiction, so it takes a $3 million cut in one to offset a $0.624 million increase in the other. For a more detailed discussion of this matter, see pages 5-8 of CRS Report RL31055, *House Offset Amendments to Appropriations Bills: Procedural Considerations*, by Jessica Tollestrup.

Table 9. U.S. Customs and Border Protection Account Detail, FY2012-FY2013

Budget Authority in Millions of Dollars

		FY2013 Appropriation				
	FY2012 Enacted	Request	House-passed	Senate-reported	P.L. 113-6 (presequester)	DHS Plan (sequestered)
Salaries and Expenses	8,680	9,011	8,366[a]	8,770	8,282	7,878
Headquarters Management and Administration	*1,869*	*1,882*	*1,431*	*1,879*	*1,379*	*1,312*
Border Security Inspections and Trade Facilitation	*2,904*	*2,960*	*3,044*	*2,977*	*3,202*	*3,046*
Border Security and Control Between POE	*3,620*	*3,626*	*3,606*	*3,626*	*3,701*	*3,520*
Air and Marine Operations—Salaries[b]	*288*	*281*	*285*	*288*	NA	NA
US-VISIT[c]	*NA*	*262*	*NA*	279	NA	NA
Automation Modernization	334	328	700[b]	328	719	683
BSFIT	400	327	334	327	324	324
Air and Marine Operations[b]	504	436	519	507	798	758
Facilities Management	237	244	253	244	233	221
Total Net Appropriation	**10,155**	**10,345**	**10,172**	**10,454**	**10,356**	**9,864**
Estimated Fees, Mandatory Spending and Trust Funds[d]	1,496	1,626	1,516	1,516	1,516	1,434
Total CBP Budget Authority	**11,651**	**11,971**	**11,689**	**11,971**	**11,873**	**11,298**

Source: H.Rept. 112-331, H.R. 5855, H.Rept. 112-492, S.Rept. 112-169, CRS analysis of P.L. 113-6, the accompanying Senate explanatory statement, and the DHS FY2013 Post-Sequestration Operating Plan dated April 26, 2013.

Notes: Amounts may not total due to rounding. POE refers to ports of entry. CBP refers to U.S. Customs and Border Protection. US-VISIT refers to the U.S. Visitor and Immigrant Status Indicator Technology program. BSFIT refers to Border Security Fencing, Infrastructure, and Technology.

a. Includes a realignment of $375 million for the Office of Information and Technology from Salaries and Expenses Account to Automation Modernization.

b. P.L. 113-6 moves the Air and Marine Operations PPA from the Salaries and Expenses account to a new "Salaries and Expenses" PPA within what had been the Air and Marine Operations, Maintenance, and Procurement account.

c. The Administration proposed transferring US-VISIT into CBP and ICE in its FY2013 budget request. The House bill would have included $12 million for a portion of US-VISIT's funding under "Border Security Inspections and Trade Facilitation." The Senate bill would have created a new line specifically for funding US-VISIT distinct from other CBP activities, and would have provided $279 million as a separate appropriation outside the Salaries and Expenses total, including $18 million to be transferred to U.S. Immigration and Customs Enforcement. P.L. 113-6 rejected the administration's proposal to move US-VISIT

from the National Protection and Programs Directorate (NPPD) to CBP. Instead, the bill realigns the policy and operational responsibilities of US-VISIT within a new Office of Biometric Identity Management (OBIM) in NPPD.

d. This line includes a decrease of $8 million due to an adjustment to the Small Airport User Fee and an increase of $6 million in the Customs Unclaimed Goods Trust Fund.

Issues for Congress

A number of policy issues related to CBP came up during the FY2013 appropriations cycle, including questions about the U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) program, CBP staffing, reimbursement authority for CBP services, customs user fees, border surveillance technology (ground-based and aerial), and cargo security.

U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) Program

Congress first mandated that the former Immigration and Naturalization Service (INS) implement an automated entry and exit data system that would track the arrival and departure of every alien in §110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208). The entry-exit system tracks the entry and exit and verifies the identity of foreign visitors to and from the United States by collecting and storing biographic (i.e., names, birthdates, and other identifying information) and biometric (i.e., fingerprints and digital photographs) identification information about them.[62] Biographic entry-exit data are stored in DHS's Arrival and Departure Information System (ADIS) database, and biometric data are stored in the Automated Biometric Identification System (IDENT) database. This information is shared with a wide range of federal, state and local government agencies to help identify people who may pose a risk to the United States.[63]

The entry-exit system has been operational at almost all U.S. ports of entry since December 2006. DHS regulations issued in January 2009 require most non-citizens entering through air and seaports and most non-citizens subject to secondary inspection at land ports to provide biometric data when entering or re-entering the United States.[64] The system does not collect biometric data from non-citizens exiting the United States, however. And while the system collects biographic data from passengers exiting through air and sea ports, no data are collected from most passengers exiting through land ports.

The President's FY2013 budget request did not include funding for a biometric exit system. Instead, DHS has focused on an enhanced biographic exit program and an integrated U.S.-Canadian entry-exit system.[65] Under the enhanced biographic exit program, air and sea carriers

[62] For a fuller discussion of the entry-exit system, see CRS Report RL32234, *U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) Program*, by Lisa Seghetti and Stephen R. Vina; and CRS Report R42985, *Issues in Homeland Security Policy for the 113th Congress*, coordinated by William L. Painter.

[63] Ibid.

[64] 73 *Federal Register* 245, December 19, 2008, p. 77473. Under this rule, all non-U.S. citizens except Canadians applying for admission to the United States as B-1/B-2 visitors for business or pleasure and those specifically exempted from the entry-exit system are required to provide biometric data upon entering or re-entering the United States. In practice, U.S. LPRs returning from cruises that begin and end in the United States or entering at land ports of entry, and Mexican nationals with border crossing cards also are normally exempted from biometric data collection, at the discretion of CBP officers at ports of entry. These exemptions meant that about one-third of nonimmigrants entering the United States in FY2011 were required to participate in US-VISIT; for a fuller discussion see CRS Report R42985, *Issues in Homeland Security Policy for the 113th Congress*, coordinated by William L. Painter.

[65] DHS Office of Congressional Affairs, April 3, 2013; also see statement of Department of Homeland Security (DHS) Principal Deputy Director for Counterterrorism John Cohen before the U.S. House of Representatives Homeland

provide passenger manifest data to DHS, and the data are checked against entry records and against immigration, criminal, and national security databases. Overstays are identified, and high-priority overstays (i.e., persons with derogatory information in one of the database checks) are quickly flagged for follow-up investigations.[66] Under the integrated U.S.-Canadian system, Citizenship and Immigration Canada (the Canadian immigration agency) provides DHS with biometric records of third country nationals entering Canada through land ports of entry on the Canadian border; and DHS treats these Canadian entry data as records of U.S. exits for purposes of the U.S. entry-exit system.[67] Some Members of Congress have expressed frustration that a biometric exit system has not been implemented, and both chambers' appropriations reports directed DHS to report on the department's plans for a more comprehensive exit system.[68]

The entry-exit system's place in the DHS organizational structure has changed several times since it was created. The system was designated the U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) Program in 2003 and initially was coordinated out of DHS' Directorate of Border and Transportation Security (BTS), the directorate responsible at the time for CBP and ICE. Under the "second stage review" reorganization by former DHS Secretary Chertoff, DHS eliminated BTS and proposed placing US-VISIT within a new Screening Coordination Office (SCO) that would have included several DHS screening programs[69] and reported directly to the Secretary. Funding for the SCO was never appropriated, however, and US-VISIT became a stand-alone office within Title II of the DHS appropriation in FY2006.[70] In FY2008, DHS transferred US-VISIT into the new National Protection and Programs Directorate (NPPD).

The FY2013 budget request proposed to move US-VISIT from NPPD and to divide its work between CBP and ICE in order to "identify potential operational and cost efficiencies" in "mission support and 'corporate' functions such as logistics and human resources."[71] Neither chamber of Congress fully supported the proposed move, however. The House-passed bill would have transferred about $73 million to CBP and ICE offices involved with entry-exit policy and overstay analysis,[72] but would have left the bulk of US-VISIT funding, about $191 million, within a new Office of Biometric Identity Management within NPPD.[73] The Senate-reported bill would have transferred US-VISIT to CBP, but the committee recommended that US-VISIT be

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Security Committee, Subcommittee on Border and Maritime Security, *Ten Years after 9/11: Can Terrorists Still Exploit Our Visa System*, 112th Cong., 1st Sess., September 13, 2011.

[66] DHS Office of Congressional Affairs, April 3, 2013.

[67] Ibid.

[68] H.Rept. 112-492, p. 36; S.Rept. 112-169, p. 48.

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

[70] H.Rept. 109-241.

[71] CBP, *Congressional Budget Justification* FY2013, p. CBP S&E 86. Under the proposal, CBP would have assumed responsibility for most US-VISIT operations, including the management of the ADIS and IDENT databases and watchlist management services. ICE would have assumed responsibility for US-VISIT's overstay analysis services, which were previously divided between ICE and US-VISIT. Thus, the budget request proposes to reallocate $262 million and 351 positions from US-VISIT to CBP, and $18 million and 78 positions from US-VISIT to ICE.

[72] H.Rept. 112-492, pp. 36 and 107.

[73] Entry-exit system IDENT data is shared with certain stakeholders outside of DHS, including agencies within the Departments of State, Justice, Defense, and the Intelligence Community. The House report cited this broader data management mission as being beyond CBP's mission and a reason to leave these US-VISIT functions within NPPD. See H.Rept. 112-492, p. 35.

transferred as a stand-alone appropriation within CBP, rather than being incorporated within the existing CBP Salaries and Expenses account as the President had requested.[74] Under P.L. 113-6, the US-VISIT Program was replaced in its entirety by a new Office of Biometric Identity Management (OBIM) within NPPD.

CBP Staffing

The President's FY2013 budget requested funding for 21,186 CBP officers and 21,370 U.S. Border Patrol agents.[75] While both chambers' budget proposals would have supported the requested staffing levels, they also raised questions about how DHS sets such levels. The Senate report warned of adverse long-term consequences if DHS preserves high staffing levels during a period of budget tightening by cutting its investments in infrastructure;[76] and also expressed concern that inspection fees have not increased in about ten years, which limits funds available for CBP officer salaries.[77] The House report encouraged CBP to consider a number of changes to reduce OFO staffing requirements at POEs, including by reengineering POE processes to make them more automated, by improving risk-based targeting, by better managing short-term staffing demand surges, by exploring public-private partnerships, by expanding trusted trade and traveler programs that facilitate low-risk entries, and by relying on technology to increase officer efficiency.[78] The House report also would have directed CBP to provide a more specific staffing and deployment plan for border patrol agents;[79] and the Senate report would have requested a plan for OFO staffing at Northern Border ports of entry.[80] About 37% of CBP officer salaries are funded by user fees, and report language accompanying P.L. 113-6 directs CBP to refine its model for forecasting user fee revenues in order to insure adequate funds are budgeted for such salaries (also see "Customs User Fees").[81]

Some Members may disagree with efforts to reduce CBP staffing (or slow its growth), however. While border patrol staffing has increased 90% since FY2005 (up from 11,264 agents that year), OFO staffing at POEs has increased only 18% (up from 17,881 officers in FY2005), even as OFO responsibilities have expanded to include biometric data collection and enhanced cargo security requirements.[82] Some people argue that increased enforcement between ports of entry has encouraged illegal migrants and drug smugglers to enter through POEs. Some supporters of increased OFO staffing argue that officers increase security while also facilitating legal admissions, and that officers are more effective at identifying and apprehending bad actors than are automated targeting systems, trusted trade and travel programs, and other technology.

With the implementation of sequestration on March 1, 2013, DHS officials warned that the automatic spending cuts could result in furloughs of up to 14 days for frontline CBP personnel; reduce overtime hours; and decrease hiring to backfill positions, with the lost work hours adding

[74] S.Rept. 112-169, p. 46.

[75] CBP Office of Legislative Affairs, February 13, 2012.

[76] S.Rept. 112-169, p. 30.

[77] S.Rept. 112-169, p. 31.

[78] H.Rept. 112-492, pp. 30-31.

[79] H.Rept. 112-492, pp. 35-56.

[80] S.Rept. 112-169, p. 34.

[81] Senate Explanatory statement accompanying P.L. 113-6, *Congressional Record* 113th Congress, March 11, 2013, p. S1549.

[82] CRS analysis of data provided by CBP Office of Legislative Affairs, February 13, 2012.

up to the equivalent of cuts to over 5,000 Border Patrol agents and 2,750 CBP officers.[83] DHS reportedly intends to minimize the impact of the sequester on frontline operations, including by eliminating employee performance awards and incentive payments, reducing outside contracts, limiting administrative expenditures, and working with congressional appropriators to reprogram and transfer certain funds.[84] CBP officials also have indicated that the agency intends to rely on reductions to overtime and hiring freezes in an effort to avoid or minimize employee furloughs.[85] Nonetheless, with 72% of CBP's budget tied to salaries and benefits—and with over 90% of the Border Security and Control between POEs Account going to salaries and benefits[86]—it appeared likely that CBP frontline staffing would be subject to some combination of reduced overtime hours and furlough days, though specific plans had not been announced at the time of this report.

Reimbursement Authority for CBP Services

One approach the administration has favored for leveraging current resources to provide enhanced services at ports of entry has been to rely on public-private partnerships as a source of funding for staffing and infrastructure.[87] Yet U.S. customs law generally prohibits CBP from providing immigration or customs services on a fee-for-service basis, except under certain limited circumstances.[88] Notwithstanding these restrictions, Section 560 of P.L. 113-6 incorporates language proposed by the administration to permit CBP to enter into up to five public-private partnerships during FY2013. The partnerships may permit persons to reimburse CBP for the costs of providing additional services at POEs (including by paying for officer overtime), for the provision of CBP services at new facilities, and for the expansion of CBP services at land ports of entry.[89]

Customs User Fees

CBP collects several different types of user fees, including fees paid by passengers and by cargo carriers and importers for the provision of customs services. These fees are often referred to as COBRA fees because they were passed as part of the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA, P.L. 99-272). Under 19 U.S.C. §§58c(f)(1)-(3), a portion of these fees directly reimburses CBP (i.e., as mandatory spending not reliant on separate annual appropriations) for certain customs functions, including overtime compensation and certain benefits and premium pay for CBP officers, certain preclearance services, foreign language proficiency awards, and—to the extent funds remain available—certain officer salaries. Another portion of COBRA fees—merchandise processing fees—is deposited in CBP's Customs User Fee Account to pay for additional customs revenue functions but is only available to the extent provided for in appropriations acts (i.e., as discretionary appropriations).

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[83] Testimony of DHS Secretary Janet Napolitano before U.S. Senate, Committee on Appropriations, *The Impact of Sequestration*, 113th Cong., 1st Sess., February 14, 2013.

[84] DHS, *Fiscal Year 2013 Post-Sequestration Operating Plan*, Washington, DC: April 26, 2013, pp. 2-4.

[85] CBP Office of Congressional Affairs, April 11, 2013.

[86] CBP Office of Congressional Affairs, April 11, 2013; CBP Office of Congressional Affairs, April 29, 2013. According to CBP, for the FY2014 budget request of $3.7 billion for the Border Security and Control between Ports of Entry PPA, $3.2 billion would be for Border Patrol agent salaries and benefits, $221 million would be for other salaries and benefits, and $263 million would be for non-personnel costs.

[87] See for example, DHS Homeland Security Advisory Council Border Infrastructure Task Force, *Task Force Report and Recommendations*, Washington, DC, November 2012.

[88] 19 U.S.C. §58c(e); 19 U.S.C. §58b.

[89] P.L. 113-6, §560.

Certain COBRA passenger fees have been collected and deposited in the Customs User Fee Account without a corresponding appropriation to pay for customs functions. Two recent examples of this have drawn Congressional interest. Section 521 of the NAFTA Implementation Act of 1993 (P.L. 103-182) temporarily increased fees for all passengers entering the United States, including passengers from Canada, Mexico, and the Caribbean islands, who previously had been exempted from such fees. According to the Government Accountability Office, this temporary increase resulted in the collection of about $639 million from FY1994-FY1997.[90] Section 601 of the United States-Colombia Trade Promotion Agreement Implementation Act of 2011 (P.L. 112-42) also eliminated a passenger fee exemption for travelers from Mexico, Canada, and certain other Western Hemisphere states, resulting in an estimated increase in COBRA fees of $83 million in FY2012 and $110 million in FY2013 and thereafter.[91] In both these cases, funds were directed (and in the case of Section 601, still are being directed) to the Customs User Fee Account but have not yet been obligated for customs revenue collection, as the provisions that raised this revenue stated that the funds—in contrast with other COBRA passenger fees—are available only to the extent provided in appropriations Acts.

Some Members of Congress have raised questions about the disposition of these fees. The House Appropriations Committee report directed CBP to report to the committee about whether the Department has access to the $639 million identified by GAO, and how the department will eliminate those funds from its books.[92] With respect to fees collected pursuant to P.L. 112-42, CBP's budget justification for FY2013 included these fees in its budget for CBP officer salaries and expenses, but neither chamber included language in its appropriation bill to make these funds available to CBP, resulting in a shortfall for the agency. The House would have addressed this shortfall by shifting $70 million from CBP headquarters to CBP officer salaries, and would have relied on other increasing fee revenues to fill the remaining gap.[93] The Senate report awaited a resolution to the shortfall to be proposed by the department.[94] P.L. 113-6 appropriates an additional $110 million to make up for the budget shortfall in CBP salaries, and directs CBP and OMB to include a means of access, with appropriate offsets, to these COBRA fees in future budget requests.[95]

Southwest Border Surveillance

DHS' strategy for achieving and maintaining control of the Southwest Border includes the use of technology to monitor the border, to detect illegal entries, and to support efforts to target and interdict such entries. Since 1998, under a series of different initiatives, DHS and the former Immigration and Naturalization Service have attempted to develop a network of border cameras, radar, and sensors linked into an integrated computer system to provide "situational awareness" along key stretches of the border.[96] To date, initiatives have failed to deliver the desired level of surveillance, however. The last two major surveillance programs, known as the America's Shield Initiative and SBI*net* (part of the Secure Border Initiative), both faced criticism for non-

[90] See U.S. Government Accountability Office, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, GAO-11-318SP, March 2011, pp. 324-325.

[91] CBP Office of Legislative Affairs, April 27, 2012.

[92] H.Rept. 112-492, p. 31.

[93] H.Rept. 112-492, p. 29.

[94] S.Rept. 112-169, p. 32.

[95] P.L. 113-6, Senate Explanatory Statement, March 11, 2013.

[96] For a fuller discussion of border surveillance programs, see CRS Report R42138, *Border Security: Immigration Enforcement Between Ports of Entry*, by Marc R. Rosenblum.

competitive contracting practices, inadequate oversight of contractors, and cost overruns.[97] The Obama Administration cancelled SBI*net* in January 2011 and replaced it with the Arizona Border Technology Plan. The new plan calls for the rapid deployment of existing technology, including a mix of fixed and mobile video surveillance systems and existing SBI*net* integrated towers, and emphasizes the use of different technologies for different border regions.[98]

House and Senate appropriations reports expressed frustration with DHS' implementation of the new plan. The House report admonished CBP for not having procured and implemented new surveillance equipment during the first 16 months after announcing the plan.[99] The Senate report described CBP's April 2012 call for proposals to use SBI*net* technology along certain stretches of the Arizona border premature given that existing SBI*net* towers have not yet proven successful.[100] In light of these concerns, while both chambers recommended fully funding the President's request for the BSFIT account, indicating their overall support for the border surveillance mission, they each recommended rescinding unobligated balances from the account, with the House report calling for $40,412,000 in rescissions[101] and the Senate calling for $92,000,000.[102] P.L. 113-6 includes $73,232,000 in rescissions of prior year unobligated balances in the BSFIT account.[103]

CBP also relies on manned and unmanned aircraft to complement ground-based surveillance. The President's FY2013 budget request for the Office of Air and Marine Interdiction (OAM) supported 277 aircraft,[104] which are involved in both drug interdiction and border surveillance activities, and included $3 million to support the "Big Pipe" project to transmit real time and near real time video and other data from aerial assets. OAM reported 81,045 flight hours in FY2012 and projected 65,000 hours in FY2013,[105] down from 94,968 flight hours in FY2011 and 106,069 in FY2010.[106] As of November 2012, CBP operated a total of 10 unmanned aerial systems (UAS), including two UAS on the Northern border, five on the Southwest border, and three in the Gulf of Mexico.[107] UAS accounted for 5,737 flight hours in FY2012, up from 4,406 hours in FY2011.[108]

Some Members of Congress support the use of aircraft for border surveillance, including UAS in particular. On the other hand, the use of UASs in border security remains somewhat controversial because of concerns that UAS threaten people's privacy and because of questions about the cost effectiveness of UAS on the border. A May 2012 DHS Inspector General report also criticized

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[97] Ibid.

[98] Statement of Mark Borkowski, Assistant Chief, U.S. Border Patrol, before the Subcommittees on Border and Maritime Security, Committee on Homeland Security, House of Representatives, *After SBInet: The Future of Technology on the Border*, 112th Cong., 1st Sess., March 15, 2011.

[99] H.Rept. 112-492, 43.

[100] S.Rept. 112-169, p. 40.

[101] H.Rept. 112-492, p. 45.

[102] S.Rept. 112-169, p. 42.

[103] P.L. 113-6, §570.

[104] CBP, *Congressional Budget Justification* FY2013, p OAM – 1.

[105] H.Rept. 112-492, 46; and CBP Office of Air and Marine, "2011 Air and Marine Milestones and Achievements," http://www.cbp.gov/xp/cgov/border_security/am/operations/2011_achiev.xml.

[106] CBP Office of Air and Marine, "2011 Air and Marine Milestones and Achievements," December 6, 2011, http://www.cbp.gov/xp/cgov/border_security/am/operations/2011_achiev.xml; CBP Office of Air and Marine, "2010 Air and Marine Milestones and Achievements," December 6, 2011, http://www.cbp.gov/xp/cgov/border_security/am/operations/2010_achiev.xml.

[107] CBP Office of Congressional Affairs, March 19, 2013.

[108] Ibid.

CBP's unmanned aircraft systems program on the grounds that its planning process fails to provide UAS systems with adequate support resources and may result in under-utilization of UAS assets.[109]

Both appropriations committees recommended increases to the OAM budget over the President's request, with the House recommending an increase of $82,700,000 (partly funded by the BSFIT rescission)[110] and the Senate recommending an increase of $70,997,000.[111] Both increases would have been targeted toward upgrading the OAM fleet, increasing flight hours, and supporting UAS operations. P.L. 113-6 appropriated a total of about $799 million for Air and Marine Operations, including a shift of about $284 million from CBP's Salaries and Expenses account into a new Salaries and Expenses sub-account within the Air and Marine account. P.L. 113-6 report language directs CBP to restore overall and UAS flight hours to 2011 levels.[112]

Cargo Security

CBP is responsible for screening cargo passing through U.S. ports of entry for contraband and dangerous materials. Under the Security and Accountability For Every Port Act of 2006 (SAFE Port Act, P.L. 109-347), as amended, CBP must ensure that all maritime cargo is scanned through radiation detection and nonintrusive inspection imaging scanners prior to being loaded on ships bound for the United States. Section 1701 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (The 9/11 Act, P.L. 110-53) established a deadline of July 1, 2012, for DHS to begin excluding cargo that has not been scanned, though the law allows DHS to extend this deadline under certain circumstances; and in May 2012, Homeland Security Secretary Napolitano notified Congress that she would exercise her authority to extend the 100% scanning deadline.[113]

The 100% scanning requirement has raised questions about how to balance the security benefits of scanning more U.S.-bound cargo against the costs of such scans, including increased paperwork, the costs of maintaining scanning technology and personnel to operate scanners, and longer wait times for U.S. importers. DHS officials and some others have argued that the department should focus scanning on high-risk cargo, along with a random sample of lower-risk cargo, in order to cut costs, facilitate legal trade, and make the best use of existing resources.[114] After requesting reductions to international cargo security screening programs in FY2011 and FY2012—with Congress providing funding levels above the President's request both years—the FY2013 budget request included a $13 million increase to the Container Security Initiative (CSI), CBP's primary program for customs inspections abroad, along with a total of $78 million in

[109] DHS Office of Inspector General, *CBP's Use of Unmanned Aircraft Systems in the Nation's Border Security*, OIG-12-85, Washington, DC, May 2012.

[110] H.Rept. 112-492, p. 45.

[111] S.Rept. 112-169, p. 42.

[112] Senate Explanatory statement accompanying P.L. 113-6, *Congressional Record* 113th Congress, March 11, 2013, p. S1551.

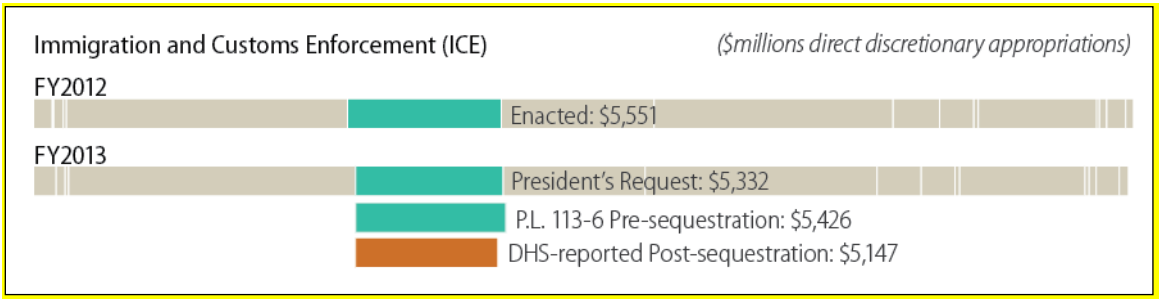
[113] Letter from Janet Napolitano, Secretary of Homeland Security, to Hon. Joseph I. Lieberman, Senator, May 2, 2012. For a fuller discussion see CRS Report R43014, *U.S. Customs and Border Protection: Trade Facilitation, Enforcement, and Security*, by Vivian C. Jones and Marc R. Rosenblum.

[114] See for example, testimony of DHS Assistant Secretary David Heyman before Subcommittee on Borders and Maritime Security, Committee on Homeland Security, House of Representatives, *Balancing Maritime Security and Trade Facilitation: Protecting Ports, Increasing Commerce and Securing the Supply Chain, Part I*, 112th Cong., 2nd Sess., February 7, 2012. For a fuller discussion, also see CRS Report R43014, *U.S. Customs and Border Protection: Trade Facilitation, Enforcement, and Security*, by Vivian C. Jones and Marc R. Rosenblum.

proposed increases to the Automated Targeting System and related programs used to screen incoming goods and travelers for security threats. House and Senate Appropriations Committee reports both supported the President's request for these programs. The House report and the explanatory statement accompanying P.L. 113-6 also acknowledge DHS' concerns about the costs of implementing a 100% scanning program at foreign ports, and call on DHS to propose an alternative scanning plan.[115]

Immigration and Customs Enforcement[116]

ICE focuses on enforcement of immigration and customs laws within the United States. ICE develops intelligence to reduce illegal entry into the United States and is responsible for investigating and enforcing violations of the immigration laws (e.g., alien smuggling, hiring unauthorized alien workers). ICE is also responsible for locating and removing aliens who have overstayed their visas, entered illegally, or have become deportable. In addition, ICE develops intelligence to combat terrorist financing and money laundering, and to enforce export laws against smuggling, fraud, forced labor, trade agreement noncompliance, and vehicle and cargo theft.



See **Table 8** for account-level detail for all of the agencies in Title II. For ICE sub-account level detail, including appropriations and funding for FY2012 and FY2013, see **Table 10**. Funding numbers for the Consolidated and Further Continuing Appropriations Act, 2013 (P.L. 113-6) reflect across-the-board spending cuts relative to FY2012 enacted amounts (i.e., P.L. 112-74 and P.L. 112-77), but they do not reflect additional spending cuts required by sequestration pursuant to the Budget Control Act of 2011 (P.L. 112-25). The tables also include account-level details from DHS's post-sequestration expenditure plan.

FY2013 Request

For FY2013 for ICE, the Administration requested $5,332 million in net budget authority, which represents a decrease of $218 million (3.9%) from the enacted FY2012 level of $5,551 million. Overall, the Administration requested $5,644 million in gross budget authority for ICE in FY2013, a decrease of $218 (3.7%) from the FY2012 enacted amount. The budget request included the following changes:

- Increase of $40 million to expand the Alternatives to Detention (ATD) program;

[115] H.Rept. 112-492, p. 33; Senate Explanatory statement accompanying P.L. 113-6, *Congressional Record* 113th Congress, March 11, 2013, p. S1550.

[116] Prepared by Alison Siskin, Specialist in Immigration Policy, Domestic Social Policy Division.

- Increase of $6 million for ICE to consolidate personnel and operations (i.e., co-location strategy);
- Increase of $7 million for video conferencing expansion in detention facilities and Executive Office of Immigration Review (EOIR) courtrooms and offices;
- Increase of $18 million to transfer the U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) Program[117] overstay analysis function from National Protection and Programs Directorate (NPPD) to ICE;
- Reduction of $17 million for the 287(g) program;
- Reduction of $5 million for the Office of Principle Legal Advisor (OPLA);
- Reduction of $53 million for detention beds; and
- Reduction of $41 million for Secure Communities.

House-Passed H.R. 5855

The House-passed H.R. 5855 would have given $5,474 million in net budget authority for FY2013, a figure which would have represented a decrease of $77 million (1.4%) from the FY2012 enacted level and an increase of $142 million (2.7%) over the Administration's request. House-passed H.R. 5855 would have provided ICE with total funding authority of $5,786 million, representing a decrease of $77 million (1.3%) from the FY2012 enacted level and an increase of $142 million (2.5%) over the Administration's request.

Senate-Reported S. 3216

The Senate Appropriations Committee would have recommended that ICE receive $5,330 million[118] in net budget authority for FY2013, a figure which would have represented a decrease of $2 million (less than 0.1%) from the Administration's request, and a decrease of $220 million (4.0%) from the FY2012 enacted amount. Senate-reported S. 3216 would have provided ICE with gross funding authority of $5,642 million, which would have represented a $2 million (less than 0.1%) decrease from the Administration's request, and a decrease of $220 million (3.8%) from the FY2012 enacted level.

P.L. 113-6 and the DHS Operating Plan for FY2013

After the across-the-board cuts but prior to applying sequestration, the Consolidated and Further Continuing Appropriations Act of 2013 (P.L. 113-6) provides $5,426 million in net budget authority for ICE for FY2013, a decrease of $125 million (2.3%) from last year's appropriation and an increase of $94 million (1.8%) from the President's request. P.L. 113-6 includes $5,738 million in gross budget authority, which is a $125 million (2.1%) decrease below last year's appropriation and a $94 million increase (1.5%) over the President's request.

Sequestration further reduced ICE budget authority by roughly an additional $200 million, according to the DHS FY2013 expenditure plan. The plan projected gross total spending in FY2013 for ICE to be $5,442 million, $420 million less than the FY2012 enacted levels.

[117] For more on US-VISIT, see the Customs and Border Protection section of this report, or Department of Homeland Security, *US-VISIT Enrollment Requirements*, March 4, 2011, http://www.dhs.gov/files/programs/editorial_0527.shtm.

[118] This excludes an additional $18 million for the transfer of the overstay analysis function of US-VISIT to ICE, and includes $5 million to be transferred to the Executive Office of Immigration Review in the Department of Justice to reduce the nondetained docket.

Table 10. Immigration and Customs Enforcement (ICE) Sub-Account Detail, FY2012-FY2013

(budget authority in millions of dollars)

		FY2013 Appropriations				
Activity	**FY2012 Enacted**	**Request**	**House-passed**	**Senate-reported**	**P.L. 113-6 (presequester)**	**DHS Plan (sequestered)**
Salaries and Expenses	**5,529**	**5,297**	**5,236[a]**	**5,295[b]**	**5,387**	**5,109**
HQ Management & Administration	417	377	226[a]	371	380	360
Legal Proceedings	216	208	207	208	207	196
Investigations	1,874	1,816	1,837	1,803	1,834	1,739
Investigations—Domestic	*1,725*	*1,673*	*1,687*	*1,654[c]*	*1,685*	*1,598*
Investigations—International	*115*	*110*	*115*	*115*	*115*	*109*
Visa Security Program	*34*	*33*	*35*	*33*	*35*	*33*
Intelligence	*82*	*79*	*78*	*79*	78	74
Detention and Removal Operations	2,751	2,679	2,750	2,696	2.750	2,608
Custody Operations	*2,051*	*1,959*	*2,026*	*1,986*	*2,022*	*1,918*
Fugitive Operations	*155*	*133*	*145*	*133*	*145*	*138*
Criminal Alien Program	*197*	*217*	*217*	*217*	*216*	*205*
Alternatives to Detention	*72*	*112*	*91*	*97[d]*	*96*	*91*
Transportation and Removal Program	*277*	*258*	*270*	*263*	*270*	*256*
Comprehensive Identification and Removal of Criminal Aliens (Secure Communities)	189	139	138	139	138	131
Automation and Infrastructure Modernization	**22**	**31**	**232[a]**	**31**	**33**	**33**
Construction	**0**	**5**	**5**	**5**	**5**	**5**
ICE Direct Appropriations	**5,551**	**5,332**	**5,474**	**5,330**	**5,426**	**5,147**
Fee Accounts	312	312	312	312	312	296
ICE Gross Budget Authority	5,862	5,644	5,786	5,642	5,738	5,442

Source: CRS Analysis of the FY2013 DHS Congressional Budget Justifications, H.Rept. 112-331, H.R. 5855, H.Rept. 112-492, S.Rept. 112-169, CRS analysis of P.L. 113-6, the accompanying Senate explanatory statement, and the DHS FY2013 Post-Sequestration Operating Plan dated April 26, 2013.

Notes: ICE refers to U.S. Immigration and Customs Enforcement.

a. Unlike the Administration's request and the Senate-reported S. 3216, this amount does not include funds for Headquarters-Managed IT investments. In H.R. 5855, as passed by the House, the appropriation for this purpose ($162 million) is included in ICE's Automation Modernization account.

b. This amount does not include the impact of an $18 million transfer to ICE to pay for of the overstay analysis function of the US-VISIT program or a $5 million transfer from ICE to DOJ's Executive Office of Immigration Review.

c. This amount does not include the impact of an $18 million transfer to ICE to pay for of the overstay analysis function of the US-VISIT program.

d. This amount does not include the impact of a $5 million transfer to the Department of Justice, Executive Office of Immigration Review (EOIR) to reduce the nondetained docket.

Issues for Congress

ICE is responsible for many divergent activities due to the breadth of the civil and criminal violations of law that fall under its jurisdiction. As a result, how ICE resources are allocated in order to best achieve its mission is a continuously debated issue. The FY2013 appropriations process has involved discussions about ICE's role in detaining and removing (deporting) aliens and on the role of state and local law enforcement agencies in immigration enforcement.

Enforcement and Removal Operations

Part of ICE's mission includes locating and removing deportable aliens, which involves determining the appropriate amount of detention space as well as which aliens should be detained. There are an estimated 10.8 million unauthorized aliens in the United States.[119] In addition, there are an estimated 1.9 million aliens in the United States who have committed a crime.[120] According to ICE, they have the capacity to remove 400,000 aliens a year. [121] As a result, there has been ongoing debate about how ICE should prioritize the removal of removable aliens.[122] During the floor debate of House-passed H.R. 5855, several amendments were accepted

[119] U.S. Department of Homeland Security, Office of Immigration Statistics, *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2011*, by Michael Hoefer, Nancy Rytina, and Bryan C. Baker, March 2012.

[120] DHS, *U.S. Immigration and Customs Enforcement Salaries and Expenses Congressional Budget Justifications FY2013*, p. 61.

[121] John Morton, *Memorandum on Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens*, U.S. Immigration and Customs Enforcement, Washington, DC, March 2, 2011.

[122] In March 2011, John Morton, Director of Immigration and Customs Enforcement, published agency guidelines that define a three-tiered priority scheme that applies to all ICE programs and enforcement activities related to civil immigration enforcement. Under these guidelines, ICE's top three civil immigration enforcement priorities are to (1) apprehend and remove aliens who pose a danger to national security or a risk to public safety, (2) apprehend and remove recent illegal entrants, and (3) apprehend aliens who are fugitives or otherwise obstruct immigration controls.

that attempted to direct the Agency's immigration enforcement priorities.[123] P.L. 113-6 states that of the appropriated funds, $1,600 million shall be available to identify aliens convicted of a crime who may be removable from the United States and to remove such aliens once ordered removed. The act also states that the Secretary of DHS shall prioritize the identification and removal of aliens convicted of a crime by the severity of the crime.

ICE's Office of Enforcement and Removal Operations (ERO) provides custody management of the aliens who are in removal proceedings or who have been ordered removed from the United States.[124] ERO also is responsible for ensuring that aliens ordered removed actually depart from the United States. Some contend that ERO does not have enough detention space to house all those who should be detained. Concerns have been raised that decisions regarding which aliens to release and when to release them may be based on the amount of detention space, not on the merits of individual cases, and that detention conditions may vary by area of the country leading to inequities. Some policymakers have advocated for the increased use of alternatives to detention programs for noncriminal alien detainees, citing these programs as a lower cost option than detention and a more proportional treatment relative to the violation.[125]

The number of detention beds maintained by ICE has been an issue. ICE maintained 34,000 detention bed spaces in FY2012, and the President's FY2013 budget requested a reduction in bed space to 32,800 beds. In the beginning of calendar year 2013, ICE released 2,228 detainees, maintaining that the release was necessary due to the fact that ICE was operating under a continuing resolution (CR) and the upcoming reductions were required by sequestration. At a hearing on the issue, ICE Director John Morton stated that although the CR had funded 34,000 beds,[126] ICE's average daily detention population exceeded 35,000 individuals, including many who were not required to be detained under law.[127] However, critics responded that the release was purely political and a way to pressure Congress to make a deal with the President to avert the

For more on the debate surrounding prosecutorial discretion in immigration enforcement see U.S. Congress, House Committee on Homeland Security, Subcommittee on Border and Maritime Security, *Does Administrative Amnesty Harm our Efforts to Gain and Maintain Operational Control of the Border?*, 112th Cong., 2nd sess., October 4, 2011.

[123] For example, see H.Amdt. 1266 to H.R. 5855, introduced by Representative Steve King. See also, Mickey McCarter, "Democrats Find Plenty to Dislike in Final House DHS Appropriations Bill for FY 2013," *Homeland Security Today*, June 11, 2012, http://www.hstoday.us/single-article/democrats-find-plenty-to-dislike-in-final-house-dhs-appropriations-bill-for-fy-2013/5c2b80ad16fbd2361b3d82b0bb8497ed.html.

[124] For more information on detention issues see CRS Report RL32369, *Immigration-Related Detention*, by Alison Siskin. Under the INA aliens can be removed for reasons of health, criminal status, economic well-being, national security risks, and others that are specifically defined in the act. In 2010, ICE changed the name of DRO to Enforcement and Removal Operations (ERO). The House and Senate Appropriations Committees have not adopted the name change in their reports.

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

[126] U.S. Congress, House Judiciary Committee, *The Release of Criminal Detainees by U.S. Immigration and Customs Enforcement: Policy or Politics?* 113th Cong., 1st sess., March 19, 2013.

[127] Under statute certain aliens are subject to mandatory detention during their removal process (e.g., criminal aliens, certain arriving aliens). Aliens not subject to mandatory detention may be released on bond or their own recognizance, or can continue to be detained. For more information on mandatory detention, see CRS Report RL32369, *Immigration-Related Detention*, by Alison Siskin.

sequestration reductions.[128] P.L. 113-6 requires that ICE maintain 34,000 detention beds for FY2013.[129]

Due to the cost of detaining aliens, and the fact that many non-detained aliens with final orders of removal do not leave the country, there has been interest in developing alternatives to detention for certain types of aliens who do not require a secure detention setting. ICE's Alternatives to Detention (ATD) provides less restrictive alternatives to detention, using such tools as electronic monitoring devices (e.g., ankle bracelets), home visits, work visits, and reporting by telephone, to monitor aliens who are out on bond while awaiting hearings during removal proceedings or the appeals process.[91] The Administration had requested a decrease in detention bed space in conjunction with a request of an additional $40 million to expand the ATD program.[130] H.R. 5855, as passed by the House, would have maintained the current amount of beds, and increased funding for the ATD program by $20 million. Senate-reported S. 3216 would have decreased detention space by 600 beds,[131] and increased funding for the ATD program by $24 million.[132] P.L. 113-6 funds 34,000 detention beds and increases funding for the ATD program by $19 million (27%).

Immigration Enforcement in State and Local Jails

The Administration's request included $139 million (a $50 million decrease from FY2012 since most of the deployment has been completed) for Secure Communities, an information sharing program between DHS and the Department of Justice to check the fingerprints of arrestees against DHS immigration records. ICE has already deployed Secure Communities to 89% of all jurisdictions nationally, and is requesting the resources needed to finish expanding the system nationwide by the end of FY2013.[133] ICE has the resources to confirm the identification of an estimated 282,000 more removable aliens in FY2012 than in FY2010, including an estimated 73,000 Level 1 offenders.[134] House and Senate appropriators both expressed strong support for the continued expansion of Secure Communities and would have appropriated approximately the same amount as the Administration requested in their draft bills for FY2013.

The enforcement of immigration laws by state and local law enforcement agents through agreements pursuant to §287(g) of the INA (the §287(g) program) and through screening for immigration violations in state and local jails through the §287(g) program and Secure Communities has sparked debate about the proper role of state and local law enforcement

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[128] Questioning of ICE Director John Morton by Representative Trey Gowdy, U.S. Congress, House Judiciary Committee, *The Release of Criminal Detainees by U.S. Immigration and Customs Enforcement: Policy or Politics?* 113th Cong., 1st sess., March 19, 2013.

[129] See P.L. 113-6, §551.

[130] DHS, *U.S. Immigration and Customs Enforcement Salaries and Expenses Congressional Budget Justifications* FY2013, pp. 3-4.

[131] In FY2010 and FY2011, Congress funded 33,400 detention beds.

[132] H.R. 5855, as passed by the House, and Senate-reported S. 3216 would give ICE the authority to sell any ICE-owned detention facilities if the facilities no longer meet the mission need.

[133] DHS, *U.S. Immigration and Customs Enforcement Salaries and Expenses Congressional Budget Justifications* FY2013, p. 4.

[134] Ibid., p. 51. "Level 1" offenders include aliens convicted of an aggravated felony as defined in §101(a)(43) of the Immigration and Nationality Act, or of two or more crimes each punishable by more than one year (i.e., two or more felonies); see John Morton, *Memorandum on Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens*, U.S. Immigration and Customs Enforcement, Washington, DC, March 2, 2011, http://www.ice.gov/doclib/news/releases/2011/110302washingtondc.pdf.

officials in this area.[135] Many have expressed concern over proper training, finite resources at the local level, possible civil rights violations, and the overall impact on communities. Nonetheless, some observers contend that the federal government has scarce resources to enforce immigration law and that state and local law enforcement entities should be used.

The Administration requested $51 million for 287(g) agreements, a decrease of $17 million from the FY2012 enacted level. The Administration contends that the Secure Communities screening process is more efficient and cost effective than 287(g) agreements in identifying and removing criminal and other priority aliens. ICE plans to discontinue the least productive 287(g) task force agreements in jurisdictions where Secure Communities is active and will not consider any requests for new 287(g) task forces.[136] Senate-reported S. 3216 would have appropriated $51 million for 287(g) agreements while H.R. 5855, as passed by the House, would have funded the 287(g) program at the FY2012 level of $68 million. During floor action, the House adopted an amendment to H.R. 5855 that would have also prohibited any funds under the act from being used to terminate a 287(g) agreement that is in existence on the date of enactment of the act.[137] P.L. 113-6 funds the 287(g) program at the FY2012 level of $68 million.

ICE Public Advocate

In 2012, ICE created the Public Advocate Office "to assist individuals and representatives who have concerns about ICE operations and policies in the field."[138] The office was created in response to critiques that the agency was unresponsive to the complaints of those who were detained or investigated. However, some contend that the program is not productive and is not a proper use of ICE resources.[139] P.L. 113-6 states that no funds under the act may be used to fund the position of Public Advocate within ICE.

Transportation Security Administration[140]

TSA, created in 2001 by the Aviation and Transportation Security Act (ATSA, P.L. 107-71), is charged with protecting air, land, and rail transportation systems within the United States to ensure the freedom of movement for people and goods. In 2002, TSA was transferred from the Department of Transportation to DHS with the passage of the Homeland Security Act (P.L. 107-296). TSA's responsibilities include protecting the aviation system against terrorist threats, sabotage, and other acts of violence through the deployment of passenger and baggage screeners; detection systems for explosives, weapons, and other contraband; and other security technologies. TSA also has certain responsibilities for marine and land modes of transportation including assessing the risk of terrorist attacks to all non-aviation transportation assets, including seaports;

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[135] For a fuller discussion of Secure Communities and the §287(g) program see CRS Report R42057, *Interior Immigration Enforcement: Programs Targeting Criminal Aliens*, by Marc R. Rosenblum and William A. Kandel; and CRS Report R41423, *Authority of State and Local Police to Enforce Federal Immigration Law*, by Michael John Garcia and Kate M. Manuel.

[136] DHS, *U.S. Immigration and Customs Enforcement Salaries and Expenses Congressional Budget Justifications* FY2013, p. 4.

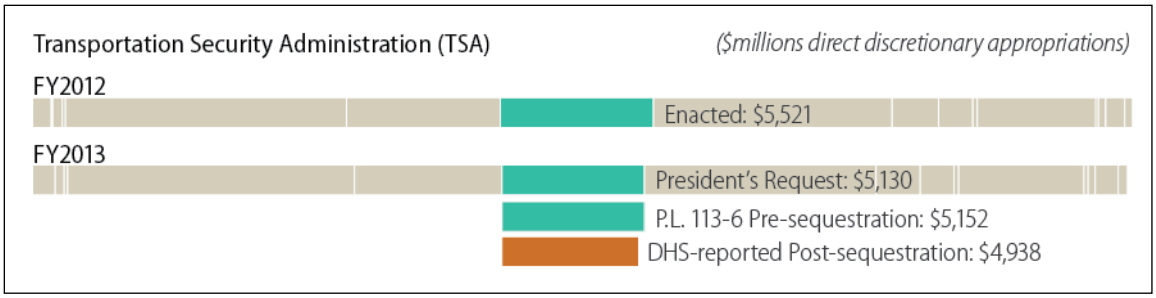
[137] H.Amdt. 1270 was offered by Rep. John Sullivan on June 7, 2012. It passed by a vote of 250-164 (Roll call vote no. 366).

[138] Department of Homeland Security, *Teleconference Recap: A Conversation with U.S. Immigration and Customs Enforcement (ICE) Public Advocate*, Washington, DC, March 28, 2012, http://www.dhs.gov/teleconference-recap-conversation-us-immigration-and-customs-enforcement-ice-public-advocate.

[139] For an example of these arguments, see Stephen Dinan, "Senate Democrats Join Push to Cut Obama's Illegal Immigrant Advocate," *The Washington Times*, March 12, 2013, http://www.washingtontimes.com/news/2013/mar/12/senate-spending-bill-includes-elimination-of-new-i/?page=all.

[140] Prepared by Bart Elias, Specialist in Aviation Policy, Resources, Science, and Industry Division.

issuing regulations to improve security; and enforcing these regulations to ensure the protection of these transportation systems. TSA is further charged with serving as the primary liaison for transportation security to the law enforcement and intelligence communities.



The TSA budget is one of the most complex components of the DHS Appropriations bill. The graphic above reflects net direct discretionary appropriations for the TSA, but that represents only a portion of the budgetary resources it has available. An airline security fee collection offsets a portion of aviation security costs, including $250 million dedicated for capital investments in screening technology. Other fees offset the costs of transportation threat assessment and credentialing. Since these amounts are not set through traditional appropriations provisions, they are not reflected in the above graphic. **Table 11** presents a breakdown of TSA's total additional budgetary resources from all non-appropriated sources and those provided through direct appropriations.

Table 11. TSA Budgetary Resources, FY2013

(budget authority, in millions of dollars)

Funding Source	FY2013 Request	P.L. 113-6 (Presequester)	DHS Plan (Sequestered)
Total Offsetting Fees	2,515	2,400	2,274
Aviation Security Capital Fund	*250*	*250*	*237*
Aviation Passenger Security Fee[a]	*1,650*	*1,650*	*Not Specified*
Aviation Passenger Security Fee (Revenue from proposed increase)[a]	*115*	*0*	*0*
Aviation Security Infrastructure Fees[a]	*420*	*420*	*Not Specified*
Credentialing Fees (including Alien Flight Student Program)	*80*	*80*	*76*
Direct appropriations	5,130	5,152	4,938
Total Budgetary Resources	**7,645**	**7,551**	**7,212**

Sources: S.Rept. 112-169, pp. 57-59; P.L. 113-6 explanatory statements; and U.S. Department of Homeland Security, Fiscal Year 2013 Post-Sequestration Operating Plan, April 26, 2013.

Note:

a. Counted as part of Offsetting Collections under TSA in the comparative statement of budget authority in the back of the Appropriations committee reports on the DHS appropriations bill.

FY2013 Request

The President's request included gross budget authority of $7,645 million for TSA, offset by $2,515 million in proposed collections and fees, for a net direct discretionary appropriation of $5,130 million. This represents roughly a 2.5% decrease from the gross funding provided in FY2012, but a 7.1% drop in net appropriations.

Of this request, $5,099 million in gross budget authority was for aviation security, a decrease of $155 million (3.0%) compared to FY2012. However, due to proposed increases in offsetting passenger security fees (discussed in more detail below), only $2,914 million in net appropriations would have been provided, a decrease of $310 million (9.6%) from FY2012 levels.

The President's request proposed $124 million for Surface Transportation Security, a decrease of $10 million (7.8%) from FY2012. Requested decreases in funding amounts reflected planned reductions in procurement for both checked baggage and passenger checkpoint technologies, a reduction in screening technology maintenance costs, a 50% reduction in the Federal Flight Deck Officer (FFDO) program and flight crew training, and miscellaneous improvements in management efficiencies, such as reduced travel, training, and overtime costs.

Funding for transportation threat assessment and credentialing (TTAC) would increase by $68 million (33%) under the request to $272 million. This includes a one-time increase of $30 million for TTAC infrastructure modernization (TIM) and adjustments to the fee-based Transportation Worker Identification Credential (TWIC) based on higher-than-anticipated worker turnover in the maritime industry.

The requested funding level for Transportation Security Support was set at $970 million, a decrease of $62 million (6%) from FY2012 levels, and requested funding for the Federal Air Marshals Service (FAMS) specified $930 million, a decrease of $36 million (3.8%). See **Table 8** for account level detail for all agencies in Title II and **Table 12** for amounts specified for TSA budget activities.

House-Passed H.R. 5855

House-passed H.R. 5855 included gross budget authority of $7,498 million for TSA, offset by $2,400 million in collections and fees, for a net direct discretionary appropriation of $5,098 million. This represents a $147 million (1.9%) decrease from the gross funding requested by the administration, and a 0.6% drop in net appropriations from the request.

The House-passed bill specified $5,041 million in gross budget authority for aviation security, $57 million (1.1%) less than requested. The House rejected the Administration's proposed increases in offsetting passenger security fees. Therefore, with a smaller offset, the appropriations for aviation security proposed in the bill actually rose $58 million (2.0%) above the Administration's request. The House report recommended additional cuts to screening operations including reductions in screener workforce costs and additional reductions in checked baggage explosives detection equipment procurement.[141]

The House-passed bill specified $126 million for surface transportation security, $2 million (1.7%) above the request, but $8 million (6.2%) less than the FY2012 enacted amount. The bill specified $193 million in direct appropriations and $80 million in fee collections for TTAC, roughly in line with the request. The House-passed bill, however, specified $929 million for transportation security support, $41 million (4.2%) below the request, and $880 million for

[141] H.Rept. 112-492, pp. 65-67.

FAMS, $50 million (5.4%) below the request. The House committee noted that many of these reductions to the request were made to offset a budget shortfall created by the administration's reliance on passenger security fee increases that have not been enacted.[142]

Senate-Reported S. 3216

The Senate-reported bill specified gross budget authority of $7,633 million for TSA, offset by $2,715 million in collections and fees, for a net discretionary appropriation of $4,919 million. This amounted to an $11 million (0.2%) decrease from the gross funding requested by the Administration, and a $211 million (4%) reduction in net appropriations.

This amount included $5,087 million in gross budget authority for aviation security, $11 million (0.2%) less than requested. The Senate accepted the Administration's proposed increases in offsetting passenger security fees, incorporating the full $315 million in revenue projections into the offset. Therefore, with a larger offset, the appropriations proposed in the bill for aviation security dropped $211 million (7.3%) from the Administration's request. These cuts reflected a $5 million (4.2%) reduction to checkpoint equipment procurement and a $10 million (8.5%) reduction for explosives detection systems procurement. In both cases, the Appropriations Committee report cited large unobligated prior-year balances in explaining the reductions. The amount also included an $8 million (0.3%) reduction to screener staffing due to delayed fielding of checkpoint body scanners. The committee specified $24 million for the FFDO program, $12 million (92%) above the request.[143] The Senate Appropriations Committee recommended funding surface transportation security, TTAC, transportation security support, and FAMS at requested levels.[144]

P.L. 113-6 and the DHS Operating Plan for FY2013

P.L. 113-6 provided TSA with $7,551million in total gross budget authority, $290 million less than the FY2012 enacted level. Sequestration further reduced TSA budget authority by roughly an additional $339 million, according to the DHS FY2013 expenditure plan. The plan projected gross total spending in FY2013 for TSA to be $7,212 million, $629 million less than the FY2012 enacted levels.

Table 12 outlines the funding levels for existing TSA program functions. The "DHS Plan" column provides the department's assessment of post-sequester resources provided by P.L. 113-6 as of April 26, 2013. It does not represent a final funding level as the department is likely to undertake transfers and reprogramming to mitigate the impact of sequestration in some areas.

Table 12. TSA Gross Budget Authority by Budget Activity, FY2012-FY2013

(gross budget authority in millions of dollars)

		FY2013 Appropriations				
	FY2012 Enacted	FY2013 Request	FY2013 House-passed	FY2013 Senate-reported	P.L. 113-6 (Presequester)	DHS Plan (Sequestered)
Aviation Security	5,254	5,099	5,041	5,087	5,046	4,785

[142] Ibid., pp. 72-78.

[143] S.Rept. 112-169, pp. 58-69.

[144] Ibid., pp. 69-74.

		FY2013 Appropriations				
	FY2012 Enacted	FY2013 Request	FY2013 House-passed	FY2013 Senate-reported	P.L. 113-6 (Presequester)	DHS Plan (Sequestered)
Screening Partnership Program (SPP)	*144*	*143*	*158*	*143*	*147*	*140*
Screener Personnel Compensation & Benefits	*3,026*	*3,108*	*3,052*[a]	*3,100*	*3,075*	*2,916*
Screener Training & Other	*250*	*225*	*225*	*225*	*225*	*213*
Checkpoint Support	*205*	*120*	*120*	*115*	*115*	*109*
EDS/ETD Purchase/Installation	*223*	*117*	*100*	*107*	*100*	*95*
Screening Technology Maintenance & Utilities	*320*	*309*	*304*[a]	*309*	*309*	*293*
Aviation Regulation and Other Enforcement	*370*	*372*	*374*	*372*	*368*	*349*
Airport Management, IT, and Support	*570*	*570*	*550*	*570*	*562*	*533*
FFDO & Flight Crew Training	*25*	*13*	*35*[a]	*24*	*25*	*23*
Air Cargo Security	*121*	*122*	*122*	*122*	*122*	*115*
Federal Air Marshal Service	966	930	880	930	907	875
Management and Administration	*843*	*816*	*777*	*816*	793	765
Travel and Training	*124*	*114*	*103*	*114*	114	110
Threat Assessment and Credentialing (TTAC)	204	272	272	272	272	259
Secure Flight	*92*	*107*	*107*	*107*	*107*	*102*
Other Vetting / Screening Administration and Operations	*72*	*86*	*85*	*86*	*85*	*82*
Credentialing Fees	*40*	*80*	*80*	*80*	*80*	*76*
Surface Transportation Security	135	124	126	124	124	122
Operations and Staffing	*39*	*37*	*36*	*37*	*36*	*36*
Security Inspectors	*96*	*88*	*90*	*88*	*88*	*86*
Transportation Security Support	1,032	970	929	970	953	934
HQ Administration	*292*	*282*	*271*	*282*	*276*	*270*
Information Technology	*447*	*417*	*397*	*417*	*417*	*409*

		FY2013 Appropriations				
	FY2012 Enacted	FY2013 Request	FY2013 House-passed	FY2013 Senate-reported	P.L. 113-6 (Presequester)	DHS Plan (Sequestered)
Human Capital Services	*249*	*226*	*216*	*226*	*216*	*211*
Intelligence	*43*	*45*	*45*	*45*	*45*	*44*
Aviation Security Capital Fund (ASCF) (mandatory)	250	250	250	250	250	237
TSA Gross Total	**7,841**	**7,645**	**7,498**	**7,633**	**7,551**	**7,212**

Sources: CRS analysis of the *FY2013 DHS Congressional Budget Justifications*, the *FY2013 DHS Budget in Brief*, P.L. 112-10, S.Rept. 112-169, S. 3216, as reported by the Senate Appropriations Committee, H.Rept. 112-492, H.R. 5855, as passed by the House; P.L. 113-6 and accompanying explanatory statement; and U.S. Department of Homeland Security, Fiscal Year 2013 Post-Sequestration Operating Plan, April 26, 2013.

Notes Amounts may not total due to rounding.

a. H.Amdt. 1248 redirected $10 million to the FFDO program for a total funding level of $35 million. This is offset by a $5 million reduction from Screener Personnel Compensation & Benefits and a $5 million reduction in Screening Technology Maintenance & Utilities.

Issues for Congress

Passenger Security Fees

Under ATSA, passenger security fees are set at $2.50 per flight segment, not to exceed $5.00 per one-way trip. The fee has not been increased since 2001, and concerns have been raised that the per-segment application does not accurately reflect passenger usage, as in many cases individuals are screened only at the initial departure airport and do not need to be screened again upon changing planes. Airlines have argued against fee increases, raising concerns over their potential impact on passenger air travel.

In the FY2013 budget submission, the Administration proposed changing the fee structure to apply a flat fee of $5.00 per one-way trip. This would, in effect, double the fee on direct flights, but would not change the fee currently paid by customers taking connecting flights. The Administration estimated that this change would increase revenue collections by $317 million. It proposed to apply $117 million of this amount as offsetting collections for aviation security costs and credit the additional $200 million toward deficit reduction.

Both the George W. Bush and Obama administrations have previously submitted proposals to increase passenger security fees. While these past efforts garnered little congressional support, the current proposal was supported by the Senate Appropriations Committee, which included a provision to increase FY2013 fee collections to $5.00 per one-way trip. However, whereas the request sought to apply a portion of the increased revenue toward deficit reduction, the Senate committee measure would apply all passenger security fees as offsetting collections assigned to aviation security. While the Senate committee approved the proposal for FY2013, it noted that it lacked jurisdiction to provide permanent authority for the fee increase. The House Appropriations Committee, on the other hand, did not include the proposal, noting that it lacked jurisdiction over fees. The committee instead commented that it "was forced to find $115,000,000 in offsets to

make up for the budget request's persistent and flawed assumption of increased aviation passenger fee collections."[145] Ultimately, P.L. 113-6 did not change passenger security fees.

Management Efficiencies

TSA congressional justifications identify over $100 million in savings from improved management efficiencies compared to FY2012. This includes almost $99 million for aviation security programs, $9 million for surface transportation, more than $2 million for TTAC, and over $7 million for FAMS. Management efficiencies include reductions in items such as travel, conferences, miscellaneous purchasing, use of support contracts, and overtime pay. The identified savings through management efficiencies raised oversight questions as to why inefficiencies were not corrected sooner, and additional questions regarding procedures and policies established to ensure that FY2013 efficiency goals can be met. Efficiency improvements have been viewed as a key component of addressing budget sequestration impacts at TSA.

Risk-Based Screening Initiatives

TSA has initiated a number of risk-based screening initiatives to focus its resources based on intelligence-driven assessments of security risk. Initiatives include a new trusted traveler trial program called PreCheck, modified screening procedures for children 12 and under, and a trial program for screening known flight crew members using modified procedures. Trial programs are also underway for modified screening of elderly passengers similar to those procedures put in place for children. These various trial programs may allow for improved screening efficiencies and potential savings, which TSA indicates will be identified in future budgets.

A cornerstone of TSA's risk-based initiatives is the PreCheck program. PreCheck is TSA's latest version of a trusted traveler program and is modeled on similar CBP programs including Global Entry, SENTRI, and NEXUS. It is currently available on a trial basis to members of those programs, frequent flyer program members of three major airlines, and, in some cases, to military service members, at a limited number of airports.

TSA has planned further expansion of the PreCheck program in FY2013. The House committee cited the PreCheck program as an example of a more rational risk-based approach to screening that can help increase screening efficiency and reduce screener workforce requirements.[146] The Senate committee also expressed support for TSA plans to expand the PreCheck program. It directed TSA to report on its expansion plans for PreCheck, including statistics on expansion of the eligible population, success indicators such as passenger satisfaction, efforts to raise public awareness of the program, time savings derived from PreCheck screening procedures, and security measures to ensure that PreCheck enrollees are verified to be low-risk. The Senate committee also expressed specific concern that TSA's known crew member pilot program is currently limited only to pilots, and included bill language to require TSA to expand the program to include flight attendants.[147]

While TSA's risk-based screening pilot programs have been viewed positively, its efforts to conduct behavioral-based observation and screening of passengers continue to come under scrutiny and criticism. While TSA proposed to increase the numbers of Behavior Detection Officers (BDOs) by 72 to 3,131, the House committee report did not support this increase, citing

[145] H.Rept. 112-492, p. 4.

[146] H.Rept. 112-492, pp. 69-70.

[147] S.Rept. 112-169, pp. 63-64.

TSA's lack of clear evidence that BDOs provide protection against potential aviation security threats. The committee called for a formal cost-benefit analysis of the BDO program along with a robust risk-based strategy for BDO deployment.[148]

The explanatory statement accompanying P.L. 113-6 requires TSA to brief the appropriations committees on a semiannual basis on "progress in developing or applying trusted traveler approaches and any legal or budgetary impediments to their implementation."[149]

Armed Pilots and Crew Member Self-Defense Training

The budget justification specified a $13 million reduction (roughly a 50% cut) in funds for the Federal Flight Deck Officer (FFDO) program, which trains and deputizes armed airline pilots, and for the crew member self-defense training program. Neither the House nor the Senate Appropriations Committee have adopted this proposal. In addition to the House Appropriations Committee recommending to keep the FFDO program at FY2012 level, the House passed an amendment to increase FFDO funding by an additional $10 million to $36 million, $23 million above the request. The additional $10 million for the FFDO program is offset by reductions of $5 million each for Screener Payroll, Compensation, and Benefits (PC&B) and Screening Technology Maintenance.[150] The House also included report language directing the TSA to revisit the use of FFDOs and other federal law enforcement assets that fly on commercial aircraft to serve as a force multiplier to complement the presence of air marshals through better coordinated scheduling, communications, and training.[151] The Senate Appropriations Committee similarly disagreed with the request to reduce FFDO funding. It recommended $24 million for FFDO and crew member training programs, noting that the slight decrease compared to FY2012 reflects the constrained budget environment.[152] The FFDO and crew member training programs were fully funded at $25 million under P.L. 113-6, but were subject to sequestration cuts reducing projected spending on the programs in FY2013 to $23 million.

U.S. Coast Guard[153]

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

[148] H.Rept. 112-492, pp. 65-66.

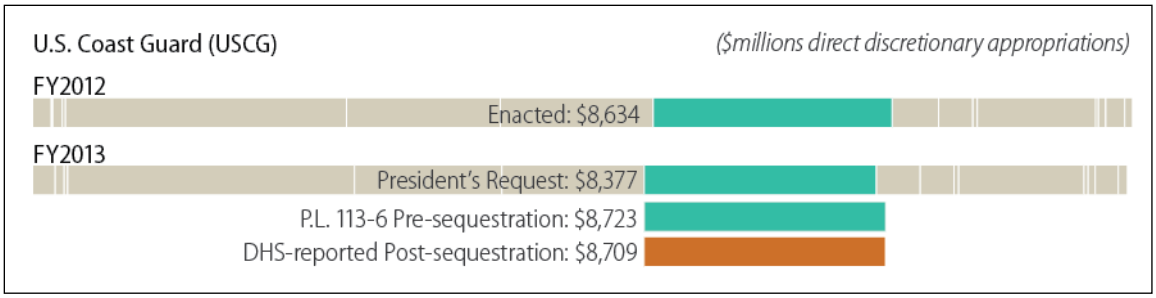
[149] Explanatory statement accompanying P.L. 113-6, "Division D—Department of Homeland Security Appropriations Act, 2013," p. 25.

[150] H.Amdt. 1248 to H.R. 5855, 112th Congress, 2nd Session.

[151] H.Rept. 112-492, p.77.

[152] S.Rept. 112-169, p.68.

[153] Prepared by John Frittelli, Specialist in Transportation Policy, Resources, Science, and Industry Division.



FY2013 Request

The President requested a total of $8,377 million in discretionary appropriations for the Coast Guard, $257 million less than FY2012's enacted amount. This amount includes $6,791 million in operating expenses and $1,217 million in capital acquisitions.

House-Passed H.R. 5855

The House would have provided $212 million more than the President requested. Most of the difference is for the capital account which includes acquisition of vessels, aircraft, and improvements to shore facilities, as discussed further below.

Senate-Reported S. 3216

The Senate Appropriations Committee recommended about $282 million more than the President requested. Much of the difference was due to the Senate funding overseas contingency operations directly under the Coast Guard rather than transferring this amount from the DOD budget as the President requested. The largest differences with the President's request had to do with vessel procurement as shown in the following table and discussed further below.

P.L. 113-6 and the DHS Operating Plan for FY2013

P.L. 113-6 provided USCG with $10,400 million in total gross budget authority after taking into account the across-the-board cuts in Division G of the law, $68 million more than the FY2012 enacted level. Sequestration reduced USCG budget authority by roughly an additional $268 million, according to the DHS FY2013 expenditure plan. The plan projected gross total spending in FY2013 for USCG to be $10,132 million, $200 million less than the FY2012 enacted levels.

Table 13 outlines the funding levels for the USCG operating expenses and acquisition and construction functions for FY2013. The "DHS Plan" column provides the department's assessment of budgetary resources available through P.L. 113-6 after sequestration was applied, as of April 26, 2013. It does not represent a final funding level as the department is likely to undertake transfers and reprogramming to mitigate the impact of sequestration in some areas.

Table 13. Coast Guard Operating (OE) and Acquisition (ACI) Sub-Account Detail, FY2012-FY2013

(budget authority in millions of dollars)

		FY2013 Appropriations				
	FY2012 Enacted	FY2013 Request	FY2013 House-passed	FY2013 Senate-reported	P.L. 113-6 (presequester)	DHS Plan (sequestered)
Operating Expenses	**7,051**	**6,791**	**6,765**	**7,073**	**7,066**	**6,871**
Military pay and allowances	3,413	3,416	3,426	3,429	3,411	3,411
Civilian pay and benefits	784	790	786	790	786	746
Training and recruiting	213	213	213	214	214	201
Operating funds and unit level maintenance	1,110	1,092	1,063	1,098	1,092	1,035
Centrally managed accounts	337	350	301	351	351	331
Intermediate and depot level maintenance	936	930	970	937	959	908
Global war on terror	258	[254]	[254]	254	254	241
Floor Amendment	—	—	5	—	—	—
Acquisition, Construction, and Improvements	**1,404**	**1,217**	**1,429**	**1,471**	**1,543**	**1,472**
Vessels	642	880	938	1,123	1,081	1,030
Aircraft	290	75	205	75	190	181
Other Equipment	161	77	59	77	64	61
Shore Facilities and ATON	181	69	110	69	84	80
Military Housing	20	-	-	10	10	10
Personnel & Related Support	110	117	117	117	114	110

Source: H.Rept. 112-331, H.R. 5855, H.Rept. 112-492, S.Rept. 112-169, CRS analysis of P.L. 113-6, the accompanying Senate explanatory statement, and the DHS FY2013 Post-Sequestration Operating Plan dated April 26, 2013.

Notes: Amounts may not total due to rounding. Numbers in brackets are a transfer from the Defense Department and not included in total.

Issues for Congress

Vessels and Aircraft

The largest differences in FY2013 funding recommendations between the President's request and House and Senate bills concerned vessel and aircraft acquisition. The President requested $139 million for two new fast response cutters. The House bill funded four ($224 million), and the Senate bill funded six ($335 million). The President requested no funds for additional Response Boat Medium vessels. The House bill also would have provided no funds for the vessels but the Senate requested $8 million to build four more. Regarding aircraft, the House provided $90 million for one long-range fixed wing aircraft, and $28 million for two MH-60 helicopters. The President requested $64 million for the long-range aircraft, but made this request in the DOD's budget (to be transferred to the Coast Guard) and requested no funds for MH-60 helicopters. The Senate did not request funds for either of these aircraft under the Coast Guard's appropriation.

P.L. 113-6 requires that a future-years capital investment plan for FY2014 through FY2018 be submitted to the appropriations committees at the same time as the President's budget request.[154] DHS's sequestration operating plan indicates that $1,030 million is provided for vessel acquisitions, including $646 million for one national security cutter, $319 million for six fast response cutters, and $8 million to begin development of a new icebreaker. For aircraft, the DHS sequestration plan indicates a reduction from $191 million to $181 million for all aircraft acquisitions and provides $86 million specifically for long-range aircraft.[155]

The Coast Guard's effort to replace or modernize its fleet of vessels has been a major issue for Congress over the last several years.[156]

Shore Facilities

The House bill would have provided $56 million for Coast Guard housing and aids to navigation, which is about $41 million more than the $15 million requested by the President and recommended by the Senate committee. The $41 million recommended by the House included $31 million to address a shore facilities backlog list produced by the Coast Guard (the list was requested by Congress in FY2012 appropriations) and $10 million for the Coast Guard's new headquarters building on the St. Elizabeths campus in Washington, DC. P.L. 113-6 provided $30 million for housing and aids to navigation, which was reduced to $29 million according to DHS's sequestration plan.

Maritime Security

The House Appropriations Committee Report called on the Coast Guard to issue a final rule for implementing card readers at ports and on vessels for the Transportation Worker Identification Credential (TWIC), a biometric security card that port and vessel workers must have to access security sensitive areas.[157] The Senate Committee on Appropriations requested a Coast Guard

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[154] P.L. 113-6, Division D, 127 Stat. 351-353.

[155] *U.S. Department of Homeland Security Fiscal Year 2013 Post-Sequestration Operating Plan*, p.12.

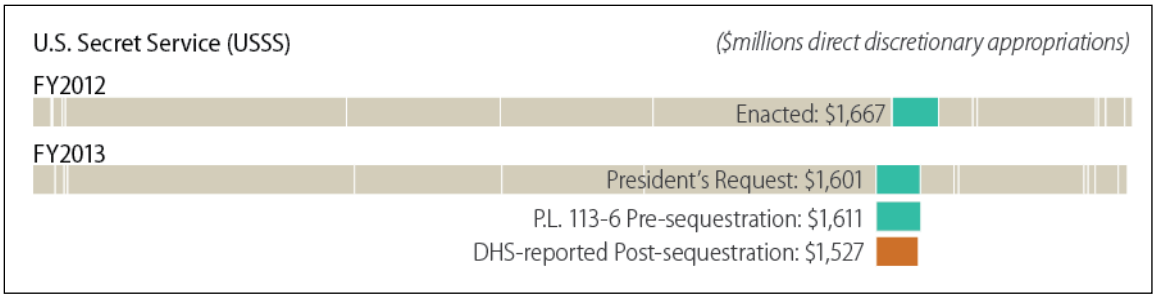
[156] For further information, see CRS Report R42567, *Coast Guard Cutter Procurement: Background and Issues for Congress*, by Ronald O'Rourke, and CRS Report RL34391, *Coast Guard Polar Icebreaker Modernization: Background and Issues for Congress*, by Ronald O'Rourke.

[157] H.Rept. 112-492, pp. 79-80. The Coast Guard issued a Notice of Proposed Rulemaking on March 22, 2013; 78 FR 17782.

briefing on actions taken regarding Interagency Operations Centers at ports in light of a GAO report critical of the agency's development of these centers.[158] The explanatory statement accompanying P.L. 113-6 directs "[t]he Coast Guard, the Department, and TSA ... to take all necessary action to expedite the completion and publication of a final TWIC reader rule."[159] No further direction is provided on Interagency Operations Centers, which means that the Senate's direction stands as written.

U.S. Secret Service[160]

The U.S. Secret Service (USSS)[161] has two broad missions, criminal investigations and protection. Criminal investigation activities encompass financial crimes, identity theft, counterfeiting, computer fraud, and computer-based attacks on the nation's financial, banking, and telecommunications infrastructure, among other areas. The protection mission is the most prominent, covering the President, Vice President, their families, and candidates for those offices, along with the White House and Vice President's residence, through the Service's Uniformed Division. Protective duties also extend to foreign missions in the District of Columbia and to designated individuals, such as the DHS Secretary and visiting foreign dignitaries. Aside from these specific mandated assignments, USSS is responsible for security activities at National Special Security Events (NSSE),[162] which include the major party quadrennial national conventions as well as international conferences and events held in the United States. The NSSE designation by the President gives the USSS authority to organize and coordinate security arrangements involving various law enforcement units from other federal agencies and state and local governments, as well as from the National Guard.



FY2013 Request

For FY2013, the Administration requested an appropriation of $1,601 million for the USSS.[163] The Administration's request is $66 million (4%) less than was appropriated for the USSS in

[158] S.Rept. 112-169, pp. 89-90.

[159] Senate explanatory statement accompanying Division D of P.L. 113-6, p. 31.

[160] Prepared by Shawn Reese, Analyst in Emergency Management and Homeland Security Policy, Government and Finance Division.

[161] For more information, see CRS Report RL34603, *The U.S. Secret Service: An Examination and Analysis of Its Evolving Missions*, by Shawn Reese.

[162] For more information, see CRS Report RS22754, *National Special Security Events*, by Shawn Reese.

[163] U.S. Department of Homeland Security, U.S. Secret Service, *Fiscal Year 2013 Overview: Congressional Justification*, p. 3.

FY2012. The Administration requested approximately $988 million for its protection mission, $324 million for its investigation mission, and total of 7,061 FTE to meet its personnel needs.[164]

House-Passed H.R. 5855

For FY2013, the House-passed version of the DHS appropriations bill recommended an appropriation of $1,613 million.[165] This amount would have represented a decrease of $54 million (3.2%) from the FY2012 USSS appropriation. However, it was $12 million (0.8%) more than the Administration's FY2013 request.

The decrease compared to FY2012 reflected the anticipated conclusion of the 2012 Presidential campaign season and the reduced demand for major presidential candidate protection.[166] The reduction to the USSS budget would have been partially offset by restoration of $8 million in specific funding for USSS support for the Center for Missing and Exploited Children, which had been zeroed out in the Administration's request, and an $8 million increase for Electronic Crimes Special Agent Program and Electronic Crimes Task Forces.

Senate-Passed S. 3216

For FY2013, the Senate-reported version of the DHS appropriations bill recommended an appropriation of $1,613 million.[167] This amount would have reflected a total decrease of $54 million (3.2%) from the FY2012 USSS appropriation. However, it was $12 million (0.8%) above the Administration's FY2013 request.

Although the structure was different for two programs, the Senate also would have restored $8 million in specific funding for USSS support for the Center for Missing and Exploited Children, and would have provided $4 million above the request for unspecified priority domestic investigations.

Additionally, in their report, the Senate Committee noted and approved of the USSS Director's actions to address the "improper behavior involving 12 Secret Service agents and officers in Cartagena, Colombia, on April 12, 2012."[168]

P.L. 113-6 and the DHS Operating Plan for FY2013

For FY2013, Congress appropriated $1.611 billion for USSS. This was $56 million less than the $1.667 billion appropriated in FY2012.

Following the sequester, the Service plans to expend $1.527 billion, which is $84 million less than what was appropriated in P.L. 113-6. This $84 million was reduced primarily from the Service's appropriations for its protection and investigation mission.

Table 14 outlines in detail the funding levels for the Secret Service for FY2013. The "DHS Plan" column provides the department's assessment of budgetary resources available through P.L. 113-6 after sequestration was applied, as of April 26, 2013. It does not represent a final funding level as

[164] Ibid.

[165] U.S. Congress, House Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2013*, 112th Cong., 2nd sess., May 23, 2012, H.Rept. 112-492, p. 93.

[166] Ibid.

[167] U.S. Congress, Senate Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2013*, 112th Cong., 2nd sess., May 22, 2012, S.Rept. 112-169, p. 91.

[168] Ibid.

the department is likely to undertake transfers and reprogramming to mitigate the impact of sequestration in some areas.

Table 14. Budget Authority for the U.S. Secret Service, FY2012-FY2013

(amounts in millions of dollars)

		FY2013 Appropriations				
Programs and Activities	**FY2012 Enacted**	**FY2013 Budget Request**	**FY2013 House-passed**	**FY2013 Senate-reported**	**P.L. 113-6 (presequester)**	**DHS Plan (sequestered)**
Salaries and Expenses	**1,661**	**1,544**	**1,556**	**1,556**	**1,554**	**1,472**
Protection	1,052	988	988	988	985	933
Protection of persons and facilities	*832*	*838*	*838*	*858*	*854*	*809*
Protective intelligence activities	*68*	*68*	*68*	*68*	*68*	*64*
National Special Security Events	*19*	*5*	*5*	*5*	*4*	*4*
Candidate nominee protection	*113*	*58*	*58*	*58*	*58*	*55*
White House mail screening	*18*	*20*	*20*	-[a]	-	-
Investigations	318	324	340	336	339	321
Domestic field operations	*224*	*239*	*239*	*298*	*299*	*284*
International field operations	*33*	*31*	*31*	*31*	*31*	*29*
Electronic crimes program	*53*	*55*	*62*	-[b]	-	-
Forensic support to the National Center for Missing and Exploited Children	*8*	-	*8*	*8*	*8*	*8*
Management and Administration	192	175	171	175	174	165
Information Integration &Technology Transformation	44	53	1	1	1	1
James J. Rowley Training Center	55	56	56	56	55	53
Acquisition, construction, and improvements	**5**	**57**	**57**	**57**	**57**	**54**
Total	**1,667**	**1,601**	**1,613**	**1,613**	**1,611**	**1,527**

Source: H.Rept. 112-331, H.R. 5855, H.Rept. 112-492, S.Rept. 112-169, CRS analysis of P.L. 113-6, the accompanying Senate explanatory statement, and the DHS FY2013 Post-Sequestration Operating Plan dated April 26, 2013.

Notes: Amounts may not total due to rounding.

a. Funded under "Protection of Persons and Facilities."
b. Funded under "Domestic Field Operations."

Issue for Congress

One potential ongoing issue for Congress concerning the USSS is the balancing of the investigative and protective missions of the Service, and how executing both missions affects overall USSS operations.

Protection and Investigation Missions Funding and Activities

USSS's protection mission, as opposed to its investigative mission, employs the majority of the Service's agents and receives a larger share of the agency's resources. Additionally, the majority of congressional action concerning USSS has been related to its protection mission and recent USSS agent misconduct.[169] While Congress has maintained the Service's role in investigating financial crimes, such as combating counterfeiting, congressional action has primarily addressed, and continues to address, the Service's protection mission. Potential terrorist attacks and potential threats to the President have resulted in an increase in the need for the Service's protection activities. Advocates for expansion of the investigation mission, however, may contend that protection is enhanced through better threat investigation efforts.[170]

Title III: Protection, Preparedness, Response, and Recovery

Title III of the DHS appropriations bill contains the appropriations for the National Protection and Programs Directorate (NPPD), the Office of Health Affairs (OHA), and the Federal Emergency Management Agency (FEMA). The Administration requested $5,911 million for these accounts in FY2013, an increase of $231 million above the enacted level. The House-passed bill would have provided $5,930 million, an increase of 0.3% above the requested level and 4.4% above FY2012. The Senate-reported bill would have provided $5,971 million, 1% above the request and 5.1% above FY2012. In addition, both House-passed and Senate-reported versions of this title also would have included a requested $5,481 million for disaster relief that is offset by an adjustment under the Budget Control Act (BCA). The adjustment would have been $919 million smaller than the adjustment provided in the FY2012 Disaster Relief Appropriations Act (P.L. 112-77).

After the across-the-board cuts but prior to applying sequestration, P.L. 113-6 provides $5,920 million, an increase of 0.2% from the requested level and 4.3% above FY2012. The act also included $6,400 million for disaster relief that is offset by an adjustment under the (BCA).

Table 15 lists the enacted amounts for the individual components of Title III for FY2012, the Administration's request for these components for FY2013, the House-passed and Senate-reported appropriations for the same, the enacted level in P.L. 113-6 and the post-sequester level of available resources from P.L. 113-6 reported by DHS.

[169] U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *Secret Service on the Line: Restoring Trust and Confidence*, 112th Cong., 2nd sess., May 23, 2012.

[170] Herrera-Flanigan, Jessica, "Secret Service—Its Mission, Its Future," Homeland Security Watch, October 20, 2009. http://www.hlswatch.com/2009/10/20/secret-service-its-mission-its-future/.

Table 15. Title III: Protection, Preparedness, Response, and Recovery, FY2012-FY2013

(budget authority in millions of dollars)

		FY2013 Appropriation				
	FY2012 Enacted	FY2013 Request	FY2013 House-passed	FY2013 Senate-reported	P.L. 113-6 (presequester)	DHS Plan (sequestered)
National Protection and Programs Directorate						
Management and Administration	51	50	45	50	50	48
Infrastructure Protection and Information Security	888	1,167	1,110	1,170	1,156	1,064
US-VISIT	307	—	—	—	—	—
Office of Biometric Identity Management[a]	—	—	191	—	232	224
Appropriation	**1,246**	**1,217**	**1,347**	**1,220**	**1,438**	**1,337**
Fees, Mandatory Spending, and Trust Funds	1,262	1,302	1,302	1,302	1,302	1,302
Total Budgetary Resources	2,508	2,519	2,649	2,522	2,740	2,639
Office of Health Affairs						
Appropriation	**167**	**166**	**132**	**168**	**132**	**132**
Fees, Mandatory Spending, and Trust Funds	0	0	0	0	0	0
Total Budgetary Resources	167	166	132	168	132	132
Federal Emergency Management Agency						
Salaries and Expenses	895	789	720	979	972	930
Automation Modernization	—	—	58	—	—	—
Grants and Training	2,375	2,900	2,798	2,670	2,488	2,374
U.S. Fire Administration	44	43	42	44	44	42
Disaster Relief Fund[b]	7,100	6,089	6,089	6,089	7,007	6,629
Flood Hazard Mapping and Risk Analysis	98	89	92	97	95	90
Pre-disaster Mitigation Fund	36	0	14	35	25	25
Emergency Food and Shelter	120	100	120	150	120	114
Radiological Emergency Preparedness	-1	-1	-1	-1	-1	-2

Appropriation	**4,267**	**4,528**	**4,451**	**4,582**	**4,349**	**4,126**
Fees, Mandatory Spending, and Trust Funds	3,273	3,551	3,551	3,551	3,551	3,547
Disaster Relief Adjustment	6,400	5,481	5,481	5,481	6,400	6,076
Total Budgetary Resources	13,940	13,560	13,483	13,614	14,300	13,749
Net Budget Authority: Title III	**5,680**	**5,911**	**5,930**	**5,971**	**5,920**	**5,595**
Total Budgetary Resources for Title III Components before Transfers	**16,624**	**16,245**	**16,264**	**16,304**	**17,148**	**16,496**

Sources: H.Rept. 112-331, H.R. 5855, H.Rept. 112-492, S.Rept. 112-169, CRS analysis of P.L. 113-6, the accompanying Senate explanatory statement, and the DHS FY2013 Post-Sequestration Operating Plan dated April 26, 2013.

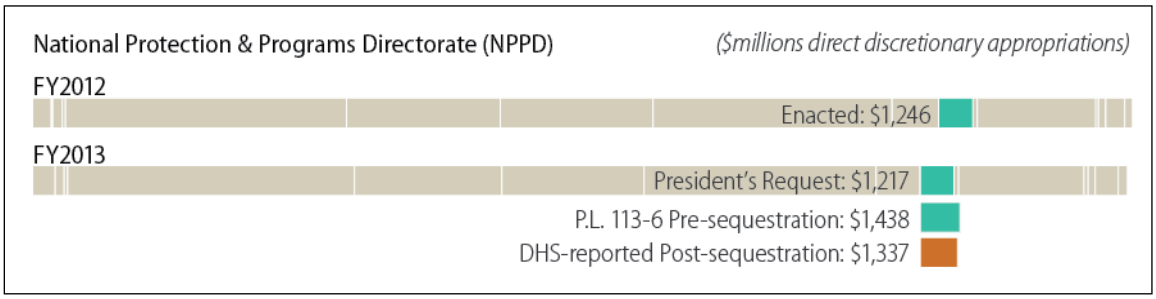
Notes: Amounts may not total due to rounding.

a. The Administration proposed in the FY2013 budget request moving US-VISIT from NPPD and dividing it between ICE and CBP. The House proposed retaining this portion of US-VISIT in NPPD.

b. Disaster relief funding is displayed in this line, but is not added to the appropriations total, in accordance with the appropriations committees' practices for subtotaling this account. This funding is not reflected in the total appropriation for FEMA.

National Protection and Programs Directorate[171]

The National Protection and Programs Directorate (NPPD) was formed by the Secretary for Homeland Security in response to the Post-Katrina Emergency Management Reform Act of 2006. The Directorate includes the Office of the Under Secretary for NPPD and accompanying administrative support functions (budget, communications, etc.), the Office of Infrastructure Protection and the Office of Cybersecurity and Communications, the latter including the National Cyber Security Division, the National Communications System and the Office of Emergency Communications. The Administration has proposed moving the activities of the US-VISIT program from NPPD to other locations within the Department. The House has proposed keeping some of those functions within the Directorate in a newly established Office of Biometric Identify Management.



[171] Prepared by John D. Moteff, Specialist in Science and Technology Policy, Resources, Science, and Industry division.

FY2013 Request

The activities of the Office of the Under Secretary are supported by the Management and Administration Program. The activities of the Office of Infrastructure Protection and the Office of Cybersecurity and Communications are supported by the Infrastructure Protection and Information Security Program (IPIS). The IPIS program can be further broken down into projects related to infrastructure protection, cybersecurity, and communications.

The Administration requested $1,217 million for NPPD activities in FY2013, $29 million (2.3%) less than what was appropriated for FY2012. The FY2013 Management and Administration budget request was $50 million (roughly even with the FY2012 level) and represents a current services[172] budget request. It also reflects the transfer of functions previously performed by the Directorate's Office of Risk Management and Analysis to the DHS Office of Policy. The FY2013 request for IPIS was $1,167 million, an increase of $278 million (31.3%) above the FY2012 appropriation.

A large share of the increase in the IPIS budget request was directed toward securing the federal government's information systems. The request included two major program increases. The first, a new $202 million initiative within the Federal Network Security project, would directly facilitate other federal agencies' compliance with Federal Information Security Management (FISMA) requirements, including development of continuous monitoring capabilities. The second is a $116 million (50.7%) increase to expand the Network Security Deployment project. The Network Security Deployment project supports deployment of the National Cybersecurity Protection System (NCPS, also known as the EINSTEIN project). The NCPS is an intrusion detection system that uses digital signatures developed by the National Security Agency. The extra funding would expand deployment of the 3.0 version of the system (which allows for active defenses against an intrusion) and development of version 2.2 (which would augment threat visualization and information sharing capabilities) across federal agencies.

Other programmatic increases of note included $15 million for US-CERT to support analysis of the additional data being generated by the NCPS and $5 million in additional support for the Multi-State Information Security and Analysis Center (MS-ISAC) to assist state, local, territorial and tribal governments in their cybersecurity efforts and to integrate them with NPPD's national efforts.

The FY2013 request decreased funding in other areas of the IPIS budget. Infrastructure protection funding was reduced $40 million (13.7%) below the FY2012 appropriation and activities in communications were reduced $7 million (4.7%) below FY2012 appropriated levels. Most of the reduction in infrastructure protection was due to a $19 million (20.1%) reduction in the budget requested for the Infrastructure Security Compliance project. This project supports activities to ensure compliance with Chemical Facility Anti-Terrorism Standards (CFATS) at covered facilities. The Administration considered the reduction a baseline adjustment, with $16 million of the adjustment attributed to the ability of NPPD to obligated funds. Another $8 million in reductions was associated with elimination of contract support for incident planning exercises. Incident planning exercise activities would continue as those activities, and the federal personnel associated with them, were transferred to other infrastructure protection projects.

[172] A current services budget request takes into account inflation, including proposed salary increases, and any projected changes in workload without any expansion or reductions in type or quality of services beyond what is currently provided.

House-Passed H.R. 5855

The House would have provided $1,347 million for NPPD: $45 million for Management and Administration, $1,110 million for IPIS, and $191 million for the Office of Biometric Identity Management (OBIM is discussed elsewhere in this report). The House would have provided $5 million (10%) less than requested for Management and Administration citing the Administration's use of unauthorized TSA fee increases, flaws in the treatment of CBP fee revenues, and the department's poor compliance with statutory requirements.[173] Much of the reduction in the IPIS request was made in the Security Compliance project. Based on an internal review of the program which revealed major problems with the program's implementation, and the existence of unobligated funds, the House would have provided $29 million less than requested. The House also reduced by $17 million the funding requested for deployment of the NCPS, noting concern about NPPD's ability to obligate the funds.[174] The House also would have directed the NPPD to work with the Coast Guard on program implementation, personnel management, and inspector training, and to consider the potential for using alternative security programs developed by the private sector for approving security plans under CFATS.[175]

Other reductions made by the House included $3 million in the Global Cybersecurity Management project (due to lack of sufficient justification) and $7 million in the Programs to Study and Enhance Telecommunications project.[176]

The House would have provided the full $202 million increase for the Federal Network Security project initiative. However, rather than transferring those funds to other agencies to develop continuous monitoring capabilities, the House would have directed NPPD to use the funds to develop security capabilities, including continuous monitoring, that other agencies could use.[177]

Senate-Reported S. 3216

The Senate Appropriations Committee recommended $1,220 million for NPPD. The Committee recommended the requested amount for Management and Administration, but required an expenditure plan.[178] The Committee recommended $1,170 million for IPIS. This included amounts above those requested for bombing prevention and vulnerability assessments.[179] It also included $12 million more in funding than requested for the Security Compliance project. Acknowledging the existence of unobligated funds for the project and the Directorate's continuing internal deliberation on planning its way forward, the Committee stated that funds above those requested would be needed to implement any subsequent implementation plan later in the fiscal year.[180]

The Committee would have provided $18 million less than requested for the initiative within the Federal Network Security project to support the development of continuing monitoring capability and other security measures. In addition, the Committee recommended withholding $120 million of the $184 million proposed by the Senate for this effort until NPPD produces an expenditure

[173] H.Rept. 112-492, p. 99.

[174] Ibid., p. 100.

[175] Ibid., 101-103.

[176] Ibid., p. 100.

[177] Ibid., p. 104-105.

[178] S.Rept. 112-169, pp. 95-96.

[179] Ibid., p. 97.

[180] Ibid., P. 98.

plan for the initiative. Noting that NPPD had originally proposed a federated effort, but had restructured the project to a more unified project managed by DHS, the Committee also recommended that the expenditure plan explain how this new centralized structure will work.[181]

The Committee also recommended funding above that requested for the Global Cybersecurity Management project (setting aside $17 million for cybersecurity education) and the Critical Infrastructure Cybersecurity and Awareness project (citing the importance the Committee placed on improving the cybersecurity posture of state, local, territorial, tribal governments). On a related topic, the Committee cited the first National Cyber Security Review conducted by NPPD which assessed the cybersecurity capabilities of states, local, territorial, and tribal governments, and expressed its expectation that the review would be conducted annually to chart progress.[182]

The Committee also recommended increases for the Office of Emergency Communications and to other emergency communication-related projects, including the Next Generation Telecommunications project (which it increased $5 million above the requested level).[183]

P.L. 113-6 and the DHS Operating Plan for FY2013

After the across-the-board cuts by prior to applying sequestration, P.L. 113-6 provides $1,439 million for NPPD/IPIS and OBIM. This includes $50 million for Management and Administration, $1,157 million for the IPIS program, and $232 for Biometric Identity Management.

According to information provided to Congress through its FY2013 operating plan, after sequestration, NPPD/IPIS and OBIM would receive $1,337 million, before the impact of transfers or reprogrammings that might ameliorate or exacerbate the impacts of sequestration. The operating plan indicates $48 million for Management and Administration, $1,065 million for IPIS, and $224 million for Biometric Identity Management for FY2014.

Items of interest for IPIS specifically mentioned in the explanatory statement[184] included $13.5 million for the Office of Bombing Prevention; $20.6 million for vulnerability assessments, and a briefing to the Committees on implementing recommendations recently made by GAO on how to better manage vulnerability assessments (Government Accountability Office, 2012); $16.9 million for cybersecurity education; $77.9 million for CFATS, with $20.0 million of that put on hold until Congress receives an expenditure plan for the program; and $202 million of the Federal Network Security program to be made available to assist the efforts of individual federal agencies to acquire and operate continuous monitoring and diagnostic equipment and software. These latter funds are not to supplant agency funds budgeted for this purpose.

Additional instructions related to CFATS were provided in the Consolidated and Further Continuing Appropriations Act. GAO, in conjunction with the Coast Guard, is to continue to examine DHS progress in developing the CFATS program. In addition, once DHS has completed a sufficient number of inspections, GAO is to review how CFAT inspections were conducted, if the inspectors were adequately trained, and to identify any other barriers to managing compliance. NPPD was directed to provide semiannual reports on the compliance program and to provide a briefing on alternative security programs that might be used as models for the CFATS program.

[181] Ibid. p. 99.

[182] Ibid., p. 100.

[183] Ibid., p. 101.

[184] See *Congressional Record*, March 11, 2013, S1557.

Additional instructions in the Consolidated and Further Continuing Appropriations Act related to cybersecurity included expenditure plans from each federal agency identifying the agency's efforts to improve cybersecurity. Agencies were further instructed to send quarterly reports on the execution of those plans to the Office of Management and Budget (OMB). OMB was instructed to provide a summary of these execution reports annually to Congress.

Table 16 outlines the FY2012 and FY2013 funding levels for the for each PPA within the IPIS program. The "DHS Plan" column provides the department's assessment of post-sequester resources provided by P.L. 113-6 as of April 26, 2013. It does not represent a final funding level as the department is likely to undertake transfers and reprogramming to mitigate the impact of sequestration in some areas.

Table 16. Budget Authority for Infrastructure Protection and Information Security

(budget authority in millions of dollars)

		FY2013 Appropriations				
Program	**FY2012 Enacted**	**FY2013 Request**	**FY2013 House-passed**	**FY2013 Senate-passed**	**P.L. 113-6 (presequester)**	**DHS Plan (sequestered)**
Infrastructure Protection	295	255	226	270	260	240
Identification, Analysis, and Planning	*71*	*57*	*57*	*60*	*59*	*54*
Sector Management and Governance	*74*	*67*	*67*	*67*	*67*	*62*
Regional Field Operations	*57*	*56*	*56*	*56*	*56*	*52*
Infrastructure Security Compliance	*93*	*75*	*45*	*86*	*78*	*72*
National Cybersecurity Division	443	769	749	756	756	696
Cybersecurity Coordination	*5*	*4*	*4*	*4*	*4*	*4*
US-CERT Operations	*79*	*93*	*93*	*93*	*92*	*85*
Federal Network Security	*35*	*236*	*236*	*218*	*236*	*217*
Network Security Deployment	*229*	*345*	*328*	*345*	*329*	*303*
Global Cybersecurity Management	*24*	*22*	*19*	*26*	*26*	*24*
Critical Infrastructure Cyber Protection and Awareness	*60*	*63*	*63*	*64*	*63*	*58*
Business Operations	*12*	*6*	*6*	*6*	*6*	*6*
Communications	150	143	136	144	140	129

Program	FY2012 Enacted	FY2013 Appropriations				
		FY2013 Request	FY2013 House-passed	FY2013 Senate-passed	P.L. 113-6 (presequester)	DHS Plan (sequestered)
Office of Emergency Communications	*43*	*39*	*39*	*42*	*39*	*36*
Priority Telecommunications Services	*56*	*53*	*53*	*53*	*52*	*49*
Next Generation Networks	*25*	*20*	*20*	*25*	*24*	*23*
Programs to Study and Enhance Telecommunications	*13*	*20*	*13*	*13*	*13*	*12*
Critical Infrastructure Protection	*11*	*11*	*11*	*11*	*11*	*10*
Total, Infrastructure Protection and Information Security	**888**	**1,167**	**1,110**	**1,170**	**1,156**	**1,065**

Source: H.Rept. 112-331, H.R. 5855, H.Rept. 112-492, S.Rept. 112-169, CRS analysis of P.L. 113-6, the accompanying Senate explanatory statement, and the DHS FY2013 Post-Sequestration Operating Plan dated April 26, 2013.

Note: Amounts may not total due to rounding.

Issues for Congress

CFATS Compliance

An internal review by NPPD at the end of last calendar year identified some major problems with implementing the CFATS compliance program. The Directorate is continuing to review the program and to develop ways to mitigate the problems identified. Congress, which has shown a continued interest in developing and ensuring compliance with CFATS, will likely be interested in oversight of this issue.

Cybersecurity

Congress has focused a fair amount of attention on cybersecurity during the 112th Congress, including consideration of a number of bills addressing various aspects of the issue; e.g., information sharing, education and workforce development, clarifying roles and responsibilities in protecting federal information systems, and protecting information systems of critical infrastructure assets, including those owned and operated by the private sector. These bills and issues are beyond the scope of this report. However, any legislation expanding DHS's role in protecting the information systems of critical infrastructure may require DHS, presumably NPPD, to assume additional duties, which would likely require additional resources.[185]

[185] For the latest CRS analysis on cybersecurity issues, please refer to the "Issues in Focus" page on cybersecurity on

Federal Protective Service[186]

The Federal Protective Service (FPS), within the National Protection and Programs Directorate (NPPD),[187] is responsible for the protection and security of federal property, personnel, and federally owned and leased buildings.[188] In general, FPS operations focus on security and law enforcement activities that reduce vulnerability to criminal and terrorist threats.[189] FPS protection and security operations include all-hazards based risk assessments; emplacement of criminal and terrorist countermeasures, such as vehicle barriers and closed-circuit cameras; law enforcement response; assistance to federal agencies through Facility Security Committees; and emergency and safety education programs. FPS also assists other federal agencies, such as the U.S. Secret Service (USSS) at National Special Security Events (NSSE), with additional security.[190] FPS is the lead "Government Facilities Sector Agency" for the National Infrastructure Protection Plan (NIPP).[191] Currently, FPS employs approximately 1,225 law enforcement officers, investigators, and administrative personnel, and administers the services of approximately 13,000 contract security guards.

President's FY2013 Request

The President's FY2013 budget request included 1,279 FTEs and $1,302 million for FPS. This was $40 million (3%) more than FPS received in FY2012. FPS does not receive a typical appropriation, but instead has a budget wholly offset by security fees charged to GSA building tenants in FPS-protected buildings and facilities. Of the total funding projected in the request, $272 million in fees would be collected for basic security operations, $509 million for building-specific security operations, and $521 million for Security Work Authorizations.[192]

House-Passed H.R. 5855

For FY2013, House-passed H.R. 5855 projected no specific changes to the FPS budget and provided no additional direction for the service.

Senate-Reported S. 3216

The Senate Appropriations Committee recommended no specific changes to the FPS budget. However, the Senate Appropriations Committee report required the Office of Under Secretary for

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CRS.gov, including CRS Report R42619, *Cybersecurity: CRS Experts*, by Eric A. Fischer. CRS Report R42507, *Cybersecurity: Authoritative Reports and Resources*, by Rita Tehan, provides an excellent index to resources beyond those found on that page.

[186] Prepared by Shawn Reese, Analyst in Emergency Management and Homeland Security Policy, Government and Finance Division.

[187] FPS was transferred to NPPD from ICE following the enactment of the FY2010 DHS appropriations, P.L. 111-83.

[188] 40 U.S.C. 1315.

[189] For more information on FPS, see CRS Report RS22706, *The Federal Protective Service and Contract Security Guards: A Statutory History and Current Status*, by Shawn Reese.

[190] For information on NSSEs, see CRS Report RS22754, *National Special Security Events*, by Shawn Reese.

[191] For Information on the NIPP, see http://www.dhs.gov/xprevprot/programs/editorial_0827.shtm.

[192] U.S. Department of Homeland Security, *National Protection & Programs Directorate, Federal Protective Service: Fiscal Year 2013 Congressional Justification*, February 2012, p. 4.

NPPD, in conjunction with the FPS Director, to brief the committee on FPS management and budget improvement efforts.[193]

P.L. 113-6 and the DHS Operating Plan for FY2013

No specific changes to the FPS budget were recommended in P.L. 113-6 or the accompanying explanatory statement. FPS was directed to brief the appropriations committees, however, on their progress in implementing recommendations made in GAO report GAO-12-852, "DHS Needs to Refocus Its Efforts to Lead the Government Facilities Sector."

Due to the structure of the FPS budget, which is derived from fees collected from other federal entities, its overall resource levels were unaffected by sequestration.

Issues for Congress

Congress continues to express concern over certain aspects of the FPS mission and how FPS is funded. Appropriators have expressed an interest in improving training of contract guards, federalizing contract guards, developing standards for checkpoint detection technologies for explosives and other dangerous items at federal facilities, and coordinating DHS efforts with the Interagency Security Committee for building security standards.[194] Several pieces of legislation were introduced in the House and Senate in the 112th Congress—including H.R. 176, H.R. 2658 and S. 772—to improve federal building security and strengthen the ability of FPS to protect the buildings, the federal employees who work in them, and the visiting public. None of this legislation was enacted prior to the end of the 112th Congress.

In the 113th Congress, H.R. 735, the Federal Protective Service Improvement and Accountability Act of 2013 has been introduced, which would set staffing levels in the FPS inspector force and create a pilot to expand the use of federal employees in place of contract guards.

Office of Health Affairs[195]

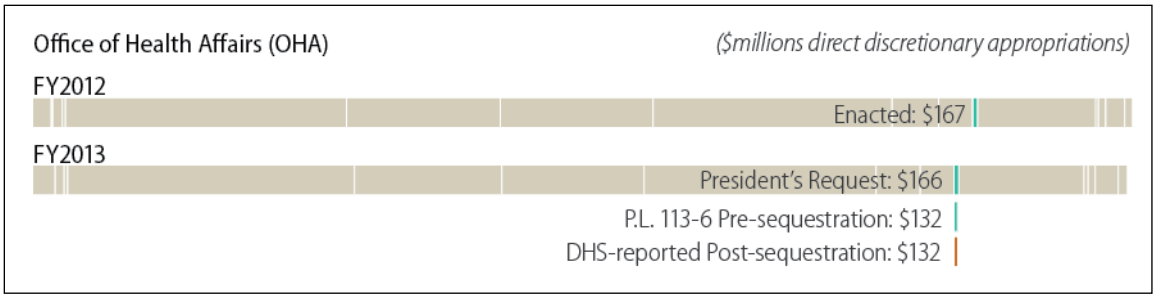
The Office of Health Affairs (OHA) has operational responsibility for several programs, including the BioWatch program, the National Biosurveillance Integration Center (NBIC), and the department's occupational health and safety programs.[196] OHA also coordinates or consults on DHS programs that have a public health or medical component; these include several of the homeland security grant programs, and medical care provided at ICE detention facilities. OHA received $167 million in FY2012 appropriations.

[193] U.S. Congress, Senate Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2013*, 112th Cong., 2nd sess., May 22, 2012, S.Rept. 112-169, p. 103.

[194] For more information about federal building security and role of FPS, see CRS Report R41138, *Federal Building, Courthouse, and Facility Security*, by Lorraine H. Tong and Shawn Reese.

[195] Prepared by Sarah A. Lister, Specialist in Public Health and Epidemiology, Domestic Social Policy Division.

[196] DHS, Office of Health Affairs, http://www.dhs.gov/xabout/structure/editorial_0880.shtm.



FY2013 Request

The Administration requested $166 million for OHA for FY2013, $1 million (0.6%) less than was appropriated for FY2012. The requested funding level would support 101 FTEs, 2 more than in FY2012. The proposed allocation is: $125 million for the BioWatch program; $8 million for NBIC; $1 million for the Chemical Defense Program; $5 million for Planning and Coordination (under which numerous leadership and coordination activities are implemented); and $28 million for Salaries and Expenses.[197] (See **Table 17**.)

House-Passed H.R. 5855

The House-passed bill would have provided $132 million for FY2013, $35 million (21.2%) less than for FY2012, and $34 million (20.7%) less than the President's request.[198] The decrease largely reflected a decrease for the BioWatch program (discussed further below): $29 million below the FY2012 amount, and $40 million below the President's request. (See **Table 17**.)

Senate-Reported S. 3216

The Senate-reported bill would have provided $168 million for FY2013, $1 million (0.5%) more than for FY2012 and $2 million (1.1%) more than the President's request.[199] The Senate committee recommended the amounts requested by the Administration for BioWatch.[200] The committee also recommended small increases for Planning and Coordination and Salaries and Expenses; and $2 million for the Chemical Defense Program, to support additional pilot programs. (See **Table 17**.)

P.L. 113-6 and the DHS Operating Plan for FY2013

After the across-the-board cuts, P.L. 113-6 provides $132 million for OHA, $35 million (21.0%) less than for FY2012, and $34 million (20.5%) less than the President's request. Because of the size of reduction in the OHA budget from FY2012, OHA did not face a further reduction in FY2013 as a result of sequestration.[201] Reductions in total enacted budget authority for FY2013 largely reflect decreased funding for BioWatch, as recommended by the House.

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[197] OHA, *Fiscal Year 2013 Congressional Justification*, p. 4.

[198] H.Rept. 112-492, pp. 110-112.

[199] S.Rept. 112-169, pp. 102-105.

[200] However, the committee recommended withholding from obligation $29 million of the BioWatch amount—a portion of the $40 million intended for Gen-3 deployment, as discussed later in this report—until the Secretary certifies the soundness of the technology to the committee. Ibid, p. 103.

[201] 2 USC 903 outlines a crediting mechanism that reduced the amount of sequestration applied to these activities. This

Table 17 presents the enacted funding amounts for OHA components for FY2012, and the following amounts for FY2013: the Administration's request; the House-passed and Senate-reported amounts; and the enacted amounts under P.L. 113-6, reflecting across-the-board cuts. The "DHS Plan" column provides the department's assessment of post-sequester resources provided by P.L. 113-6 as of April 26, 2013. It does not represent a final funding level as the department is likely to undertake transfers and reprogramming to mitigate the impact of sequestration in some areas.

Table 17. Office of Health Affairs, FY2012-FY2013

(budget authority in millions of dollars)

		FY2013 Appropriations				
Program or Activity	**FY2012 Enacted**	**Request**	**House-passed**	**Senate-reported**	**P.L. 113-6 (presequester)**	**DHS Plan (sequestered)[a]**
BioWatch	114	125	85	125	85	85
National Biosurveillance Integration Center	12	8	13	8	13	13
Chemical Defense	5	1	1	2	2	2
Planning and Coordination	6	5	5	5	5	5
Salaries and Expenses	30	28	28	28	27	27
Total OHA budget authority	**167**	**166**	**132**	**168**	**132**	**132**

Sources: H.Rept. 112-331, H.R. 5855, H.Rept. 112-492, S.Rept. 112-169, CRS analysis of P.L. 113-6, the accompanying Senate explanatory statement, and the DHS FY2013 *Post-Sequestration Operating Plan* dated April 26, 2013.

a. Application of the crediting mechanism outlined in 2 USC 903 eliminated the impact of sequestration for OHA.

Issues for Congress

Consolidation of DHS WMD Defense Programs

In its report on FY2013 funding recommendations for DHS, the House Appropriations Committee noted the separation of the department's activities to monitor threats posed by weapons of mass destruction (WMD), in particular, the separation of the Domestic Nuclear Detection Office (DNDO), responsible for monitoring radiological and nuclear threats, and OHA, responsible for monitoring chemical and biological threats. The Committee directed the Secretary to submit to Congress a consolidation plan to merge DNDO and OHA into an Office of Weapons of Mass Destruction Defense for FY2014, and directed GAO to review the consolidation plan.[202]

Neither the Senate report nor the House explanatory statement carries a parallel directive. However, the Senate explanatory statement reiterates the House Committee's comments about coordination of WMD activities, and calls on the Secretary to submit a comprehensive review of its WMD operations, to include possible performance improvements and cost savings that could

mechanism could be used because sequestration was calculated against the part-year appropriation provided under P.L. 112-175, and the final FY2013 appropriation was below the baseline calculated by OMB.

[202] H.Rept. 112-492, pp. 12-14.

accompany an OHA/DNDO merger.[203] This review is to be submitted to Congress in lieu of the report requested by the House, by September 1, 2013.

BioWatch: Effectiveness and Deployment

The BioWatch program deploys sensors in more than 30 large U.S. cities to detect the possible aerosol release of a bioterrorism pathogen, in order that medications could be distributed before exposed individuals became ill. Operation of BioWatch accounts for the lion's share of OHA's budget. The program has sought for several years to deploy more sophisticated sensors (so-called "Generation-3" or "Gen-3" sensors) that could detect airborne pathogens in a few hours, rather than the day or more that is currently required. However, according to GAO, "BioWatch Gen-3 has a history of technical and management challenges."[204] In particular, "Gen-3's estimated life cycle cost, some $5.8 billion, makes it one of the largest DHS acquisitions. And the question is, whether it justifies that level of investment."[205]

BioWatch performance has attracted the attention of Members of Congress since its inception.[206] Congressional appropriators have at times sought to limit funding for program expansion and/or called for program reviews. The decreased amount provided for FY2013 effectively precludes continued development and deployment of Gen-3 capability for the remainder of the fiscal year.

Federal Emergency Management Agency

The primary mission of the Federal Emergency Management Agency (FEMA) is to reduce the loss of life and property, and protect the nation from all hazards. It is responsible for leading and supporting the nation's preparedness for manmade and natural disasters through a risk-based and comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation.[207]

FEMA executes its mission through a number of activities. It provides incident response, recovery, and mitigation assistance to state and local governments, primarily appropriated through the Disaster Relief Fund (DRF) and the Pre-Disaster Mitigation Fund. It also supports disaster preparedness through a series of homeland security and emergency management grant programs.

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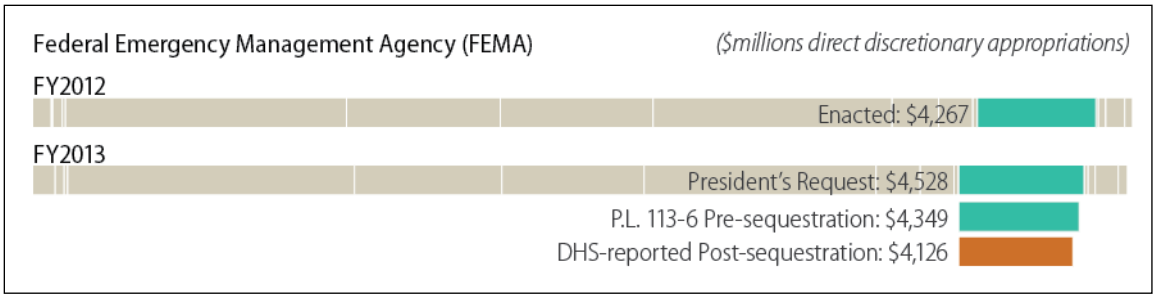
[203] Senate explanatory statement to accompany H.R. 933, Consolidated and Further Continuing Appropriations Act, *Congressional Record*, vol. 159 (March 11, 2013), p. S1547.

[204] GAO, *Biosurveillance: DHS Should Reevaluate Mission Need and Alternatives before Proceeding with BioWatch Generation-3 Acquisition*, GAO-12-810, September 10, 2012, p. 3, http://www.gao.gov/products/GAO-12-810.

[205] Testimony of William Jenkins, Director, Homeland Security and Justice Issues, GAO, before the House Homeland Security Committee, Subcommittee on Emergency Preparedness, Response and Communications, and Subcommittee on Cybersecurity, Infrastructure Protection and Security Technologies, *BioWatch Present and Future: Meeting Mission Needs for Effective Biosurveillance?*, joint hearing, 112th Cong., 2nd sess., September 13, 2012 (hereinafter House HSC BioWatch hearing), CQ transcription. According to GAO, the estimated Gen-3 life cycle costs are based on DHS's June 2011 Life-Cycle Cost Estimate, which estimates costs through FY2028.

[206] For more information, see "BioWatch: Detection of Aerosol Release of Biological Agents," in CRS Report R42985, *Issues in Homeland Security Policy for the 113th Congress*, coordinated by William L. Painter.

[207] For a full description of FEMA's mission and authorities, see 6 U.S.C. §§314-315, which are Sections 503 and 504 of the Homeland Security Act of 2002, as amended. See also, the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288, as amended); Title V of the Homeland Security Act of 2002 (P.L. 107-296, 6 U.S.C. §§311-321, as amended); and the Post-Katrina Emergency Management Reform Act of 2006 (P.L. 109-295, 6 U.S.C. §§700-797).



FY2013 Request

The Administration requested a total discretionary appropriation of $4,528 million in net budget authority for FEMA for FY2013, an increase of $261 million (6.1%) over the enacted FY2012 level of $4,267 million. In addition, the Administration requested an additional $5,481 million for the DRF, paid for by an adjustment to the discretionary budget cap under a mechanism established by the Budget Control Act. This adjustment, which is $919 million below the additional funding provided for the DRF in FY2012, is discussed more in detail below and earlier in the report.

House-Passed H.R. 5855

House-passed H.R. 5855 would have provided a total discretionary appropriation of $4,451 million for FEMA for FY2013, a decrease of $76 million (1.7%) from the President's request and an increase of 185 million (4.3%) from FY2012. This would have included $23 million added to FEMA's budget through floor amendments. The House also included the requested funding for the DRF.

Senate-Reported S. 3216

Senate-reported S. 3216 would have provided a total discretionary appropriation of $4,582 million for FEMA for FY2013, an increase of $55 million (1.2%) from the President's request and an increase of $316 million (7.4%) from FY2012. The Senate Appropriations Committee also included the requested funding for the DRF.

P.L. 113-6 and the DHS Operating Plan for FY2013

After the across-the-board cuts by prior to applying sequestration, P.L. 113-6 provides $4,351 million for FEMA, $84 million (2%) more than for FY2012, and $177 million (4%) less than the President's request. This included $1 million less than requested for the DRF, due to the impacts of the across-the-board cuts. In addition, the bill includes $6,400 (pre-sequestration) for the DRF for the costs of major disaster under the Stafford Act, paid for by the disaster relief cap adjustment under the BCA.

According to information provided to Congress through its FY2013 operating plan, after sequestration, FEMA would receive $4,150 million from the provisions in Title III, plus $6,076 million paid for by the disaster relief cap adjustment under the BCA. This is an assessment made before the impact of transfers or reprogrammings that might ameliorate or exacerbate the impacts of the sequester.

These numbers do not represent the full range of appropriated resources available to FEMA, as the DRF received a significant infusion of capital from P.L. 113-2. However, neither DHS nor the

Administration has released an authoritative statement on the post-sequester funding levels provided by P.L. 113-2.

DHS State and Local Preparedness Grants[208]

State and local governments have primary responsibility for most domestic public safety functions. When facing difficult fiscal conditions, state and local governments may reduce resources allocated to public safety and, consequently, homeland security preparedness, due to increasing pressure to address tight budgetary constraints and fund competing priorities. Since state and local governments fund the largest percentage of public safety expenditures, this may have a significant impact on the national preparedness level. On March 30, 2011, President Obama issued a presidential policy directive that directed the Secretary of DHS to develop and submit to the President a national preparedness goal. Presidential Policy Directive 8 (PPD 8) directed the Secretary to develop a national preparedness goal in coordination with federal, state, local, tribal, and territorial governments:

> The national preparedness goal shall be informed by the risk of specific threats and vulnerabilities – taking into account regional variations – and include concrete, measurable, and prioritized objectives to mitigate that risk. The national preparedness goal shall define the core capabilities necessary to prepare for the specific types of incidents that pose the greatest risk to the security of the Nation.[209]

This presidential policy directive supersedes a previous national preparedness homeland security directive (HSPD-8) issued after 9/11, which initiated the following national preparedness goal:

> Strengthen the preparedness of the United States to prevent and respond to threatened or actual domestic terrorist attacks, major disasters, and other emergencies by requiring a national domestic all-hazards preparedness goal.[210]

On October 7, 2011, The Secretary of DHS released the first National Preparedness Goal (NPG) developed under the provisions of PPD 8. The preparedness goal was a document that identified core capabilities and targets for which measures would be developed using an integrated, layered, and all-of-nation approach.[211] The NPG defined success as:

> A secure and resilient Nation with the capabilities required across the whole community to prevent, protect against, mitigate, respond to, and recover from the threats and hazards that pose the greatest risk.[212]

Prior to 9/11, there were only three federal grant programs available to state and local governments to address homeland security: the State Domestic Preparedness Program administered by the Department of Justice, the Emergency Management Performance Grant (EMPG) administered by the Federal Emergency Management Agency (FEMA), and the Metropolitan Medical Response System (MMRS) administered by the Department of Health and Human Services. Since that time, several additional homeland security grant programs were added to ensure state and local preparedness, including the State Homeland Security Grant Program (SHSGP), Citizen Corps Program (CCP), Urban Area Security Initiative (UASI), Driver's License Security Grants Program (REAL ID), Operation Stonegarden grant program (Stonegarden), Regional Catastrophic Preparedness Grant Program (RCPG), Public

[208] Prepared by Natalie M. Keegan, Analyst in American Federalism and Emergency Management Policy.

[209] Presidential Policy Directive 8, *National Preparedness*(PPD-8), issued on March 30, 2011.

[210] Homeland Security Directive 8, *National Preparedness* (HSPD-8), issued on December 17, 2003.

[211] U.S. Department of Homeland Security, *National Preparedness Goal*, Sept. 2011.

[212] Ibid, p. 1.

Transportation Security Assistance and Rail Security Assistance grant program (Transit Grants), Port Security Grants (Port Security), Over-the-Road Bus Security Assistance (Over-the-Road), Buffer Zone Protection Program (BZPP), Interoperable Emergency Communications Grant Program (IECGP), and Emergency Operations Center Grant Program (EOC).

While state and local governments receive federal assistance for preparedness activities, this federal assistance accounts for only a small percentage of overall state and local spending for public safety. On average, total expenditures for all state and local governments for public safety is $218 billion annually.[213] Public safety expenditures include costs associated with the functions of police protection, fire protection, correction, and protective inspections and regulations.[214] Federal grant programs for state and local preparedness account for less than one percent of state and local government public safety expenditures.[215]

The President requested $1.8 billion in federal grants for state and local government homeland security preparedness for FY2013, $400 million more than was appropriated for FY2012.[216] The requested funding level would include funding to support the establishment of a National Preparedness Grant Program (NPGP), which was proposed as a means to consolidate the activities previously funded under a number of state and local preparedness grant programs. In its report on FY2013 funding recommendations for DHS, the House Appropriations Committee denied a request by the Administration to consolidate several state and local preparedness grant program activities under a National Preparedness Grant Program because it had not been authorized by Congress, lacked sufficient details regarding the implementation of the program, and lacked sufficient stakeholder participation in the development of the proposal.[217] The Senate Appropriations Committee also expressed concern with the proposal to consolidate the state and local preparedness grants because it was unclear how risk assessments would be used and how funding would be allocated.[218] The Senate Committee also noted its concern over the uncertainty surrounding the allocation of funding to individual grant programs.[219]

The House recommended $1.7 billion for State and Local Programs, approximately $300 million more than for FY2012, and $100 million less than the President's request. As mentioned above, the House Appropriations Committee rejected the consolidation proposal, recommending that the grant structure enacted in FY2012 for state and local programs be continued in FY2013. Grant funding would have been distributed at the discretion of the Secretary of Homeland Security under the authorities provided by the State Homeland Security Grant Program, Urban Area

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[213] U.S. Census Bureau, *State and Local Government Finance Summary Report*, April 2011, p. 7.

[214] The definition of state and local public safety expenditures is based on the U.S Census Bureau's definition of public safety for the annual surveys of state and local government finances.

[215] This amount only includes funds provided to state and local programs, which does not include funding provided for the Firefighter Assistance Grants, Emergency Management Performance Grants, and the Radiological Emergency Preparedness Program.

[216] The $1.8 billion amount calculated for the President's request includes $1.5 billion for a consolidated national preparedness grant program, $279 million for management and administration (including activities traditionally funded by the National Exercise Program, Center for Domestic Preparedness, and technical assistance, evaluation, and assessment), and $60 million for a training partnership grant (including activities traditionally funded by the National Domestic Preparedness Consortium, and Continuing Training Grants program). In an equivalent comparison, Congress provided $1.4 billion in FY2013 for these activities, of which $1.1 billion was for state and local programs (of which $50 million was carved out for Operation Stonegarden), and $232 million for training, exercises, and technical assistance.

[217] Ibid.

[218] U.S. Congress, Senate Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2013*, report to accompany S. 3216, 112th Congress, 2d sess., S.Rept. 112-169, (Washington, DC: GPO, 2012), p. 113.

[219] Ibid.

Security Initiative, Metropolitan Medical Response System, Citizen Corps Program, Public Transportation Security Assistance and Railroad Security Assistance, Over-the-Road Bus Security Assistance, Port Security Grants, Driver's License Security Grants Program, Interoperable Emergency Communications Grant Program, Emergency Operations Centers, Buffer Zone Protection Program, and high-risk non-profit organizations described under Section 501(c)(3) of the Internal Revenue Code. Of the $1.7 billion, the House provided $55 million to Operation Stonegarden, $150 million for the highest risk areas, and $232 million for education, training, and exercises.

The Senate Appropriations Committee recommended $1.6 billion for FY2013, $200 million more than appropriated in FY2012, and $200 million less than the President's request. Of the $1.6 billion, the committee recommended $470 million for the State Homeland Security Grant Program, of which $55 million was recommended for Operation Stonegarden; $676 million for Urban Area Security Initiative, of which $13 million was recommended for non-profit security grants; $132 million for Public Transportation Security/Bus Assistance, of which $13 million was recommended for Amtrak; $132 million for Port Security Grants; and $234 million for education, training, and exercises.

After the across-the-board cuts but prior to applying sequestration, P.L. 113-6 provides $1,467 million for state and local programs, a decrease of 20.3% from the requested level and 8.6% above FY2012.

Sequestration further reduced budget authority for FEMA's state and local grants program by roughly an additional $77 million, according to the DHS FY2013 expenditure plan. The plan projected $1,400 million for state and local programs, roughly $50 million more than the FY2012 enacted levels. However, it is important to note that P.L. 113-6 removes a transfer from the grant programs that had paid FEMA's administrative costs, which means the actual funding available for grants as accounted for in the operating plan is $132 million higher in total than in FY2012.

Table 18 outlines the funding levels for FEMA state and local programs. The "DHS Plan" column provides the department's assessment of post-sequester resources provided by P.L. 113-6 as of April 26, 2013. It does not represent a final funding level as the department is likely to undertake transfers and reprogramming to mitigate the impact of sequestration in some areas.

Table 18. State and Local Grant Programs and Training, FY2013-FY2013

(budget authority in millions of dollars)

		FY2013 Appropriations				
Programs	**FY2012 Enacted**	**Budget Request[a]**	**House-passed**	**Senate-reported**	**P.L. 113-6 (presequester)**	**DHS Plan (sequestered)**
State and Local Programs (grants)	1,118[b]	-	1,531	1,411	189[c]	181[c]
State Homeland Security Grant Program	-	-	-	470	300	287
Operation Stonegarden	*50*[d]	-	*55*[d]	*55*[e]	*47*[e]	*43*[e]
Urban Area Security Initiative	-	-	-	677	490	478

Programs	FY2012 Enacted	FY2013 Appropriations				
		Budget Request[a]	House-passed	Senate-reported	P.L. 113-6 (presequester)	DHS Plan (sequestered)
Non-Profit Security Grants (included in UASI)	-	-	-	*13*	*10*	*(not listed separately)*
Public Transportation Security Assistance, Railroad Security Assistance, Over-the-Road Bus Security Assistance	-	-	-	132	88	93
Amtrak Security (included in above security assistance programs)	-	-	-	*13*	*10*	*(not listed separately)*
Port Security	-	-	-	132	98	93
Education, Training, and Exercises	232	-	232	234	235	225
Emergency Management Institute	*16*	-	*16*	*18*	*18*	*17*
Center for Domestic Preparedness	*63*	-	*63*	*65*	*65*	*62*
National Domestic Preparedness Consortium	*93*	-	*93*	*93*	*93*	*88*
National Exercise Program	*34*	-	*34*	*32*	*32*	*30*
Continuing Training	*26*	-	*26*	*26*	*27*	*25*
National Preparedness Grant Program	-	1,541	This proposed reorganization was rejected by both House and Senate.			
Training Partnership Grant	-	60				
Management and Administration		279				

Programs	FY2012 Enacted	FY2013 Appropriations				
		Budget Request[a]	House-passed	Senate-reported	P.L. 113-6 (presequester)	DHS Plan (sequestered)
Total, State and Local Programs	**1,350**	**1,880**	**1,763**	**1,645**	**1,464**	**1,400**

Sources: H.Rept. 112-331, H.R. 5855, H.Rept. 112-492, S.Rept. 112-169, CRS analysis of P.L. 113-6, the accompanying Senate explanatory statement, and the DHS FY2013 Post-Sequestration Operating Plan dated April 26, 2013.

Notes: Amounts may not total due to rounding.

a. The Administration's budget request included a proposal to shift the Emergency Management Performance Grants, Fire Grants, SAFER Act Grants, and a new series of Training Partnership Grants into a category of First Responder Assistance Grants under State and Local Programs. This proposal was rejected by the House and Senate Appropriations Committees, and therefore is not reflected in this table.

b. P.L. 112-74 included $1,118 million for most of the State and Local Programs account (National Level/Training, Exercises, and Technical Assistance programs excepted) without making specific allocations among the programs in the FY2012 request, except for $50 million for Operation Stonegarden.

c. P.L. 113-6 included $188.9 million for allocation to a selection of state and local preparedness grants at the discretion of the DHS Secretary. For some of these programs, Congress may have recommended funding and also provided the program authorities for certain programs to be used as the basis for the DHS Secretary to allocate the $188.9 million at her discretion. Programs with recommended funding and with program authorities identified for possible additional allocations by the DHS Secretary are bolded.

d. Included in State and Local Programs (grants).

e. Included in the State Homeland Security Grant Program.

Assistance to Firefighters Grant Program (AFG)[220]

The Administration's FY2013 budget proposed $670 million for firefighter assistance, including $335 million for AFG and $335 million for SAFER.[221] Under the Administration proposal, firefighter assistance grants would be categorized under First Responder Assistance Programs (FRAP), one of three activities under FEMA's State and Local Programs (SLP) appropriation. Historically, DHS has requested that a percentage of AFG funding (up to 5%) be set aside for management and administration of the grant program. Starting in FY2013, according to the Administration proposal, grant administration would be shifted to the SLP Management and Administration office. Regarding SAFER grants, the Administration requested that legislative language be provided to allow these grants to be used to maintain firefighter staffing level, not just increase them. This language has been carried in appropriations legislation since FY2009.

The House-passed bill would have funded firefighter assistance at $675 million ($337.5 million AFG, $337.5 million SAFER), identical to the FY2012 level. The House-passed bill also would have denied the Administration's request to shift AFG and SAFER into the State and Local Programs account. Unlike the Administration request, the House-passed bill would have designated up to 4.7% of the amount appropriated to firefighter assistance for program administration.

The Senate-reported bill would have proposed $675 million for firefighter assistance, including $337.5 million for AFG and $337.5 million for SAFER. Like the House-passed bill, the Senate

[220] Prepared by Lennard G. Kruger, Specialist in Science and Technology Policy, Resources, Science and Industry Division.

[221] For further information see CRS Report RL32341, *Assistance to Firefighters Program: Distribution of Fire Grant Funding*, by Lennard G. Kruger, and CRS Report RL33375, *Staffing for Adequate Fire and Emergency Response: The SAFER Grant Program*, by Lennard G. Kruger.

Committee would have denied the Administration's request to shift AFG and SAFER into the State and Local Programs account. The Senate-reported bill also would have included the requested SAFER waiver authority language, and the Committee stated its expectation that DHS would take into consideration economic hardship when exercising the waiver authority.

Post-sequestration, P.L. 113-6 funds firefighter assistance at $642 million (AFG and SAFER at $321 million each). P.L. 113-6 provides that administrative costs are to be derived from the FEMA Salaries and Expense account, rather than (as is typically the case) from a 5% carve-out from the firefighter assistance appropriations account. P.L. 113-6 also continues to grant DHS the requested SAFER waiver authority for FY2013.

Disaster Relief Fund[222]

The DRF is the main account used to fund a wide variety of programs, grants, and other forms of emergency and disaster assistance to states, local governments, certain nonprofit entities, and families and individuals affected by disasters.[223] The DRF is funded yearly through regular appropriations; however, the account often is depleted before the end of the fiscal year due to accumulated need for disaster assistance. This is due in part to ongoing recovery efforts from major events such as the Gulf Coast hurricanes of 2005. However, in recent years it has been argued that the reliance on supplemental funding has primarily been due to underfunding the DRF. For example, between 2005 and 2011, the average regular appropriation for the DRF was $1,749 million. Yet, the average monthly expenditures for the DRF were $383 million (which would extrapolate to $4,596 million annually).

The Administration requested $6,088 million for the DRF through the regular appropriations process for FY2013. This was a decrease of $1,011 million (14.2%) from the $7,100 million enacted for FY2012—however, that total included a $6,400 million supplemental. The request can be broken out into two categories. First, $608 million was requested for activities not directly tied to major disasters under the Stafford Act (including activities such as assistance provided to states for emergencies and fires). This is sometimes referred to as the DRF's "base" funding. The second (and significantly larger) category is for disaster relief costs for major disasters under the Stafford Act, for which the administration requested $5,481 million. This structure reflects the impact of the Budget Control Act, which allows these costs incurred by major disasters to be paid through an "allowable adjustment" to the discretionary spending caps, rather than having them count against the discretionary spending allocation for the bill.

The FY2013 request was more than three times the size of the request from FY2012. The Administration requested funding for the DRF based on what FEMA planned to spend on all past declared catastrophic events, plus the 10-year average for non-catastrophic events,[224] and a $500 million reserve to prevent shortfalls. This was adjusted downward by $1,200 million to account for projected recovery of funds not needed for past disasters.[225]

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[222] Prepared by Bruce R. Lindsay, Analyst in American National Government, and William L. Painter Analyst in Emergency Management and Homeland Security Policy, Government and Finance Division.

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

[224] In previous years, a five-year rolling average of non-catastrophic disaster costs was used.

[225] Department of Homeland Security, Fiscal Year 2013 Congressional Justification, Washington DC, 2012, pp. 5-6.

Both the House-passed bill and the Senate-reported bills carried the same level of funding for the DRF as the Administration requested for FY2013. Both pieces of legislation also contained an unrequested transfer of $24 million out of the DRF to the DHS Office of Inspector General to conduct audits and investigations on disaster-related spending.

After the across-the-board cuts, but prior to applying sequestration, P.L. 113-6 funds the DRF at $7,007 million. $24 million of this amount is to be transferred to the DHS Office of Inspector General to carry out audits on public assistance projects that exceed $10 million as well as an examination of FEMA's debris removal decisions with regard to Hurricane Gustav in 2008.[226] Notwithstanding the transfer to the Inspector General, P.L. 113-6 provides roughly $918 million more (15%) than the Administration's initial request of $6,088 for the DRF.

The operating plan for DHS for FY2013 indicates sequestration reduced the $7,007 million by 5% (to $6,653 million).

The DRF, the Budget Control Act (BCA), and Hurricane Sandy

The Budget Control Act (BCA)[227] included a series of provisions that directed the Office of Management and Budget (OMB) to annually calculate an "allowable adjustment" for disaster relief to the BCA's discretionary spending caps. That adjustment, if used, would make additional budget authority available for the federal costs incurred by major disasters declared under the Stafford Act beyond what is allowed in the regular discretionary budget allocation. Without an adjustment to the discretionary budget caps, federal spending over the allocation could trigger a sequestration.

It is important to note that "disaster relief" funding under the BCA and the Disaster Relief Fund are not the same. The BCA defines funding for "disaster relief" as funding for activities carried out pursuant to a major disaster declaration under the Stafford Act. This funding comes not only from FEMA, but from accounts across the federal government. While a portion of funding for the DRF is eligible for the allowable adjustment under the BCA, the DRF is not wholly "disaster relief" by the BCA definition.

When Hurricane Sandy struck the northeastern United States in October 2012, the DRF had access to roughly $7.3 billion, as a result of P.L. 112-175, the six-month continuing resolution that the government was operating under at the time—which carried over the $6,400 in supplemental disaster assistance provided to the DRF in FY2012, and used a portion of the $11,779 million allowable adjustment for disaster relief for FY2013.[228] The anticipated demand on the DRF was high enough, however, that Congress approved $11,485 million in additional pre-sequester resources for the fund through P.L. 113-2, the Disaster Relief Appropriations Act, 2013. If all of these resources were designated as being for a major disaster under the Stafford Act, in an effort to exercise the allowable adjustment for disaster relief for FY 2013, the total would have exceeded the remaining available allowable adjustment—before even accounting for the tens of billions in other additional disaster assistance requested by the Administration. The

[226] FEMA denied reimbursement of roughly $66 billion to the Livingston Parish. According to FEMA, the costs were inflated and the responsible parties failed to obtain the necessary permits. The decision to refuse the reimbursement is currently under dispute. The DHS Inspector General will conduct a review of the situation. See *Landrieu Provision Gives Livingston Path Forward for Gustav Debris Removal Reimbursement*, available at http://www.landrieu.senate.gov/?p=press_release&id=3669.

[227] For in-depth discussion of the Budget Control Act, see CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan.

[228] Department of Homeland Security, Disaster Relief Fund: Monthly Report, November 5, 2012, p. 4.

Administration sought, and Congress provided, emergency funding designations to cover most of the relief that exceeded the allowable adjustment. As a result, FY2013 represented the first time the DRF received all of the funding available under the BCA's allowable adjustment for disaster relief.[229]

Pre-Disaster Mitigation (PDM) Program[230]

The Administration's proposal for the PDM program suggested its eventual elimination.[231] No additional funds were requested and it was suggested that the program duplicated the work of the Hazard Mitigation Grant Program (HMGP) which is Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act and other mitigation programs funded by the National Flood Insurance Program.[232] While the HMGP program and the PDM program fund similar projects, PDM is distinguished from HMGP by uniquely making such awards prior to disaster events.[233] In addition, while programs under NFIP address similar projects, they only apply to flood hazards. PDM and HMGP on the other hand, apply to all types of hazards.

The Administration noted that there was more than $174 million in unobligated balances that would permit the PDM program to continue awarding grants for several years as it was phased out. Neither the House-passed bill nor the Senate-reported bill included legislative language ending the program. However, the small amounts proposed to be appropriated, $14.3 million by the House-passed bill and $35 million by the Senate-reported bill, appeared to signal a concern with the slow pace of awards made by the program and the recognition of the large unobligated balance. In addition to the reduced awards from the $36 million level of FY2012, each chamber would have also rescinded some funding from the unobligated balance, specifically congressionally directed funding that local communities have not used.

According to the DHS operating plan for FY2013, the post-sequester amount for PDM is just under $25 million.[234] Funding at this level presents challenges to the administration of the program. For example, state minimum awards become difficult to fund. Also the reduced award amounts make a full, new round of applications (and assembling peer review panels to judge those applications) and awards impractical. Given these circumstances, FEMA may work from existing, unfunded applications to continue the program funding cycle.

Emergency Food and Shelter (EFS) Program[235]

For several years the Administration has proposed reduced funding for the EFS program. FY2013 continued that practice by again requesting $100 million for the program, a reduction of $20

[229] For a more in-depth analysis of the Disaster Relief Appropriations Act, 2013, see CRS Report R42869, *FY2013 Supplemental Funding for Disaster Relief*, coordinated by William L. Painter and Jared T. Brown.

[230] This section prepared by Francis X. McCarthy, Analyst, Emergency Management Policy, Government and Finance Division.

[231] FY2013 Budget Justification, Department of Homeland Security, Federal Emergency Management Agency, National Pre-Disaster Mitigation Fund, IV Program Justification Changes, p. 6.

[232] For information regarding flood mitigation programs, see CRS Report R40650, *National Flood Insurance Program: Background, Challenges, and Financial Status*, by Rawle O. King.

[233] For a discussion of these programs see CRS Report R40471, *FEMA's Hazard Mitigation Grant Program: Overview and Issues*, by Natalie Keegan, and CRS Report RL34537, *FEMA's Pre-Disaster Mitigation Program: Overview and Issues*, by Francis X. McCarthy and Natalie Keegan.

[234] The exact amount is $24,967,708. U.S. Department of Homeland Security, Fiscal Year 2013 post-Sequestration Operating Plan, April 26, 2013, p. 18.

[235] This section prepared by Francis X. McCarthy, Analyst, Emergency Management Policy, Government and Finance

million from the appropriated level of funding in FY2012.[236] The program has historically received increased funding during times of high unemployment.[237] In FY2012, Congress funded the program at $120 million, $20 million over the requested level. For FY2013, the House has placed the funding level again at $120 million while the Senate has suggested raising the amount to $150 million.

According to the DHS operating plan for FY2013, the post-sequester funding level for FY2013 for the EFS program is just under $114 million.[238] This represents the lowest funding total for the program since FY2000. In addition to reduced funding, there are also some concerns over the program's delayed distribution of funds during FY2012. FEMA and the National Board took nine months to begin distributing the EFS assistance, nearly double the amount of time directed in its authorizing legislation, the McKinney-Vento Homeless Assistance Act.[239]

Title IV: Research and Development, Training, and Services

Title IV of the DHS appropriations bill contains the appropriations for U.S. Citizenship and Immigration Services (USCIS), the Federal Law Enforcement Training Center (FLETC), the Science and Technology directorate (S&T), and the Domestic Nuclear Detection Office. The Administration requested $1,561 million for these accounts in FY2013, a decrease of $229 million below the enacted level. The House-passed bill provides $1,510 million, a decrease of 3.3% from the requested level and 13.4% above FY2012. The Senate-reported bill provides $1,535 million, 1.7% below the request and 15.2% above FY2012.

After the across-the-board cuts but prior to applying sequestration, P.L. 113-6 provides $1,520 million, a decrease of 0.5% from the requested level and 2.2% above FY2012.

Table 19 lists the enacted amounts for the individual components of Title IV for FY2012, the Administration's request for these components for FY2013, the House-passed and Senate-reported appropriations for the same, the enacted level in P.L. 113-6, and the post-sequester level of available resources from P.L. 113-6 reported by DHS.

Table 19. Title IV: Research and Development, Training, and Services, FY2012-FY2013

(budget authority in millions of dollars)

		FY2013 Appropriation				
	FY2012 Enacted	FY2013 Request	FY2013 House-passed	FY2013 Senate-reported	P.L. 113-6 (presequester)	DHS Plan (sequestered)
Citizenship and Immigration Services						

Division.

[236] FY2013 Budget Justification, Department of Homeland Security, Federal Emergency Management Agency, Emergency Food and Shelter, III Current Services Program Discussion by PPA, p. 3.

[237] For additional information on the EFS program see CRS Report RL30442, *Homelessness: Targeted Federal Programs and Recent Legislation*, coordinated by Libby Perl, pp. 9-10.

[238] Ibid.

[239] For additional information on the EFS program, see CRS Report R42766, *The Emergency Food and Shelter National Board Program and Homeless Assistance*, by Francis X. McCarthy.

		FY2013 Appropriation				
	FY2012 Enacted	FY2013 Request	FY2013 House-passed	FY2013 Senate-reported	P.L. 113-6 (presequester)	DHS Plan (sequestered)
Appropriation	**102**	**143**	**112**	**117**	**112**	**109**
Fees, Mandatory Spending, and Trust Funds	2,976	2,862	2,882	2,882	2,882	2,736
Total Budgetary Resources	3,078	3,005	2,994	2,999	2,994	2,846
Federal Law Enforcement Training Center						
Salaries and Expenses	239	229	228	229	228	216
Acquisition, Construction, Improvements and Related Expenses	32	29	27	29	28	28
Appropriation	**271**	**258**	**256**	**258**	**257**	**245**
Fees, Mandatory Spending, and Trust Funds	0	0	0	0	0	0
Total Budgetary Resources	271	258	256	258	**257**	**245**
Science and Technology						
Management and Administration	135	138	130	138	132	127
Research, Development, Acquisition, and Operations	533	693	696	693	703	674
Appropriation	**668**	**831**	**826**	**831**	**834**	**801**
Fees, Mandatory Spending, and Trust Funds	0	0	0	0	0	0
Total Budgetary Resources	668	831	826	831	834	801
Domestic Nuclear Detection Office						
Management and Administration	38	40	38	40	40	38
Research, Development, and Operations	215	237	227	237	227	216
Systems Acquisition	37	51	51	51	51	50
Appropriation	**290**	**328**	**316**	**328**	**318**	**303**
Fees, Mandatory Spending, and Trust Funds	0	0	0	0	0	0

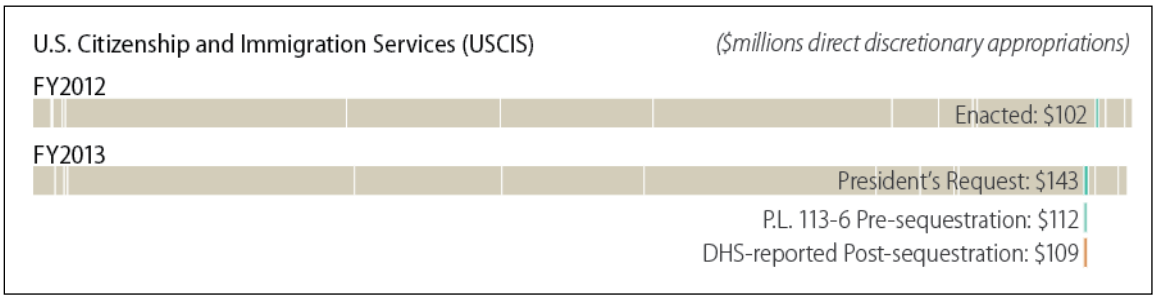
		FY2013 Appropriation				
	FY2012 Enacted	FY2013 Request	FY2013 House-passed	FY2013 Senate-reported	P.L. 113-6 (presequester)	DHS Plan (sequestered)
Total Budgetary Resources	290	328	316	328	318	303
Net Budget Authority: Title IV	**1,332**	**1,561**	**1,510**	**1,535**	**1,520**	**1,457**
Total Budgetary Resources for Title IV Components before Transfers	**4,308**	**4,423**	**4,392**	**4,417**	**4,403**	**4,194**

Sources: H.Rept. 112-331, H.R. 5855, H.Rept. 112-492, S.Rept. 112-169, CRS analysis of P.L. 113-6, the accompanying Senate explanatory statement, and the DHS FY2013 Post-Sequestration Operating Plan dated April 26, 2013.

Notes: Amounts may not total due to rounding.

U.S. Citizenship and Immigration Services[240]

Three major activities dominate the work of the U.S. Citizenship and Immigration Services (USCIS): (1) adjudication of all immigration petitions, including nonimmigrant change of status petitions, family-based petitions, employment-based petitions, work authorizations, and travel documents; (2) adjudication of naturalization petitions for legal permanent residents to become citizens; and (3) consideration of refugee and asylum claims, and related humanitarian and international concerns.



The above graphic only indicates the amount of direct appropriations for USCIS. This does not include fee income, which, while referenced in the comparative statement of budget authority found in the back of the report, is not appropriated by this bill.

USCIS funds the processing and adjudication of immigrant, nonimmigrant, refugee, asylum, and citizenship benefits largely through revenues generated by the Examinations Fee Account.[241] As part of the former Immigration and Naturalization Service (INS), USCIS was directed to

[240] This section was prepared by William Kandel, Analyst in Immigration Policy, Domestic Social Policy Division.

[241] §286 of the Immigration and Nationality Act, 8 U.S.C. §1356.

transform its revenue structure with the creation of the Examinations Fee Account.[242] In the last decade, the agency has received annual direct appropriations that have been directed largely towards specific projects such as reducing petition processing backlogs and the E-verify program.[243] The agency receives most of its revenue from adjudication fees of immigration benefit applications and petitions.[244]

FY2013 Request

Table 20, below, shows the requested USCIS gross budget authority for FY2013 at $3,005 million. This figure includes $143 million from direct appropriations and $2,862 million from fee collections. The requested direct appropriation of $143 million includes $112 million for the E-Verify program and $11 million for the Immigrant Integration Initiative. It also includes $20 million for the Systematic Alien Verification Entitlements (SAVE) Program to assist state, local, and federal agencies to determine individuals' eligibility for public benefits based on their immigration status.

The remaining $2,862 million in gross budget authority in the request was expected to be funded by fee collections. Of this FY2013 amount, $2,391 million would fund USCIS adjudication services, $89 million would fund information and customer services, and $382 million would fund administration expenses.

House-Passed H.R. 5855

The House-passed H.R. 5855 would have proposed USCIS gross budget authority for FY2013 at $3,004 million, comprised of $112 million from direct appropriations and $2,892 million from fee collections. The proposed appropriations would have been $31 million less than the requested amount but $9.5 million above the amount provided in FY2012. The recommended level would not have included funds for the authorization's requested pay increase.

The House Appropriations Committee continued to direct USCIS to use fee revenues for all its costs with the exception of E-Verify for which it recommended funding as requested. The Committee stressed the importance of monitoring USCIS' fee revenues and obligations against its fee collections. The Committee recommended that USCIS allocate $20 million of its user fee revenues for the Systematic Alien Verification for Entitlements (SAVE) program. The Committee also directed USCIS to allocate at least $29 million of fee revenues toward the digital conversion of immigration records. The Committee would not have provided funding for military naturalizations which it contended should be funded by the Department of Defense (DoD). It would have directed USCIS to codify this agreement in a memorandum of understanding with DoD.

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[242] There are two other fee accounts at USCIS, known as the H-1B Nonimmigrant Petitioner Account and the Fraud Prevention and Detection Account. The revenues in these accounts are drawn from separate fees that are statutorily determined (P.L. 106-311 and P.L. 109-13, respectively). USCIS receives 5% of the H-1B Nonimmigrant Petitioner Account revenues and 33% of the Fraud Detection and Prevention Account revenues. U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, *Fiscal Year 2013 Congressional Budget Justifications*.

[243] E-verify is a program that allows employers to electronically confirm that prospective and current employees possess the legal authorization to work in the United States. See CRS Report R40446, *Electronic Employment Eligibility Verification*, by Andorra Bruno.

[244] For more on USCIS fees, see CRS Report RL34040, *U.S. Citizenship and Immigration Services' Immigration Fees and Adjudication Costs: Proposed Adjustments and Historical Context*, by William A. Kandel.

The House Committee expressed concerns about the findings of a 2012 OIG report on USCIS adjudication procedures and fraud detection.[245] The Committee directed USCIS to provide a progress report on its corrective action plan and OIG to brief on its assessment of USCIS actions.

Senate-Reported S. 3216

The Senate-reported S. 3216 would have proposed USCIS gross budget authority for FY2013 at $2,999 million, comprised of $117 million from direct appropriations and $2,882 million from fee collections. The proposed appropriations would have been $26 million less than the requested amount but $14.5 million above the amount provided in FY2012. The Committee recommended no direct appropriations for the SAVE program, and instead directed USCIS to allocate $20 million of its user fee revenues for the program. The Senate Appropriations Committee recommended $112 million for the E-Verify program, as requested.

The Senate Appropriations Committee recommended $5 million for Immigrant Integration grants in direct appropriations and directed that an additional $5 million be made available for these grants via fees. However, the Committee directed that no appropriations be used to operate the Office of Citizenship Services and that its operations continue to be fee-funded.[246] Additionally, the Committee continued to express concern that costs to administer the Immigrant Integration grant program might have exceeded 11% of the grant award total, and therefore directed that no more than 5% of the grant funding level from either appropriated dollars or fees be used to administer the program in FY2013.

P. L. 113-6 and the DHS Operating Plan for FY2013

After the across-the-board cuts directed by P.L. 113-6 but prior to applying sequestration, the Consolidated and Further Continuing Appropriations Act of 2013 (P.L. 113-6) provides $114 million, a decrease of $29 million or 20.3% from the requested level of $143 million but $12 million or 11.8% above the FY2012 enacted level of $102 million.

The DHS FY2013 operating plan indicates sequestration would reduce this to $109 million prior to any transfers and reprogrammings that might mitigate the impact of sequestration in some areas and exacerbate it in others.

Table 20 lists the enacted amounts for USCIS for FY2012, the Administration's request for USCIS for FY2013, the House-passed and Senate-reported appropriations for the same, the pre-sequester level of funding provided through P.L. 113-6 that includes across-the-board cuts enacted as part of that legislation, and the post-sequester level reported by DHS.

[245] Department of Homeland Security, Office of the Inspector General, *The Effects of USCIS Adjudication Procedures and Policies on Fraud Detection by Immigration Services Officers*, OIG-12-24, Washington, DC, January 2012, http://www.oig.dhs.gov/assets/Mgmt/OIG_12-24_Jan12.pdf.

[246] According to USCIS, the mission of the Office of Citizenship is to "engage and support partners to welcome immigrants, promote English language learning and education on the rights and responsibilities of citizenship, and encourage U.S. citizenship."

Table 20. USCIS Budget Account Detail, FY2012-FY2013

(budget authority in millions of dollars)

Program/Project Activity	FY2012 Enacted	FY2013 Appropriations				
		Request	House-passed	Senate-reported	P.L. 113-6 (presequester)	DHS Plan (sequestered)
Total USCIS Funding	**3,078**	**3,005**	**3,004**	**2,999**	**2,997**	**2,846**
Appropriations	**102**	**143**	**112**	**117**	**114**	**109**
E-Verify	102	112	112	112	112	107
Immigrant Integration Initiative [a]	0	11	0	5	3	2
Asylees and Refugees [b]	0	0	0	0	0	0
Military Naturalizations Processing [c]	0	0	0	0	0	0
Systematic Alien Verification for Entitlements (SAVE)	0	20	0	0	0	0
Fee Collections (Mandatory)	**2,976**	**2,862**	**2,892**	**2,882**	**2,882**	**2,737**
Immigration Examination Fee Account	2,924	2,815	2,845	2,835	2,835	2,684
H-1B Visa Account	13	13	13	13	13	12
H-1B/L Fraud Account	39	35	35	35	35	33
Programs to be paid through Fee Collections (Recommended)						
Systematic Alien Verification for Entitlements (SAVE)		0	20	20	0	0
Immigrant Integration Initiative		0	9	5	0[0]	8
Digital conversion of immigrant records (USCIS Transformation)		0	29	0	0	0

Source: H.Rept. 112-331, H.R. 5855, H.Rept. 112-492, S.Rept. 112-169, CRS analysis of P.L. 113-6, the accompanying Senate explanatory statement, and the DHS FY2013 Post-Sequestration Operating Plan dated April 26, 2013.

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

a. The House-passed bill would have directed USCIS to fund $9 million in costs associated with the Immigrant Integration Initiative and asylee and refugee processing from fee revenue.

b. H.Rept. 112-492 directs USCIS to establish a memorandum of understanding with DoD to have the latter fund military naturalizations (p. 126).

c. This table only reflects funding in Title IV of the FY2013 Homeland Security Appropriations Act. Funding for this initiative is included as a general provision in Title V, as explained below.

Issues for Congress

For the FY2013 budget cycle, potential issues for Congress included ongoing concerns about fee-generated funding of the agency, immigrant integration grants, the USCIS Transformation program to convert the immigration benefit application and petition process from a paper-based to a computerized online-based system, E-Verify operability, paper record digitization, and the administration of refugee and humanitarian processing.

Fee-Generated Funding

Because USCIS supports itself primarily through fee revenue, it must accurately monitor its fee revenues and obligations against its fee collections to avoid building backlogs or over-budgeting projects. The House Committee directed USCIS to include the costs of operations, such as asylum and refugee processing, as it assesses the need for future fee adjustments, and to continue to brief the Committee quarterly on fee revenues and obligations.

Immigrant Integration Grants

How immigrant integration grants should be funded continues to be an issue for Congress. While the Administration requested $11 million in appropriations in its FY2013 budget request, the House and Senate Committees both stated that program funding come from the fee revenue. Accordingly, Section 546 of P.L. 113-6 requires that USCIS allocate $7.5 million of Immigration Examinations Fee Account funds in FY2013 for its immigrant integration grants program. However, the bill also allocates $2.5 million in appropriations for such grants. As in the past, the act requires that none of the funds made available to USCIS for such grants be used to provide services to aliens who have not been lawfully admitted for permanent residence.

USCIS Transformation

The House Committee continued to express disappointment with the lack of progress on the USCIS Transformation program that will convert the application and petition process for immigration benefits from a paper-based system to a computerized online-based system. The Committee questioned whether continued investment in the current contract was justified given that the obligated $597 million from FY2006 to January 2012 had delivered little capability to USCIS customers. The Committee directed USCIS to provide regular updates on its efforts to deliver the first application form release and, if not successfully deployed, its decision regarding contract termination and other remediation.

E-Verify

Congress continues to be concerned about operability of the E-Verify program. The House bill extended the authorization of E-Verify for one year, as proposed by the President's budget request. To ensure no work-authorized individual is falsely identified as ineligible to work, the House Committee directed USCIS to create a review process for E-Verify final non-confirmations.

The Senate Committee directed USCIS to report on the cost of expanding E-Verify generally and to brief it on recommendations regarding how the E-Verify system can be most effectively used in the agricultural industry. Implementation challenges commonly encountered in agriculture include non-office-based hiring, limited access to high-speed Internet, prevalence of seasonal employment, and high turnover.

Electronic Access to Immigration Information

The House Committee continued its support for efforts to increase efficiency, reduce expenses, ensure immediate access to information, and reduce the need to retain millions of paper files. The Committee deplored occurrences of the loss of personal documentation through shipping errors or waiting times for paper processing to move cases forward. In this regard, the Committee directed USCIS to continue its efforts to convert immigration records to digital format through the Enterprise Document Management System (EDMS).[247] Similarly, it directed USCIS and CBP to brief Congress on progress toward eliminating the paper version of USCIS Form I–94,[248] a process the agency has begun.

Refugee and Humanitarian Processing

The House Committee expressed concerns about detrimental impacts of inadequately coordinating security and non-security clearance procedures on processing vulnerable individuals in need of resettlement to the United States. The Committee urged DHS to work with other relevant Federal agencies to conduct a review of refugee processing, including security clearances, in order to streamline processing while maintaining security vetting, and to brief the Committee on the results of its review.

The Senate Committee encouraged DHS to use its parole[249] authority under Section 212(d)(5) of the Immigration and Nationality Act to address urgent humanitarian needs, particularly in the interest of family unity and to address medical emergencies, following exceptionally calamitous natural disasters such as the Haitian earthquake on January 2010. The Committee urged the Secretary to allocate sufficient resources for similar appropriate responsiveness to rare and exceptionally deadly and destructive natural disasters in the future.

Federal Law Enforcement Training Center[250]

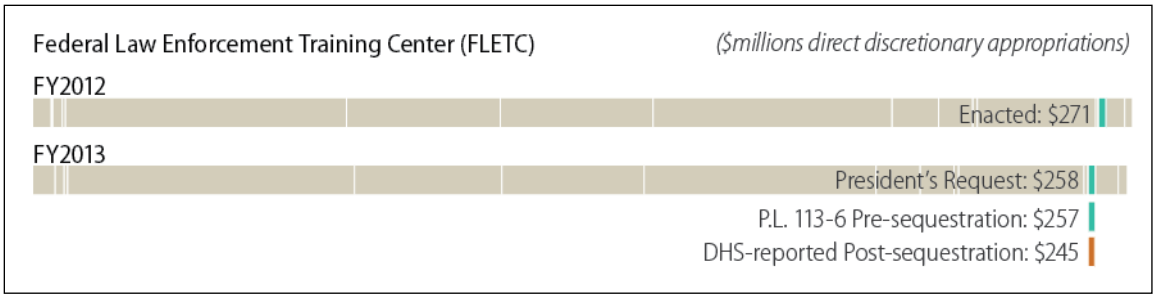
The Federal Law Enforcement Training Center (FLETC) provides basic and advanced law enforcement instruction to 91 federal entities with law enforcement responsibilities. FLETC also provides specialized training to state and local law enforcement entities, campus police forces, law enforcement organizations of Native American tribes and international law enforcement agencies. By training officers in a multi-agency environment, FLETC intends to promote consistency and collaboration across its partner organizations. FLETC administers four training sites throughout the United States, but also uses online training and provides training at other locations when its specialized facilities are not needed. The Center employs approximately 1,100 personnel.

[247] The Enterprise Document Management System initiative is enabling USCIS to transfer millions of paper records to an electronic format and to provide multiple users with simultaneous access to the digitized electronic files.

[248] The Form I-94 Arrival/Departure Record provides nonimmigrants with evidence that they have been lawfully admitted to the United States.

[249] Humanitarian parole is used sparingly to bring someone who is otherwise inadmissible into the United States for a temporary period of time due to a compelling emergency. USCIS may grant parole temporarily to anyone applying for admission into the United States based on urgent humanitarian reasons or if there is a significant public benefit for a period of time that corresponds with the length of the emergency or humanitarian situation. Parolees must depart the United States before their parole expires.

[250] Prepared by William L. Painter, Analyst in Emergency Management and Homeland Security Policy, Government and Finance Division.



FY2013 Request

The Administration proposed a budget of $258 million for FLETC, a reduction of $13 million (4.8%) from FY2012's appropriation of $271 million. The FLETC budget in recent years has been made up of two appropriations—Salaries and Expenses (proposed at $229 million, down $10 million from FY2012), and Acquisition, Construction, Improvements, and Related Expenses (proposed at $29 million, down $3 million from FY2012). Most of the reduction in the Salaries and Expenses appropriation was from efficiencies, along with a $4 million reduction in the budget for basic training. The proposed reduction in Acquisition, Construction, Improvements, and Related Expenses was the result of deferring construction work.

House-Passed H.R. 5855

House-passed H.R. 5855 included $256 million for FLETC, $16 million (5.7%) below last year's level and $2 million (1.0%) below the request. The House-passed bill would have cut less than $1 million (0.2%) from Salaries and Expenses and would have reduced the Acquisition, Construction, Improvements, and Related Expenses appropriation by $2 million (6.8%). The House Appropriations Committee report accompanying the bill cited the Administration's reliance on as-yet-unauthorized fee increases to fund parts of its budget as the reasoning behind the reductions to the acquisition budget.

Senate-Reported S. 3216

Senate-reported S. 3216 would have included $258 million for FLETC, the same level and distribution of funding as requested by the President.

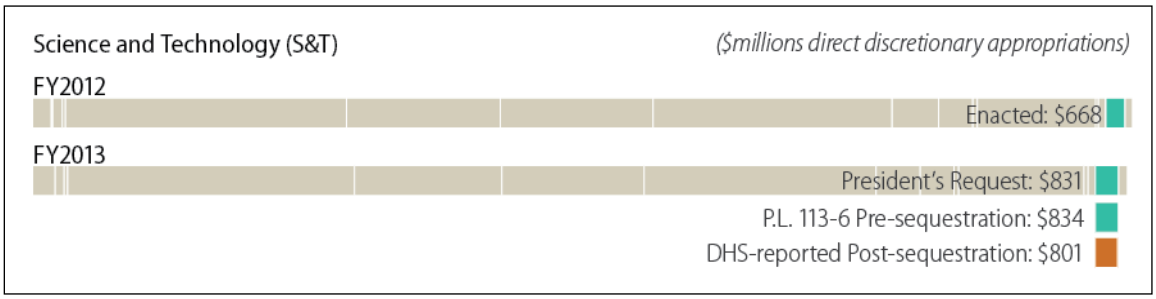
P.L. 113-6 and the DHS Operating Plan for FY2013

After the across-the-board cuts directed by P.L. 113-6 but prior to applying sequestration, the Consolidated and Further Continuing Appropriations Act of 2013 (P.L. 113-6) provides $257 million for FLETC, a decrease of $1 million from the requested level but $14 million (5.2%) below the FY2012 enacted level of $271 million.

The DHS FY2013 operating plan indicates sequestration would reduce this to $245 million prior to any transfers and reprogrammings that might mitigate the impact of sequestration in some areas and exacerbate it in others.

Science and Technology Directorate[251]

The Directorate of Science and Technology (S&T) is the primary DHS organization for research and development (R&D). Headed by the Under Secretary for Science and Technology, it performs R&D in several laboratories of its own and funds R&D performed by the DOE national laboratories, industry, universities, and others. It also conducts testing and other technology-related activities in support of acquisitions by other DHS components. See **Table 21** for a breakdown of S&T Directorate funding for FY2012 and FY2013.



FY2013 Request

The Administration requested $831 million for the S&T Directorate for FY2013. This was 25% more than the FY2012 appropriation of $668 million. The request for Research, Development, and Innovation (RDI) was an increase of $212 million (79.9%) above the FY2012 level. Of the six thrust areas within RDI, the largest requested increase (from $61 million in FY2012 to $144 million in FY2013) was for disaster resilience R&D. A reduction of $50 million in the request for Laboratory Facilities was due in part to the lack of a request for construction funding for the National Bio and Agro-Defense Facility (NBAF), a planned replacement for the Plum Island Animal Disease Center. The $50 million appropriated in FY2012 for the start of NBAF construction was one-third of what the Administration had requested. At the time of the FY2013 request, DHS had announced plans for an assessment of whether and for what purpose a facility like NBAF should be built. The assessment was to consider current threats and was to review cost, safety, and alternatives to the NBAF plan.

House-Passed H.R. 5855

The House-passed bill would have provided $826 million for the S&T Directorate, or $6 million less than the request. Within this total, it included $72 million less than the request for RDI. The House Appropriations Committee directed DHS to determine how to allocate that reduction across the six thrust areas.[252] In Laboratory Facilities, the bill would have provided $75 million more than the request. The committee directed that this increase should be spent on NBAF construction.[253]

[251] Prepared by Daniel Morgan, Specialist in Science and Technology Policy, Resources, Science and Industry Division.

[252] H.Rept. 112-492, pp. 132-133.

[253] Ibid., p. 134.

Senate-Reported S. 3216

The Senate Appropriations Committee recommended S&T funding levels that were the same as the Administration's request. Within RDI, however, it specified separate amounts for each of the six thrust areas, rather than a single total.[254] In recommending no funding for NBAF construction, the committee noted a total cost estimate for the facility of $1.138 billion.[255]

P.L. 113-6 and the DHS Operating Plan for FY2013

After the across-the-board rescissions, but before applying sequestration, P.L. 113-6 provides $834 million for the S&T Directorate. The act includes $28 million less than the request for RDI. The explanatory statement directs DHS to submit a breakout of how it allocates RDI funding by thrust area. For Laboratory Facilities, the act provides $37 million more than the request, to be spent on NBAF construction.

The post-sequester total for the S&T Directorate, as reported by DHS, is $801 million.

Table 21 outlines the funding levels for existing S&T program functions. The "DHS Plan" column provides the department's assessment of post-sequester resources provided by P.L. 113-6 as of April 26, 2013. It does not represent a final funding level as the department is likely to undertake transfers and reprogramming to mitigate the impact of sequestration in some areas.

Table 21. Directorate of Science and Technology, FY2012-FY2013

(budget authority in millions of dollars)

		FY2013 Appropriations				
	FY2012 Enacted	**FY2013 Request**	**FY2013 House-passed**	**FY2013 Senate-reported**	**P.L. 113-6 (presequester)**	**DHS Plan (sequestered)**
Directorate of Science and Technology	**668**	**831**	**826**	**831**	**834**	**801**
Management and Administration	135	138	130	138	132	127
R&D, Acquisition, and Operations	533	693	696	693	703	674
Research, Development, and Innovation	*266*	*478*	*406*	*478*	*450*	*432*
Laboratory Facilities	*177*	*127*	*202*	*127*	*165*	*158*
Acquisition and Operations Support	*54*	*48*	*48*	*48*	*48*	*46*
University Programs	*37*	*40*	*40*	*40*	*40*	*38*

Sources: FY2012 from P.L. 112-74 and H.Rept. 112-331. FY2013 request from DHS FY2013 congressional budget justification, http://www.dhs.gov/xabout/budget/dhs-budget.shtm. FY2013 House from H.R. 5855 as passed by the House and H.Rept. 112-492. FY2013 Senate-reported from S. 3216 as reported and S.Rept. 112-169. FY2013 P.L. 113-6 (presequester) from P.L. 113-6 and explanatory statement, *Congressional Record*, March 11, 2013, p. S1560 (adjusted for the across-the-board rescissions in Sec. 3001 and Sec. 3004, but not for

[254] S.Rept. 112-169, pp. 126-128.

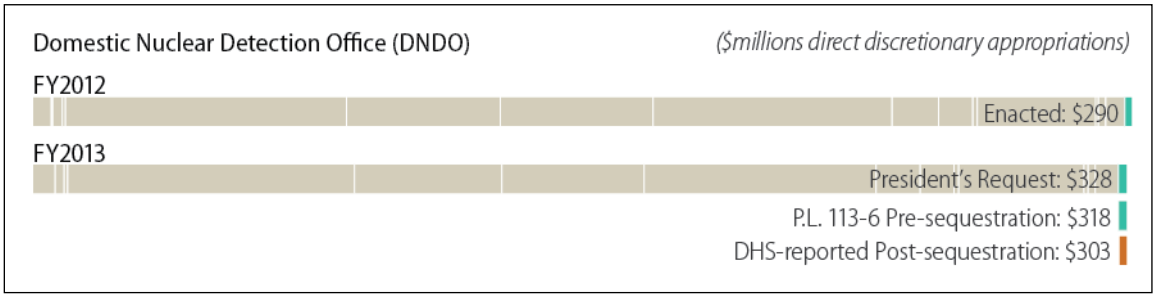
[255] Ibid., p. 129.

subsequent sequestration or reprogramming). FY2013 DHS plan (sequestered) from Department of Homeland Security, Office of the Chief Financial Officer, *U.S. Department of Homeland Security Fiscal Year 2013 Post-Sequestration Operating Plan*, April 26, 2013.

Note: Amounts may not total due to rounding.

Domestic Nuclear Detection Office[256]

The Domestic Nuclear Detection Office (DNDO) is the primary DHS organization for combating the threat of nuclear attack. It is responsible for all DHS nuclear detection research, development, testing, evaluation, acquisition, and operational support. See **Table 22** for a breakdown of DNDO funding for FY2012 through FY2013.



FY2013 Request

The Administration requested $328 million for DNDO for FY2013, an increase of 13% above the FY2012 appropriation of $290 million. The request included an increase of $44 million (109.7%) for Transformational R&D. The Administration no longer proposed transferring this program to S&T as it had in FY2011 and FY2012. The increase for Transformational R&D was partially offset by a reduction of $23 million (44.3%) for Systems Development. In the Systems Acquisition account, the request for human-portable radiation detectors was an increase of $20 million (251.3%), while the request for radiation portal monitors was a decrease to $1 million (80.6%) from $7 million in FY2012.

House-Passed H.R. 5855

The House-passed bill would have provided $316 million for DNDO, or $12 million (3.6%) less than the request. Most of the reduction would have been in the Transformational R&D program. The House-passed bill directed DHS to provide an updated implementation plan for its responsibilities under the domestic portion of the global nuclear detection architecture. The House Appropriations Committee stated in its report accompanying the bill that it intended this plan to be an annual requirement.[257] The committee report also advocated consolidation of DNDO with the DHS Office of Health Affairs (OHA). It stated that consolidation could result in cost savings and "could provide greater awareness and coordination ... by creating a more visible focal point for ... coordination and strategic planning" of efforts against weapons of mass destruction

[256] Prepared by Daniel Morgan, Specialist in Science and Technology Policy, Resources, Science and Industry Division.

[257] H.Rept. 112-492, p. 137.

(WMDs). The committee directed DHS to develop and submit a plan to merge DNDO and OHA into an Office of Weapons of Mass Destruction Defense for FY2014. [258]

Senate-Reported S. 3216

The Senate Appropriations Committee recommended DNDO funding levels that were the same as the Administration's request. Like the House-passed bill, the Senate-reported bill directed DHS to provide an updated implementation plan for its responsibilities under the domestic portion of the global nuclear detection architecture. The accompanying report from the Senate Appropriations Committee lacked the House language about this plan being an annual requirement.[259] The Senate committee report did not address the potential consolidation of DNDO and OHA.

P.L. 113-6 and the DHS Operating Plan for FY2013

After the across-the-board rescissions, but before applying sequestration, P.L. 113-6 provides $318 million for DNDO. The act includes $9 million less than the request for Transformational R&D. Like the House-passed and Senate-reported bills, the act directs DHS to provide an updated implementation plan for its responsibilities under the domestic portion of the global nuclear detection architecture. The explanatory statement does not address whether this should be an annual requirement. Regarding consolidation, the explanatory statement directs DHS to review its WMD programs and evaluate the potential advantages of consolidation, including the option of merging DNDO and OHA, but this review is in lieu of the House mandate for a DNDO-OHA consolidation plan in FY2014.[260]

The post-sequester total appropriation for DNDO, as reported by DHS, is $303 million.

Table 22 outlines the funding levels for existing DNDO program functions. The "DHS Plan" column provides the department's assessment of post-sequester resources provided by P.L. 113-6 as of April 26, 2013. It does not represent a final funding level as the department is likely to undertake transfers and reprogramming to mitigate the impact of sequestration in some areas.

Table 22. Domestic Nuclear Detection Office, FY2012-FY2013

(budget authority in millions of dollars)

		FY2013 Appropriations				
	FY2012 Enacted	FY2013 Request	FY2013 House-passed	FY2013 Senate-reported	P.L. 113-6 (presequester)	DHS Plan (sequestered)
Domestic Nuclear Detection Office	**290**	**328**	**316**	**328**	**318**	**303**
Management and Administration	38	40	38	40	40	38
Research, Development, and Operations	215	237	227	237	227	216
Systems Engineering and Architecture	*30*	*30*	*30*	*30*	*30*	*29*

[258] Ibid., pp. 12-14. Note that this language is in the introductory section of the committee report, separate from the main discussions of OHA and DNDO.

[259] S.Rept. 112-169, p. 131.

[260] *Congressional Record*, March 11, 2013, p. S1547.

		FY2013 Appropriations				
	FY2012 Enacted	FY2013 Request	FY2013 House-passed	FY2013 Senate-reported	P.L. 113-6 (presequester)	DHS Plan (sequestered)
Systems Development	*51*	*28*	*28*	*28*	*28*	*27*
Transformational R&D	*40*	*84*	*75*	*84*	*75*	*71*
Assessments	*38*	*33*	*33*	*33*	*33*	*31*
Operations Support	*33*	*36*	*36*	*36*	*35*	*34*
National Technical Nuclear Forensics Center	*23*	*26*	*26*	*26*	*26*	*24*
Systems Acquisition	37	51	51	51	51	50
Radiation Portal Monitors Program	*7*	*1*	*1*	*1*	*1*	*1*
Securing the Cities	*22*	*22*	*22*	*22*	*22*	*21*
Human Portable Radiation Detection Systems	*8*	*28*	*28*	*28*	*28*	*27*

Sources: FY2012 from P.L. 112-74 and H.Rept. 112-331. FY2013 request from DHS FY2013 congressional budget justification, http://www.dhs.gov/xabout/budget/dhs-budget.shtm. FY2013 House-passed from H.R. 5855 as passed by the House and H.Rept. 112-492. FY2013 Senate-reported from S. 3216 as reported and S.Rept. 112-169. FY2013 P.L. 113-6 (presequester) from P.L. 113-6 and explanatory statement, *Congressional Record*, March 11, 2013, p. S1561 (adjusted for the across-the-board rescissions in Sec. 3001 and Sec. 3004, but not for subsequent sequestration or reprogramming). FY2013 DHS plan (sequestered) from Department of Homeland Security, Office of the Chief Financial Officer, *U.S. Department of Homeland Security Fiscal Year 2013 Post-Sequestration Operating Plan*, April 26, 2013.

Note: Amounts may not total due to rounding.

Title V: General Provisions

Title V of the DHS appropriations bill contains the general provisions for the bill. General provisions typically include rescissions of funding from previous years that partially offset the score of the bill. Occasionally appropriations for special initiatives are found here as well. This section of the report limits its discussion to new general provisions not mentioned elsewhere in the report and those with a direct impact on the budgetary scoring of the bill.

FY2013 Request

The Administration generally requests rescissions in the accounts where they are made, rather than in this title, and requested no direct funding through general provisions for FY2013.

The Administration proposed not carrying forward 35 of the general provisions from the FY2012 DHS Appropriations bill (Division D of P.L. 112-74).

Three of these were rescissions, which are one-time provisions. Eleven other provisions were viewed as one-time provisions, including two appropriations and one provision on fees. Five of the provisions the Administration suggested not carrying forward were permanent changes in the

U.S. Code—therefore not requiring repetition—and one the Administration said was obsolete. The other fifteen were deemed by the Administration to be "restrictive" in one form or another and therefore a hindrance to the ability of the Department to manage its affairs or conduct its mission.

The Administration also proposed adding five new general provisions:

- To add a new provision extending the termination deadline for E-Verify, which is still technically a pilot program, until the end of FY2013.
- To add a new provision allowing FEMA to use earmarked Predisaster Hazard Mitigation grant funds that have not or will not be applied for by their intended recipient.
- To add a new provision to establish an outreach program connected to FEMA's dam safety efforts.
- To add a new provision intended to make certain fees collected under the United States Colombia Trade Promotion Agreement available for pay for customs inspectors and equipment.
- To add a new provision that would allow CBP to enter into reimbursable fee agreements to provide services.

House-Passed H.R. 5855

House-passed H.R. 5855 includes $292 million in rescissions in Title V, all of which reduce the net scoring of the bill. Those are the only provisions in this title that impact the score of the bill.

The House concurred with the Administration's request to drop 22 general provisions, although it did not concur with the Administration's position that 13 other provisions did not merit repetition or were no longer necessary. The House Appropriations Committee added one of the five general provisions requested by the Administration, extending the termination deadline for E-Verify.

The House added 13 general provisions to the bill during floor action. These amendments prohibited the use of funds made available by the legislation to do the following:

- Contravene several key constitutional and legal protections against racial, ethnic or religious profiling;
- Finalize or enforce a proposed ICE rule that would allow undocumented aliens with children eligible for U.S. citizenship to stay in the country while seeking a waiver of a re-entry ban based on their illegal presence in the United States;
- Pay for the position of Public Advocate within ICE;
- Enforce a section of the Energy Independence and Security Act of 2007 (P.L. 110-140) that prohibits the government from contracting for alternative transportation fuels (other than for research) that do not produce less greenhouse gases over their lifecycle than the equivalent conventional petroleum fuel;
- Implement, administer or enforce Section 1301(a) of title 31, United States Code (31 U.S.C. 1301(a)) with respect to the use of CBP funds, thereby allowing CBP to use its Salaries and Expenses appropriation to pay for CBP operations in Puerto Rico in the event of a shortfall in the Puerto Rico Trust Fund;
- Restrict a government official from sending or receiving information regarding an individual's immigration status to or from the Immigration and Naturalization Service, in violation of current law;

- Lease or buy new light duty vehicles except in accordance with the May 24, 2011, Presidential Memorandum on alternative-fuel vehicles;
- Contravene Title 8, Chapter 12 of the U.S. Code, and all laws, conventions, and treaties of the United States relating to the immigration, exclusion, deportation, expulsion, or removal of aliens;
- Buy, operate, or maintain armed unmanned aerial vehicles;
- Contravene Section 236(c) of the Immigration and Nationality Act (8 U.S.C. 1226(c)), which outlines the authority of the Attorney General to detain and release criminal aliens;
- Enforce an executive order requiring federal agencies to implement a system that allows people with limited English-language proficiency to meaningfully access their services without unduly burdening the fundamental mission of the agencies;
- Finalize, implement, administer, or enforce three policy memos issued by the director of ICE that establish priorities for civil immigration enforcement activities; and
- Terminate an existing agreement allowing local officials to act as immigration officers under Section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)).

Senate-Reported S. 3216

Senate-reported S. 3216 includes $192 million in rescissions in Title V, as well as several other provisions that impact the scoring of the bill, including appropriations and changes in fee programs. Taken together, these Senate bill provisions offset its cost by $68 million.

The Senate concurred with the Administration's request to drop 15 general provisions, although it did not agree that 17 other provisions did not merit repetition or were no longer necessary. In addition, three provisions providing funding to DHS initiatives were essentially modified to apply to FY2013, rather than being dropped as proposed by the Administration: Reimbursement of security costs to state and local governments for National Special Security Events ($8 million); migration and consolidation of DHS data centers ($65 million); and DHS headquarters consolidation ($89 million) were all funded in the general provisions of the Senate-reported bill.

Like the House, the Senate Appropriations Committee added one of the five general provisions requested by the Administration, although they chose to add the provision allowing CBP to enter into reimbursable fee agreements for providing CBP services.

P.L. 113-6

P.L. 113-6 includes $307 million in rescissions in Title V, as well as several other provisions that impact the scoring of the bill, including appropriations. In total, these general provisions offset the cost of the act by $202 million, according to CBO.[261]

The enacted bill dropped ten general provisions the Administration sought to remove (not including rescissions), and included a modified form of one of the general provisions sought by the Administration. In addition, as was the case in the Senate bill, several provisions providing funding to DHS initiatives were included Immigrant integration grants ($10 million, of which

[261] OMB and CBO disagree on the scoring of a general provision regarding the Community Disaster Loan Program. OMB scores the provision as costing $271 million and CBO scores the provision at $13 million. All charts and calculations in this report reflect the CBO scoring unless expressly stated otherwise.

$7.5 million is offset by fees); reimbursement of security costs to state and local governments for National Special Security Events ($5 million); migration and consolidation of DHS data centers ($55 million); and DHS headquarters consolidation ($29 million) were all funded in the general provisions of the Senate-reported bill.

Appendix A. Appropriations Terms and Concepts

Budget Authority, Obligations, and Outlays

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

Budget authority is established through appropriations acts or direct spending legislation and determines the amounts that are available for federal agencies to spend. The Antideficiency Act[262] prohibits federal agencies from obligating more funds than the budget authority that was enacted by Congress. Budget authority may also be indefinite, as when Congress enacts language providing "such sums as may be necessary" to complete a project or purpose. Budget authority may be available on a one-year, multi-year, or no-year basis. One-year budget authority is only available for obligation during a specific fiscal year; any unobligated funds at the end of that year are no longer available for spending. Multi-year budget authority specifies a range of time during which funds can be obligated for spending; no-year budget authority is available for obligation for an indefinite period of time.

Obligations are incurred when federal agencies employ personnel, enter into contracts, receive services, and engage in similar transactions in a given fiscal year. Outlays are the funds that are actually spent during the fiscal year.[263] Because multi-year and no-year budget authorities may be obligated over a number of years, outlays do not always match the budget authority enacted in a given year. Additionally, budget authority may be obligated in one fiscal year but spent in a future fiscal year, especially with certain contracts.

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

Discretionary and Mandatory Spending

Gross budget authority, or the total funds available for spending by a federal agency, may be composed of discretionary and mandatory spending. Discretionary spending is not mandated by existing law and is thus appropriated yearly by Congress through appropriations acts. The Budget Enforcement Act of 1990[264] defines discretionary appropriations as budget authority provided in annual appropriation acts and the outlays derived from that authority, but it excludes appropriations for entitlements. Mandatory spending, also known as direct spending, consists of budget authority and resulting outlays provided in laws other than appropriation acts and is typically not appropriated each year. However, some mandatory entitlement programs must be appropriated each year and are included in the appropriations acts. Within DHS, the Coast Guard retirement pay is an example of appropriated mandatory spending.

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[262] U.S.C. §§1341, 1342, 1344, 1511-1517.

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

[264] P.L. 101-508, Title XIII.

Offsetting Collections[265]

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

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

[265] Prepared with assistance from Bill Heniff Jr., Analyst in American National Government.

Appendix B. DHS Appropriations in Context

Federal Government-Wide Homeland Security Funding

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

With regard to DHS funding, it is important to note that DHS funding does not comprise all federal spending on homeland security efforts. In fact, while the largest component of federal spending on homeland security is contained within DHS, the DHS homeland security budget for FY2012 accounted for nearly 52% of total federal funding for homeland security. The Department of Defense comprised the next highest proportion at nearly 26% of all federal spending on homeland security. The Department of Health and Human Services at 6%, the Department of Justice at nearly 6%, and the Department of State at more than 3% rounded out the top five agencies in spending on homeland security. These five agencies collectively accounted for approximately 93% of all federal spending on homeland security. It is also important to note that not all DHS funding is classified as pertaining to homeland security activities. The legacy agencies that became a part of DHS also conduct activities that are not homeland security related. Therefore, while the enacted FY2012 budget bills and existing law included total *homeland security* budget authority of $35.1 billion for DHS, the *total budget authority* for DHS was $52.5 billion.[266] Moreover, the amounts shown in **Table B-1** will not be consistent with total amounts shown elsewhere in the report. This same inconsistency between homeland security budget authority and requested total budget authority is also true for the budgets of the other agencies listed in the table.

Due to the fact that the Administration's budget was released without an estimate for FY2013 that accounted for P.L. 113-6 or the impact of sequestration, no authoritative data for FY2013 is available as of the date of publication.

[266] Includes appropriations, rescissions, fee funded programs, mandatory budget authority, disaster relief, and overseas contingency operations funding.

Table B-1. Federal Homeland Security Funding by Agency, FY2002-FY2012

(budget authority in millions of dollars)

Department	FY2002	FY2003	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011[a]	FY2012
Department of Homeland Security (DHS)	17,381	23,063	22,923	24,549	26,571	29,554	32,486	38,988	33,236	34,901	35,125
Department of Defense (DOD)[b]	16,126	8,442	7,024	17,188	17,510	16,538	18,032	19,483	19,054	16,994	17,358
Department of Health and Human Services (HHS)	1,913	4,144	4,062	4,229	4,352	4,327	4,301	4,677	7,196	4,182	4,147
Department of Justice (DOJ)	2,143	2,349	2,180	2,767	3,026	3,518	3,528	3,715	4,119	3,966	4,055
Department of State (DOS)	477	634	696	824	1,108	1,242	1,719	1,809	2,016	1,949	2,283
Department of Energy (DOE)	1,220	1,408	1,364	1,562	1,702	1,719	1,827	1,939	1,793	1,994	1,923
Department of Agriculture (AG)	553	410	411	596	597	541	575	513	611	580	570
National Science Foundation (NSF)	260	285	340	342	344	385	365	407	390	386	444
Department of Veterans Affairs (VA)	49	154	271	249	298	260	309	310	427	413	396
Department of Commerce	116	112	125	167	181	205	207	271	284	262	290
Other Agencies	3,750	1,445	1,436	1,909	1,429	1,545	1,751	1,960	1,533	1,351	1,467
Total Federal Budget Authority	**43,848**	**42,447**	**40,834**	**54,383**	**57,118**	**59,833**	**65,099**	**72,201**	**70,661**	**66,983**	**67,989**

Sources: CRS analysis of data contained in Section 24. "Homeland Security Funding Analysis" of the Analytical Perspectives volume of the FY2013 President's Budget (for FY2011-FY2013), Section 24. "Homeland Security Funding Analysis" of the Analytical Perspectives volume of the FY2012 President's Budget (for FY2010),Section 3. "Homeland Security Funding Analysis," and Appendix K of the Analytical Perspectives volume of the FY2011 President's Budget (for FY2009); Section 3. "Homeland Security Funding Analysis," and Appendix K of the Analytical Perspectives volume of the FY2010 President's Budget (for FY2008); Section 3. "Homeland Security Funding Analysis," and Appendix K of the Analytical Perspectives volume of the FY2009 President's Budget (for FY2007); Section 3. "Homeland Security Funding Analysis," of Analytical Perspectives volume of the FY2008 President's Budget (for FY2006); Section 3. "Homeland Security Funding Analysis," of Analytical Perspectives volume of the FY2008 President's Budget (for FY2005); Section 3. "Homeland Security Funding Analysis," of Analytical Perspectives volume of the FY2006 President's Budget (for FY2004); Section 3. "Homeland Security Funding Analysis," of Analytical Perspectives volume of the FY2005 President's Budget (for FY2003) and Office of Management and Budget, *2003 Report to Congress on Combating Terrorism*, Sept. 2003, p. 10; CRS analysis of FY2002-2006 re-estimates of DOD homeland security funding provided by OMB, March 17, 2005.

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

a. Amounts for FY2011 are estimates from the FY2012 President's Budget request based upon the annualized levels contained within the continuing resolution in operation at the time of publication. At the time of the publication of the President's Budget request Congress had yet to enact appropriations for FY2011.

b. Amounts for FY2002-FY2004 do not include re-estimates of DOD homeland security funding. For FY2007 DOD changed the manner in which they account for their homeland security activities. This new method has been applied for forward. Re-estimates of FY2002-FY2004 DOD funding using this new method were not available for inclusion.

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