

An hourglass-shaped graphic with a globe in the top bulb and another globe in the bottom bulb. The hourglass is light blue and has a dark blue top and bottom. The globe in the top bulb is dark blue, and the globe in the bottom bulb is light blue. The hourglass is centered on the page.

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Report RL32308

*Appropriations for FY2005: Transportation, Treasury, and  
Independent Agencies*

David Randall Peterman and John Frittelli, Resources, Science, and Industry Division

December 21, 2004

**Abstract.** This report is a guide to one of the 13 regular appropriations bills that Congress considers each year. It summarizes the current legislative status of the bill, its scope, major issues, funding levels, and related legislative activity.

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# CRS Report for Congress

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## **Appropriations for FY2005: Transportation, Treasury, and Independent Agencies**

**Updated December 21, 2004**

David Randall Peterman and John Frittelli  
Coordinators  
Resources, Science, and Industry Division

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Appropriations are one part of a complex federal budget process that includes budget resolutions, appropriations (regular, supplemental, and continuing) bills, rescissions, and budget reconciliation bills. The process begins with the President's budget request and is bound by the rules of the House and Senate, the Congressional Budget and Impoundment Control Act of 1974 (as amended), the Budget Enforcement Act of 1990, and current program authorizations.

This report is a guide to one of the 13 regular appropriations bills that Congress considers each year. It is designed to supplement the information provided by the Subcommittee on Transportation, Treasury and Independent Agencies of the House Committee on Appropriations the Subcommittee on Transportation, Treasury and General Government of the Senate Committee on Appropriations. It summarizes the current legislative status of the bill, its scope, major issues, funding levels, and related legislative activity. The report lists the key CRS staff relevant to the issues covered and related CRS products.

This report is updated as soon as possible after major legislative developments, especially following legislative action in the committees and on the floor of the House and Senate.

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# Appropriations for FY2005: Transportation, Treasury, and Independent Agencies

## Summary

The FY2005 Transportation, Treasury and Independent Agencies appropriations bill was passed as Division H of P.L. 108-447, an omnibus appropriations bill, and was signed into law on December 8, 2004. The bill provides \$90.6 billion for Transportation, Treasury, and Independent Agencies. However, the bill also includes an across-the-board rescission of 0.80%, which will reduce the Transportation, Treasury, and Independent Agencies funding by approximately \$725 million. This will make the final figure \$89.9 billion, slightly less than FY2004's \$90.3 billion but more than the Administration's request for FY2005.

For FY2005, the Administration requested \$88.9 billion for the Departments of Transportation and the Treasury, the Executive Office of the President, and a variety of independent agencies. This was \$1.6 billion (1.7%) less than the amount enacted for FY2004.

On September 22, 2004, the House of Representatives passed H.R. 5025, the Transportation, Treasury, and Independent Agencies Appropriations Act, 2005. The Committee on Appropriations had recommended \$89.9 billion, an increase of \$0.9 billion over the President's request and \$495 million below the FY2004 level. During the House floor debate on the bill, sections of the bill appropriating funds for unauthorized programs were struck. Since at the time of the floor debate the surface transportation programs were not authorized for FY2005, the result was that funding for federal highway, highway safety, and transit programs was eliminated, as was funding for Amtrak and the Airport Improvement Program. In the end, the House cut some \$47 billion in transportation funding from the \$89.9 billion bill reported by the Committee. The appropriation subcommittee chairman assured members that this funding would be restored in conference (for this reason, the tables in this bill do not reflect these cuts). The House bill included several provisions similar to provisions that were included in the FY2004 House bill and that proved controversial. These included setting the FY2005 federal civilian pay increase at the same level the Administration requested for the military (3.5% for FY2005), limits on the outsourcing of government work, and loosening of sanctions on Cuba.

On September 15, 2004 the Senate Committee on Appropriations reported out S. 2806, their FY2005 Transportation, Treasury and General Government Appropriations bill. The Committee recommended \$90.6 billion in funding and included provisions aligning the FY2005 federal civilian pay increase with that of the military and limiting outsourcing of government work. This full Senate never acted on this bill.

The conferees dropped the provisions limiting outsourcing of government work and relaxing restrictions on Cuba. Final passage of the bill was delayed to allow Congress to delete a provision that would have given appropriators' access to individual tax return information. This report will not be updated.

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DSP = Domestic Social Policy  
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# Appropriations for FY2005: Transportation, Treasury, and Independent Agencies

## Most Recent Developments

On December 8, 2004, the President signed H.R. 4818, the Consolidated Appropriations Act, 2005 (P.L. 108-447). Congress approved the conference committee report on H.R. 4818 (H.Rept. 108-792), which incorporated the Transportation, Treasury, and Independent Agencies FY2005 Appropriations bill and eight other appropriations bills, on November 20, 2004, but the bill was held for a correcting resolution (H.Con.Res. 528, passed December 6, 2004) before being sent to the President.

## Overview

### Legislative Status

**Table 1. Status of FY2005 Departments of Transportation and the Treasury and Independent Agencies Appropriations**

Subcommittee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
7-15-04	9-9-04	9-8-04 H.Rept. 108-671	9-22-04 397-12	9-15-04 S.Rept. 108-342	—	11-19-04 H.Rept. 108-792	11-20-04 344-51	11-20-04 65-30	108-447

**Data note.** Prior to FY2004, appropriations for the Department of Transportation and the Department of the Treasury were in separate bills. Beginning with the FY2004 budget, Congress began considering appropriations for the Department of Transportation (DOT) and its related agencies, and the Department of the Treasury, the Postal Service, the Executive Office of the President, and General Government provisions, in a single appropriations bill. This change was a result of the creation of a new federal department, the Department of Homeland Security, and the reorganization of the subcommittee structure of the House and Senate Committees on Appropriations, creating new subcommittees for Homeland Security and combining the former Transportation and Treasury subcommittees into one committee.

As part of the creation of the Department of Homeland Security (DHS), the United States Coast Guard and the Transportation Security Administration were transferred from the Department of Transportation to DHS. Also, the Bureau of Alcohol, Tobacco, and Firearms, the Customs Service, and the United States Secret Service were transferred from the Department of the Treasury to DHS, and the Office of Homeland Security was transferred from the Executive Office of the President to DHS. Budget numbers for years prior to FY2004 have been adjusted in light of these changes to compare pre-FY2004 figures with FY2004 and later figures.

## FY2004 Appropriations

The FY2004 Transportation, Treasury, and Independent Agencies Appropriation was passed as part of the FY2004 Consolidated Appropriations Act (P.L. 108-199). This Act included a 0.59% across-the-board rescission which applied to most accounts in the Transportation and Treasury and General Government appropriations.

## FY2005 Appropriations

The Administration's FY2005 budget request for the Departments of Transportation and the Treasury, the Executive Office of the President, and Related Agencies was \$88.9 billion, \$1.6 billion below the final comparable FY2004-enacted figure. **Table 2** shows the allocation of funding within the overall request.

**Table 2. Transportation/Treasury Appropriations,  
by Title, FY2004-FY2005**  
(millions of dollars)

Title	Final FY2004 Enacted*	FY2005 Request	FY2005 House **	FY2005 Senate Committee	FY2005 Enacted ***
Title I: Department of Transportation	\$58,357	\$58,431	\$58,889	\$59,459	\$58,916
Title II: Department of the Treasury	11,100	11,610	11,248	11,184	11,248
Title III: Executive Office of the President	782	774	727	754	770
Title IV: Independent Agencies	20,332	19,494	20,744	19,552	19,547
Title V: General Provisions	—	(1,627)	(147)	(147)	(125)
<b>Total</b>	<b>90,313</b>	<b>88,905</b>	<b>89,853</b>	<b>90,451</b>	<b>90,576</b>

**Source:** Budget table provided by the House Committee on Appropriations. "Total" is from "Net grand total budgetary resources" line in budget table and reflects scorekeeping adjustments. Totals may not add due to rounding and scorekeeping adjustments.

**Note:** In the FY2004 bill the House put the Postal Service in a separate title; in FY2005, the House is following the Senate practice of putting the Postal Service into the "Independent Agencies" Title.

\*The FY2004 Omnibus appropriations bill contained an across-the-board rescission of 0.59%; that rescission is reflected in these figures.

\*\*The House cut approximately \$47 billion from Title I (Transportation) funding during floor debate. Since the subcommittee chair assured members that the funding would be restored in conference, that cut is not reflected here.

\*\*\*The FY2005 Omnibus appropriations bill contains an across-the-board rescission of 0.80%; that rescission is not reflected in these figures.

The Administration submitted its FY2005 budget request to Congress on February 2, 2004, two weeks after Congress completed the FY2004 appropriation process by passing an omnibus appropriations bill (P.L. 108-447). The House Committee on Appropriations marked up H.R. 5025, the FY2005 Transportation, Treasury, and Independent Agencies appropriations bill, on July 23, 2004, but the bill was not officially reported out by the Committee until September 9, 2004 (H.Rept. 108-671). The Committee recommended \$89.9 billion. The House of Representatives passed H.R. 5025 on September 22, 2004. During floor debate, the House cut some \$47 billion in transportation funding from the \$89.9 billion bill, as points of order were raised against appropriations to programs lacking authorizing legislation. Since, at that point, surface transportation programs had no authorizing legislation for FY2005, virtually all appropriations for highway and transit programs were eliminated; funding for Airport Improvement Program grants was eliminated as well. However, the Appropriations subcommittee chair assured members the funding would be restored in conference.

The Senate Committee on Appropriations reported out S. 2806 (S.Rept. 108-342), their FY2005 Transportation, Treasury and General Government Appropriations bill, on September 15, 2004. The Committee recommended \$90.5 billion, \$1.6 billion more than the Administration request. This bill was never taken up by the full Senate.

Fiscal Year 2005 began with the FY2005 transportation-treasury appropriations bill, and most of the other annual appropriations bills for FY2005, unfinished. Congress passed a series of continuing resolutions to fund the government as negotiations on the appropriations bills continued. Appropriators ultimately combined 9 of the bills into an omnibus (H.R. 4818). On November 20, 2004, the House and Senate passed the conference report for H.R. 4818 (H.Rept. 108-792), one day after its completion. However, controversy arose over a provision inserted into Division H of the bill, the FY2005 Transportation, Treasury, and Independent Agencies Appropriations Act, during conference. The provision, intended to aid oversight over the Internal Revenue Service, would have given appropriators and their staff access to the tax returns of individuals and corporations, while shielding them from any penalties for disclosing information from those returns. The Senate objected to the provision, a resolution was drafted ordering the clerk to remove the provision, and the resolution was approved on December 6, 2004. The bill was then sent to the President, and was signed into law on December 8, 2004. The bill provides \$90.6 billion for the Departments of Transportation and the Treasury, and the independent agencies included in Division H, minus a 0.80% across-the-board rescission which applies to the entire omnibus. Official numbers reflecting the rescission are not available, so the numbers in this report do not reflect the rescission, but unofficially the rescission will reduce the Transportation-Treasury appropriation to \$89.9 billion, approximately \$460 million below the amount provided for FY2004 but approximately \$950 million above the Administration request for FY2005.

## Major Funding Trends

**Table 3** shows funding trends for Transportation/Treasury Appropriations from FY1999 through FY2004.

**Table 3: Funding Trends for Transportation/Treasury Appropriations, FY1999-FY2005**  
(billions of current dollars)

Department	FY1999	FY2000	FY2001 <sup>d</sup>	FY2002	FY2003 <sup>e</sup>	FY2004 <sup>f</sup>	FY2005 <sup>g</sup>
Title I: Transportation <sup>a</sup>	\$43.9	\$46.2	\$51.9	\$57.4	\$55.7	\$58.4	\$58.9
Title II: Treasury <sup>b</sup>	9.0	9.0	9.9	10.5	10.8	11.1	11.2
Title III: Executive Office of the President	0.7	0.7	0.7	0.8	0.8	0.8	0.8
Title IV: Independent Agencies <sup>c</sup>	14.7	15.1	15.9	16.9	19.3	20.3	19.5

**Source:** United States House of Representatives, Committee on Appropriations, Comparative Statement of Budget Authority tables from fiscal years 1999 through 2004.

- a. Figures for Department of Transportation appropriations for FY1999-FY2003 have been adjusted for comparison with FY2004 figures by subtracting the United States Coast Guard, the Transportation Security Administration, the National Transportation Safety Board, and the Architectural and Transportation Barriers Compliance Board, and by adding the Maritime Administration.
- b. Figures for Department of the Treasury appropriations for FY1999-FY2003 have been adjusted for comparison with FY2004 figures by subtracting the Bureau of Alcohol, Tobacco, and Firearms; the Customs Service; the United States Secret Service; and the Law Enforcement Training Center.
- c. Figures for Related Agencies appropriations for FY1999-FY2003 have been adjusted by adding the National Transportation Safety Board, the Architectural and Transportation Barriers Compliance Board, and the Postal Service.
- d. FY2001 figures reflect 0.22% across-the-board rescission.
- e. FY2003 figures reflect 0.65% across-the-board rescission.
- f. FY2004 figures reflect 0.59% across-the-board rescission.
- g. FY2005 figures do not reflect 0.80% across-the-board rescission.

# Title I: Transportation Appropriations

## Overview

The Administration's FY2005 budget proposed a DOT budget of \$58.4 billion — similar to FY2004's enacted level of \$58.4 billion (see **Table 4**).<sup>1</sup> The budget request conforms to the basic outline of the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21; P.L. 105-178) which authorizes spending on highways and transit, and which the 108<sup>th</sup> Congress is in the process of reauthorizing. (See **Appendix 2** for more information on this authorizing act.) However, the request did propose a few changes to the highway and transit funding structure, in line with the Administration's reauthorization proposal; see the sections on the Federal Highway Administration and Federal Transit Administration for details.

The House Committee on Appropriations recommended \$58.9 billion for DOT for FY2005, \$559 million above FY2004 and \$457 million above the Administration request. The major change from the Administration request was an additional \$900 million for federal highways and an additional \$52 million for the Essential Air Service program, as well as a provision blocking implementation of a pilot program that would require communities to provide a local match for Essential Air Service funds.

During floor debate, appropriators struck funding for transportation programs that were not authorized for FY2005. This included the federal highway program, federal highway safety programs, the federal transit program, and Amtrak. In addition, the Airport Improvement Program was struck, as was Essential Air Service. These cuts totaled approximately \$47 billion of the \$58.9 billion recommended for transportation by the Committee on Appropriations. The transportation appropriation subcommittee chair assured members that the cuts would be restored in conference.<sup>2</sup>

The Senate Committee on Appropriations recommended \$59.5 billion for DOT for FY2005, \$1.2 billion more than the Administration request. The major changes from the Administration request were an additional \$890 million for federal highways, an additional \$492 million for transit, and an additional \$317 million for Amtrak. The bill was never taken up by the full Senate.

House and Senate conferees agreed on \$58.9 billion for DOT for FY2005, \$559 million above FY2004 and \$485 million above the Administration request (though after the 0.80% rescission is applied, the final FY2005 figure will be reduced by

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<sup>1</sup> This report relies on figures from tables provided by the House and Senate Committees on Appropriations. Because of differing treatment of offsets, rescissions, and the structure of appropriations bills, the totals will, at times, vary from those provided by the Administration. The FY2004 and later total budget numbers for DOT are not directly comparable to those of previous years due to the transfer of the Coast Guard and Transportation Security Administration to the Department of Homeland Security during FY2003, as well as other changes.

<sup>2</sup> Honorable Ernest J. Istook, Jr., *Congressional Record*, vol. 150, no. 109 (daily ed., September 14, 2004), H7127.

around \$470 million). The major changes from the Administration request were an additional \$442 million for transit, an additional \$316 million for highways, an additional \$317 million for Amtrak, and a \$322 million cut in Federal Aviation Administration funding for air safety inspectors and air traffic controllers.

**Table 4. Title I: Department of Transportation Appropriations**  
(in millions of dollars — totals may not add)

Department or Agency (Selected Accounts)	FY2004 Enacted <sup>a</sup>	FY2005 Request	FY2005 House*	FY2005 Senate Committee	FY2005 Enacted. <sup>b</sup>
Office of the Secretary of Transportation	\$165	\$336	\$164	\$166	\$240
<i>Essential Air Service<sup>c</sup></i>	52	50	52	52	52
Federal Aviation Administration (FAA)	13,850	13,966	14,021	13,548	13,631
<i>Operations (trust fund &amp; general fund)</i>	7,486	7,849	7,726	7,784	7,775
<i>Facilities &amp; Equipment (F&amp;E) (trust fund)</i>	2,863	2,500	2,500	2,450	2,540
<i>Grant-in-aid Airports (AIP) (trust fund) (limit. on oblig.)</i>	3,382	3,500	3,728	3,235	3,235
<i>Research, Engineering &amp; Development (trust fund)</i>	119	117	117	129	131
Federal Highway Administration (FHA)	34,545	34,178	35,090	35,435	34,861
<i>(Limitation on Obligations)</i>	33,643	33,643	34,641	34,900	34,641
<i>(Exempt Obligations)</i>	931	835	835	835	835
<i>Additional funds (trust fund)</i>	—	—	—	—	—
<i>Additional funds (general fund)</i>	177	—	—	100	855
Federal Motor Carrier Safety Administration (FMCSA)	364	455	438	450	448
National Highway Traffic Safety Administration (NHTSA) <sup>d</sup>	448	689	448	453	458
Federal Railroad Administration	1,447	1,088	1,082	1,437	1,443
<i>Amtrak<sup>d</sup></i>	1,218	900	900	1,217	1,217
Federal Transit Administration (FRA)	7,266	7,266	7,249	7,758	7,708
<i>Formula Grants (general fund)</i>	763	—	768	513	504
<i>Formula Grants (trust fund)</i>	3,053	5,623	3,271	3,494	3,528
<i>Capital Investment Grants. (general fund)</i>	624	1,234	343	437	417
<i>Capital Investment Grants (trust fund)</i>	2,495	329	2,510	2,977	2,921
St. Lawrence Seaway Development Corporation	14	16	16	16	16
Maritime Administration (MARAD)	221	234	227	384	308
Research and Special Programs Administration (RSPA) <sup>e</sup>	112	123	115	120	117
Office of Inspector General	56	59	58	59	59
Surface Transportation Board	18	19	20	20	20
<b>Total, Department of Transportation<sup>f</sup></b>	<b>58,357</b>	<b>58,431</b>	<b>58,889</b>	<b>59,459</b>	<b>58,916</b>

**Note:** Figures are from a budget authority table provided by the House Committee on Appropriations, except Senate figures are from the budget authority table in S.Rept. 108-342. Because of differing treatment of offsets, the totals will not always match the Administration's totals. The figures within this table may differ slightly from those in the text due to supplemental appropriations, rescissions, and other funding actions. Columns may not add due to rounding or exclusion of smaller program line-items.

\*Because the transportation appropriations subcommittee chairman assured Members that the cuts made to transportation programs on the floor would be restored in conference, this table shows the figures recommended by the Committee on Appropriations.

- a. These figures reflect the 0.59% across-the-board rescission included in P.L. 108-199.
- b. These figures do not reflect the 0.80% across-the-board rescission in P.L. 108-447.
- c. These amounts are in addition to the \$50 million annual authorization for the Essential Air Service program; thus, the total FY2004 and FY2005 funding would be \$102 million (\$50 million + \$52 million).
- d. In addition to Amtrak's FY2004 appropriation, Congress postponed Amtrak's repayment of a \$100 million loan from the DOT. For FY2005, Congress required Amtrak to repay 20% of the loan during FY2005.
- e. The figures do not reflect \$14 million in permanent appropriations. Therefore, the total resources for RSPA for FY2004 may be seen as \$126 million and for FY2005 \$131 million.
- f. Rescissions of unobligated previous years' contract authority have been subtracted from this total. Because rescissions of prior years' contract authority have no impact on the budgetary resources available for the current fiscal year, the total resources available could be seen as \$59.0 billion for FY2004 enacted.

## Federal Aviation Administration (FAA)

[<http://www.faa.gov/>]

The Conference Report for FY2005 provides the FAA with \$13.83 billion. This is slightly less than the Bush Administration request for FY2005 which was \$13.96 billion. The conference version of the appropriations bill is very close to the FY2004 level of funding of \$13.88 billion. The proposal is essentially devoid of major new initiatives, but contains some program adjustments and shifts a significant amount of funding, \$393 million, from the Facilities and Equipment (F&E) program to the Operations and Maintenance (O&M) program.

The House proposal for total FAA funding was \$14.3 billion, not including a rescission of \$758 million of prior year funds. Depending upon how this rescission is treated, the House number was slightly above, or slightly below, the Administration request. The bill provided for a General Fund contribution to O&M programs of \$1.7 billion, which was slightly below the Administration's request for this source of funding but was well below the FY2004 level. During floor debate the General Fund contribution level was amended to a level of approximately \$2.7 billion and the trust fund contribution was reduced accordingly.

The Senate Committee on Appropriations proposed an overall FAA funding level of \$13.9 billion, which is roughly the same level as the Administration request (the bill included a rescission of \$265 million). The bill proposed no major programmatic changes or initiatives. The bill accepted the Administration's recommendation to reduce F&E funding and increase O&M funding accordingly. The General Fund contribution to O&M was set at slightly more than \$2.5 billion.

The vast majority of FAA funding is provided from the Airport and Airway Trust Fund. Only O&M funding uses a mix of trust fund and Treasury general fund monies. In FY2002 a Treasury general fund contribution of \$1.1 billion was provided for O&M funding. While the general fund contribution for FY2002 was on the low side historically, the FY2003 amount returned to a higher contribution level of \$3.4 billion. The FY2004 Act raised the general fund contribution to \$4.5 billion.

The FY2005 bill, however, reduces the general fund contribution to \$2.8 billion which is more in line with the historical contribution level. Historically, this funding split has been an important part of the annual FAA budget debate. The rationale behind the general fund contribution has been that the public at large realizes some benefit from aviation whether it uses the system or not.<sup>3</sup>

**Operations and Maintenance (O&M).** For FY2005, the Administration proposed \$7.8 billion in total spending. This compares with a spending level of \$7.5 billion in the FY2004 Act. The majority of funding in this category is for the salaries of FAA personnel engaged in air traffic control, certification, and safety-related activities. Much of the increased funding called for in the FY2005 request is for increased air traffic control system costs and safety-related activities. The House bill included \$7.7 billion for this function, while the Senate bill contained almost \$7.8 billion. The Conference bill at \$7.71 billion is more in line with the House bill.

One issue getting attention in this year's appropriations bills is the question of hiring additional air traffic controllers. There is concern that many of the current controllers, who were hired after the air traffic controllers strike of 1981, are now rapidly approaching retirement age. Controller union representatives contend that the FAA is not taking sufficient action to mitigate against potential future staff shortages. The House bill tries to remedy this situation by providing an additional \$9 million to hire and train new controllers, and an additional \$4 million to hire and train new controller supervisors. The Senate bill also addresses this issue and provides an additional \$10 million to hire and train new controllers. The Conference report includes provisions that accommodate new hiring and training, especially for supervisors.

**Facilities and Equipment (F&E).** The Administration request for F&E was \$2.5 billion, \$393 million below the FY2004 enacted figure. F&E funding is used primarily for capital investment in air traffic control and safety. The Bush Administration request would provide less for some safety and capacity technology and hardware replacement initiatives than in FY2004. This is potentially the most controversial aspect of the Administration's FAA proposal. Both the House and Senate bills, however, adopted the Administration's requested level of \$2.5 billion and the Conference Report does the same.

**Research, Engineering, and Development (RE&D).** Under the Administration proposal this program would have been subject to a small cut, to \$117 million from the \$119.4 million in the FY2004 Act. Most RE&D activity is focused on safety/air traffic control activities. No significant new initiatives were proposed in the Bush Administration FAA budget. The House bill accepts the Administration's requested level, but makes some changes in the research projects to be carried out during FY2005. The Senate bill also makes some project changes

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<sup>3</sup> General fund appropriations have varied substantially, both in dollar terms and as a percentage of FAA appropriations as a whole, from year to year. Over the last 12 years the share has ranged from 0% to 47%. See table 1 in CRS Report RS20177, *Airport and Airway Trust Fund Issues in the 106<sup>th</sup> Congress*, by John W. Fischer.



and increases overall funding for RE&D to \$129.4 million. The Conference bill at \$129.9 million is slightly more generous than any of the bills discussed above.

**Essential Air Service (EAS).** The EAS program is operated through the Office of the Secretary of Transportation (OST), and receives its funding from designated user fees collected from overflights of United States territory by foreign aircraft. EAS has had an annual authorized funding level of \$50 million for the last several years. The overflight funding mechanism, however, has never provided this much annual funding, so additional funding has been provided from other sources. The EAS program continues to enjoy significant support in Congress.

The FY2004 Act provided \$102 million for EAS, \$50 million from its regular authorization and \$52 million in additional funds from the aviation trust fund. The act does not, however, rely on the overflight fee as its principal funding mechanism. During the FY2004 debate Congress rejected the Bush Administration's calls to reduce the size of the EAS program by half and require a local contribution at each airport receiving EAS service.

In its FY2005 request, the Administration was once again proposing that the size of the EAS program be reduced, capping the program at the \$50 million level. The Administration was also proposing that there be a local contribution.

In its bill, the House Committee on Appropriations rejected the Administration's proposal. Instead, it provided \$101.7 million for FY2005. Of this amount, \$51.7 million was made available from the airport and airway trust fund, with \$14 million to come from prior year carry over funds, and the remaining \$36 million to come from other funds available to the FAA. This is essentially the same level of funding as that provided in FY2004. The House bill also includes a provision that prohibits implementation of the local participation program (Title V, Section 525). During floor consideration the \$51.7 million to be made available from the trust fund was removed on a point of order. Committee leadership expected that these funds would be restored in Conference.

The Senate Committee on Appropriations also rejected the Administration's funding request. The Committee allowed \$102 million in total EAS spending for FY2005. Of this total \$52 million was a direct appropriation and \$50 million was from overflight fees. The Committee did not specifically reject the local participation program, rather it chose not to allow for its funding. The Conference bill accepts the Senate funding arrangement and precludes the Administration from pursuing the local match provision.

**Grants-in-Aid for Airports.** The Airport Improvement Program (AIP) provides grants for airport development and planning. The Bush Administration FY2005 budget proposal requested \$3.5 billion for AIP, roughly \$100 million more than the FY2004 enacted level. The proposal would continue the prohibition of the use of AIP grants to replace baggage conveyor systems, reconfiguration of terminal baggage area or other airport improvements to accommodate bulk explosive detection systems (EDS).

The FY2005 Consolidated Appropriations Act (P.L. 108-447) provides an obligation limitation of \$3.5 billion for AIP (the 0.80% across-the-board rescission would reduce this to roughly \$3.47 billion). The rescission makes this total slightly less than the President's request and roughly \$90 million above the FY2004 enacted level. The Act rescinds \$265 million of F&E contract authority from FY2004, which would have been transferred to AIP. This rescission, however, has no programmatic impact on the FY2005 grants-in-aid for airports program. Like the House and Senate bills, the Act provides \$68.8 million for administration and continues the prohibition on the use of AIP funds for airport improvements made to accommodate the installation of EDS equipment, as well as setting aside \$20 million for the Small Community Air Service Pilot program. The conference report names 140 airports and directs FAA to provide not less than the listed funding level for projects at these airports. The conferees also agreed that state AIP apportionment funds to small airports could be used as discretionary funds for the purpose of implementing earmarks.

## Federal Highway Administration (FHWA)

[<http://www.fhwa.dot.gov>]

The FHWA budget provides funding for the Federal-Aid Highway Program (FAHP), which is the umbrella term for nearly all the highway programs of the agency.

There are several sets of highway programs within FHWA. Most of the funding is reserved for the major federal-aid highway programs, which can be thought of as the core programs. These programs are: National Highway System (NHS), Interstate Maintenance (IM), Surface Transportation Program (STP), Bridge Replacement and Rehabilitation (BRR), and Congestion Mitigation and Air Quality Improvement (CMAQ). All of these programs are subject to apportionment on an annual basis by formula and are not subject to program-by-program appropriation.

There is a second category of highway funding. This so called "exempt" category consists mostly of two elements: an additional annual authorization of minimum guarantee funding (\$639 million per fiscal year) and emergency relief (\$100 million per fiscal year). These funds are not subject to the annual limitation on obligations.

There is a further set of programs, known as the "allocated" programs (also referred to as discretionary programs). These programs are under the direct control of FHWA or other governmental entities. These programs include the Federal Lands Highway Program, High Priority Projects (former demonstration project category), Appalachian Development Highway System roads, the National Corridor Planning and Border Infrastructure Program, and several other small programs. In recent years, nearly all discretionary program funding has been earmarked by Congress.

**The Administration Request.** TEA-21 had not yet been reauthorized when the President's budget was released; the President's FY2005 budget assumed that the FY2005 authorization would conform to the President's surface transportation reauthorization recommendations. However, because, when the FY2005

Consolidated Appropriations Act was enacted, surface transportation programs had not been reauthorized, the Consolidated Act retained the TEA21 program structure.

For FY2005, the President requested \$34.18 billion for FHWA. This represented a decrease of \$367 million from the FY2004 enacted appropriation of \$34.55 billion.<sup>4</sup> The proposed obligation limitation, which supports most of the FAHP, was set at \$33.64 billion, \$200 million less than the \$33.84 billion enacted for FY2004. Funding for exempt programs (emergency relief and a portion of minimum guarantee funding) was set at \$835 million, down \$96 million from FY2004's \$931 million.

The FY2005 Consolidated Appropriations Act provides \$34.86 billion for FHWA (prior to the 0.80% rescission). This is \$316 million above the FY2004 enacted level and \$683 million above the Bush Administration proposal. The obligation limitation is set at \$34.64 billion (prior to the 0.80% rescission). This is roughly \$1 billion above the FY2004 enacted obligation limitation. Exempt obligations are set at \$835 million, the same as the budget proposal and \$96 million below the FY2004 enacted level. An additional \$80 million is provided for the Appalachian Development Highway System (ADHS). The Act also provides an additional \$741 million for the Emergency Relief program (to help cover the program's backlog of requests and help fund hurricane damage incurred in 2004). The Act rescinds \$1.35 billion in unobligated previous year contract authority from the core formula programs and \$100 million from unobligated Transportation Infrastructure Finance and Innovation Act (TIFIA) funds.

Section 117 of the Act sets aside a 4.1% administrative take-down of Federal Lands Highway program allocations and apportionments to the core formula programs, ADHS, and the Minimum Guarantee program. From this take-down, \$25 million is made available to the Delta Regional Authority and \$1.21 billion is earmarked for 795 projects. The earmarked amounts that made available under Section 117 may be used to make grants eligible under U.S. C. Title 23 (Highways) or Title 49 (Transit), are available until expended, have a 100% federal share, and are only subject to the obligation limitation for the current fiscal year. The Consolidated Act also earmarks virtually all the funds provided for FHWA discretionary programs.

## **Federal Motor Carrier Safety Administration (FMCSA)**

[<http://www.fmcsa.dot.gov/>]

The FMCSA was created by the Motor Carrier Safety Improvement Act of 1999 (MCSIA), P.L. 106-159.<sup>5</sup> This agency became operational on January 1, 2000, and assumed almost all of the responsibilities and personnel of DOT's Office of Motor

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<sup>4</sup> These figures reflect rescissions of previous year contract authority of \$207 million for FY2004 (enacted) and \$300 million for FY2005 (proposed).

<sup>5</sup> During various hearings held in the first session of the 106<sup>th</sup> Congress, a number of organizations, including DOT's Inspector General, the General Accounting Office, and many industry associations raised a variety of concerns regarding the effectiveness of the federal truck and bus safety program. In response to these concerns, Congress created the FMCSA.

Carrier Safety.<sup>6</sup> FMCSA issues and enforces the Federal Motor Carrier Safety Regulations that govern many aspects of specified commercial truck and bus operations, including the interstate operation and maintenance of commercial vehicles, and specify requirements for commercial drivers. FMCSA also administers grants and programs to help states conduct truck and bus safety compliance activities. Together with the states, FMCSA conducts inspections of Mexican-domiciled drivers and vehicles entering the United States, advances Intelligent Transportation Systems for commercial operations, and reviews thousands of carriers transporting property and passengers. Most of the funds used to conduct FMCSA activities are derived from the Federal Highway Trust Fund.

The FY2005 Administration request for the FMCSA is \$455 million. The House Committee on Appropriations recommended \$438.5 million; this was eliminated during floor debate on a point of order. However, most observers expected the reported figure to be used as the House benchmark during conference discussions. The Senate Committee on Appropriations recommended \$450 million. The FMCSA appropriation has two primary components: FMCSA administrative expenses (including operations and research); and financial assistance provided primarily to the states to conduct various truck and bus safety programs. For FY2005, Congress approved an appropriation of \$447.5 million to FMCSA's account: \$257.5 million for administrative and research expenses under the FMCSA limitation on administrative expenses account, and \$190 million for motor carrier safety grants and information systems.

**Administrative and Operations Expenses.** The President's budget request for FMCSA's administrative and operations expenses in FY2005 is \$228 million. The House Committee on Appropriations recommended \$248.5 million; this was eliminated during the House floor debate on a point of order. Most observers expected the reported figure to be used as the House benchmark during conference discussions. The Senate Committee on Appropriations recommended \$260 million for its limitation on administrative expenses. The FY2005 amount specified by the conferees is \$257.5 million. This account includes funds for research and technology (R&T) and regulatory development. Some of the activities that would be funded include enforcement to reduce the number of unsafe motor carriers and drivers, and the funding of a medical review board to assist FMCSA in improving its physical requirements for commercial drivers. Some of the core FMCSA activities or expenses supported by these funds include rent, administrative infrastructure, personnel compensation and benefits and other related staff expenses for more than 1,000 employees; outreach efforts to help educate the commercial motor vehicle industry about the federal safety regulations; and monies to improve truck and bus, as well as driver, standards and oversight. This account also funds agency information systems used to oversee the safety of motor carriers.

**Grants to States and Other Activities.** The Administration's FY2005 request for these activities is \$227 million. The House Committee on Appropriations

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<sup>6</sup> DOT's Office of Motor Carrier Safety, which operated from October 9 through December 31, 1999, replaced the Office of Motor Carriers of the Federal Highway Administration of the DOT.

recommended \$190 million; this was eliminated during House floor debate on a point of order, but was expected to be used as the House benchmark during conference discussions. The Senate Committee on Appropriations recommended the same amount. The conference report recommended funding for FY2005 at the \$190 million level. These funds are used primarily to pay for the Motor Carrier Safety Assistance Program (MCSAP), which provides grants to states to help them enforce commercial vehicle safety and hazardous materials transportation regulations. MCSAP grants cover up to 80% of the costs of a state's truck and bus safety program. Some 10,000 state and local law-enforcement officers conduct more than 2.9 million roadside inspections of trucks and buses annually under the program. The FY2005 appropriation included \$169 million dedicated to MCSAP, and an additional \$20 million for information systems and strategic safety initiatives.

## **National Highway Traffic Safety Administration (NHTSA)**

[<http://www.nhtsa.dot.gov/>]

NHTSA funding supports behavioral (primarily driver and pedestrian) and vehicle (primarily crash worthiness and avoidance) programs that are intended to improve traffic safety. More specifically, NHTSA seeks to reduce impaired driving, increase occupant protection, improve police traffic services, enhance emergency medical responses to crashes, ensure compliance with various federal vehicle safety regulations, and track and seek to mitigate emerging vehicle safety problems. NHTSA also provides grants to the states for the implementation of various highway traffic safety programs.

For FY2005, \$689.3 million was requested to carry out NHTSA's mission. Of the total amount requested by the Administration, \$456 million was designated to support general traffic safety and incentive grants to states. The incentive grants are intended primarily to encourage occupant protection measures and reduce impaired driving. The remaining \$233 million was for NHTSA's operations and research activities to reduce highway fatalities and prevent injuries due to traffic crashes. More specifically, the funds proposed would be used for activities including research and analysis (e.g., collection of crash statistics and research on vehicle performance and occupant damage during these crashes); highway safety programs (e.g., developing improved countermeasures to combat alcohol- or drug-impaired driving); safety assurance (e.g., testing of vehicles to ensure compliance with federal motor vehicle safety standards and maintaining a legislatively-required database to track vehicle defects); and safety performance standards (e.g., conducting crash avoidance and crash-worthiness testing, and evaluating child safety seats). The House Committee on Appropriations recommended \$225 for traffic safety grants and \$223.1 million for NHTSA's operations and research (this money was stricken during the House floor debate on a point of order, but most observers expected the reported figures to be used as the House benchmark during conference discussions). The Senate Committee on Appropriations recommended \$225 million for traffic safety grants and \$228.3 million for operations and research. The conference report for FY2005 provides \$225 million for traffic safety grants and \$233 million for operations and research.

## Federal Railroad Administration (FRA)

[<http://www.fra.dot.gov>]

The Administration requested \$1.09 billion in funding for the Federal Railroad Administration; this was \$357 million (25%) less than the \$1.455 billion enacted for FY2004, but was the same amount requested for FY2004. The House Committee on Appropriations recommended \$1.09 billion (which was eliminated during House floor debate on a point of order). The Senate Committee on Appropriations recommended \$1.44 billion; the Senate did not pass an FY2005 transportation appropriations bill. Conferees agreed on \$1.44 billion. In FY2004, the House agreed to \$1.09 billion, the Senate agreed to \$1.57 billion, and conferees agreed on \$1.455 billion. Most of FRA's funding is for Amtrak, and the difference between the House and Senate amounts for FY2005, as in FY2004, was almost entirely additional funding for Amtrak.

Although most of the debate involving the FRA budget centers on Amtrak, agency safety activities (which receive more detailed treatment following this section), the Next Generation High-Speed Rail program, and how states might obtain additional funds for high-speed rail initiatives are also continuing issues.

**Railroad Safety.** The FRA promotes and regulates railroad safety. Increased railroad traffic volume and density make equipment, employees, and operations more vulnerable to accidents. The Administration proposed \$142.4 million in FY2005 for FRA's safety program and related administrative and operating activities. The House Committee recommended \$137.7 million; the Senate Committee on Appropriations recommended \$139.8 million. The conference report specifies \$139.8 million for FY2005. Most of the funds appropriated are used to pay for salaries as well as associated travel and training expenses for FRA's field and headquarters staff and to pay for information systems monitoring the safety performance of the rail industry.<sup>7</sup> The funds requested support FRA's goals of reducing rail accidents and incidents, reducing grade-crossing accidents, and contributing to the avoidance of serious hazardous materials transportation incidents.

The railroad safety statute was last reauthorized in 1994. Funding authority for the program expired at the end of FY1998. FRA's safety program continues using the authorities specified in existing federal railroad safety law and funds provided by annual appropriations. Though hearings have been held since 1994, the deliberations have not resulted in agreement on funding for FRA's regulatory and safety compliance activities or change to any of the existing authorities used by FRA to promote railroad safety. A reauthorization statute changing the scope and nature of FRA's safety activities would most likely affect budgets after FY2005.

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<sup>7</sup> The funds also are used to conduct a variety of initiatives, including the Safety Assurance and Compliance Program (SACP), the Railroad Safety Advisory Committee (RSAC), and field inspections. SACP involves numerous partnerships forged by railroad management, FRA personnel, and labor intended to improve safety and compliance with federal railroad safety regulations. RSAC uses a consensus-based process involving hundreds of experts who work together to formulate recommendations on new or revised safety regulations for FRA's consideration.

**Next Generation High-Speed Rail R&D.** This program supports work on high-speed train control systems, track and structures technology, corridor planning, grade crossing hazard mitigation, and high-speed non-electric locomotives. The Administration requested \$10 million for this program for FY2005; this was \$27.4 million (73%) less than the FY2004 appropriation of \$37.4 million, and \$13.2 million less than the Administration's FY2004 request (\$23.2 million). The Administration request cut high-speed train control systems (\$10 million enacted for FY2004; \$5 million requested for FY2005); high-speed non-electric locomotive development (\$9.9 million enacted for FY2004; \$2 million requested for FY2005); grade crossing hazard mitigation (\$9 million enacted for FY2004; \$2 million requested for FY2005); corridor planning (\$2.5 million enacted for three corridors for FY2004; no request for FY2005); and maglev (\$5 million enacted for FY2004 for four maglev projects; no request for FY2005).

The House Committee on Appropriations recommended \$11 million; the additional \$1 million was for grade crossing hazard mitigation. The Senate Committee on Appropriations recommended \$20 million; the additional money was for corridor planning, maglev projects, and more funding for high-speed train control systems. Conferees agreed on \$19.7 million.

**Amtrak.** Beginning with Amtrak's FY2003 appropriation (P.L. 108-7), Congress directed that Amtrak's appropriation would not go directly to Amtrak, but rather that the Secretary of Transportation would provide funding to Amtrak quarterly through the grant-making process. Congress also imposed several other requirements on Amtrak beginning in FY2003 which had the effect of reducing Amtrak's discretion with its federal funding. Among these was a requirement that Amtrak submit a five-year business plan to Congress, which it did on April 25, 2003. In this plan, Amtrak requested average annual federal support of \$1.6 billion for FY2004-FY2008 to both maintain the current network and begin to address the estimated \$6 billion in backlogged maintenance needs. The plan did not propose expansion of the existing rail network. Amtrak has submitted annual updates of this Strategic Plan to Congress.

The Administration requested \$900 million for Amtrak for FY2005. This was \$318 million less than Amtrak's FY2004 appropriation of \$1.218 billion<sup>8</sup> and \$900 million less than the \$1.8 billion Amtrak requested for FY2005. The House Committee on Appropriations recommended \$900 million for Amtrak; the Senate Committee on Appropriations recommended \$1.2 billion, and noted that Amtrak would receive an additional \$330 million in FY2005 from a provision in another bill (S. 1637, the Senate's version of the export tax repeal legislation), giving Amtrak a total of \$1.55 billion for FY2005.<sup>9</sup> However, the export tax repeal legislation passed by Congress (P.L. 108-357) did not include the Amtrak funding provision. Conferees agreed on \$1.2 billion for Amtrak, virtually identical to the FY2004 level. Conferees also again postponed Amtrak's repayment of a \$100 million loan provided by the

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<sup>8</sup> After rescission. For FY2004, Congress also deferred Amtrak's repayment of a \$100 million loan to the DOT.

<sup>9</sup> S.Rept. 108-342, p. 93.

DOT in FY2002; however, conferees directed Amtrak to repay the loan in five equal annual installments, beginning in FY2005.

Conferees also included provisions, originally added by the House Committee on Appropriations, that require Amtrak to develop an operating and capital plan for FY2005 in order to receive FY2005 funding; direct the Secretary of Transportation to retain a consultant to value Amtrak's capital assets and to develop a methodology to determine the avoidable and fully allocated costs of each Amtrak route, which Amtrak shall use to report to Congress on the costs of each of its routes; and prohibit Amtrak from submitting an independent budget request after FY2005, instead requiring Amtrak to submit its budget request through the DOT, where it will be vetted by the Office of Management and Budget. Conferees also directed the Secretary of Transportation to continue an effort, initiated by the FY2004 conference agreement, to establish a procedure for competitive bidding by non-Amtrak operators for state-supported routes currently operated by Amtrak. If a state wishes to contract with an operator other than Amtrak for service, the state may contract with Amtrak for use of Amtrak's equipment, facilities, and services necessary to enable the non-Amtrak operator to provide the service. If Amtrak and a state cannot agree on terms for this use, the Secretary of Transportation is given the power to compel Amtrak to provide the equipment, facilities and services on terms and conditions set by the Secretary.

The Administration also requested \$900 million for Amtrak for FY2004, when Amtrak also requested \$1.8 billion. The House agreed to \$900 million for Amtrak, and added a provision allowing states to apply to FHWA to transfer a portion of their allocation of an appropriation of \$267 million from the Highway Trust Account to Amtrak.<sup>10</sup> The Senate agreed to \$1.346 billion for Amtrak, and extended to all Amtrak routes the requirement (begun for FY2003) that Amtrak's long-distance routes be funded through individual grant requests from Amtrak to the DOT. Conferees agreed on \$1.225 billion, continued the new funding structure begun in FY2003, and extended to all Amtrak routes the requirement that they be funded through individual grant requests.

## **Federal Transit Administration (FTA)**

[<http://www.fta.dot.gov/>]

President Bush's FY2005 budget request for FTA was \$7.27 billion, similar to FTA's FY2004 appropriation of \$7.27 billion and slightly more than the FY2004 request for \$7.23 billion. The Administration's request also proposed changes to FTA's program structure, reflecting the Administration's transit reauthorization proposals. These proposals included grouping all funding into three categories (administrative expenses, formula funds, and capital investment grants), zeroing out the Bus Discretionary grant program, and creating a New Freedom Initiative program to help assist persons with disabilities with transportation to work. Similar changes were proposed by the Administration during FY2004, but were not adopted by Congress; Congress did not support these changes for FY2005 either.

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<sup>10</sup> The provision was in the House Committee on Appropriations report (p. 72), not the bill.



The House Committee on Appropriations recommended \$7.25 billion for FY2005. During the House floor debate on the FY2005 appropriations bill, FTA's funding was eliminated on a point of order. As the funding reported out by the House Committee on Appropriations was expected to be the House benchmark during conference discussions, those figures were kept in this section. The Senate Committee on Appropriations recommended \$7.76 billion; the Senate bill was never taken up by the full Senate. Conferees agreed on \$7.7 billion.

**FTA Program Structure and Funding.** The largest transit programs are the Capital Investment Grants and Loans Program and the Urbanized Area Formula Grants Program. There are also several smaller formula and discretionary programs.

**Capital Investment Grants and Loans Program (Section 5309).** This program (formerly known as Section 3) has three components: new transit starts, fixed guideway modernization, and bus and bus facilities. The funds are allocated among these three components on a roughly 40-40-20 basis, respectively; funds for the fixed guideway component are distributed by formula, while funds for the other components are distributed on a discretionary basis by FTA or earmarked by Congress. The Administration requested \$1.532 billion for the new transit starts program, up from \$1.324 billion in FY2004 (a 16% increase) and \$1.239 billion for fixed guideway modernization, up from \$1.207 billion in FY2004 (a 3% increase). The Administration requested no funding for the bus and bus facilities discretionary program, which received \$677 million in FY2004; instead, the Administration would reallocate the money for that program to the new transit starts program and the Non-Urbanized Areas Formula Program. The House Committee recommended \$1.031 billion for the new transit starts program, a 22% decrease from FY2004; \$1.214 billion for fixed guideway modernization, the same as FY2004; and \$607 million for bus and bus facilities (the same amount enacted for FY2004, though the FY2004 appropriation was supplemented with funds transferred from other FTA programs, for a total of \$677 million). The Senate Committee on Appropriations recommended \$1.474 billion for the new transit starts program (11% over FY2004); \$1.214 billion for fixed guideway modernization (the same as FY2004); and \$725 million for bus and bus facilities (7% above FY2004's \$677 million). Conferees agreed on \$1.474 billion for the new starts program (an 11% increase over FY2004), \$1.214 billion for fixed guideway modernization (the same as FY2004, which will result in a cut after the rescission is applied), and \$725 million for bus and bus facilities (\$675 million from capital grants funding, plus \$50 million transferred from formula grants funding; in total, \$48 million more than the FY2004 enacted amount).

**Urbanized Area Formula Program (Section 5307).** This program (formerly known as Section 9) provides capital and, in some cases, operating funds for urbanized areas (population 50,000 or more). Eligible activities include bus and bus-related purchases and maintenance facilities, fixed guideway modernization, new systems, planning, and operating assistance. Funds are apportioned by a formula based, in part, on population (areas with populations over 1,000,000 receive two-thirds of the funding; urbanized areas with populations under 1,000,000 receive the remaining one-third) and on transit service data. For FY2005, the Administration proposed \$3.444 billion, a \$15 million increase over the \$3.429 billion provided in FY2004 (less than a 1% increase); the House Committee recommended \$3.633

billion (5.9% over FY2004). The Senate Committee recommended \$3.604 billion (4.9% over FY2004). Conferees agreed on \$3.6 billion.

With the enactment of TEA-21, operating assistance funding was eliminated for urbanized areas with populations over 200,000. However, preventive maintenance, generally considered an operating expense, is now eligible for funding as a capital expense. Urbanized areas under 200,000 population, and non-urbanized areas (Section 5311), can use formula funds for either capital or operating purposes.

### ***Other Transit Programs.***

- Non-Urbanized Areas Formula Program (Section 5311), which provides capital and operating needs for non-urbanized areas (areas with populations under 50,000) — \$367 million requested for FY2005 (\$239 million appropriated in FY2004), the House Committee recommended \$253 million, the Senate Committee recommended \$251 million, and conferees agreed on \$253 million;
- Grants for Elderly and Individuals with Disabilities (Section 5310) — \$89 million requested for FY2005 (\$91 million appropriated in FY2004), the House and Senate Committees recommended \$95 million, which conferees agreed on;
- Planning and Research programs — \$169 million requested for FY2005 (\$126 million appropriated for FY2004), the House Committee recommended \$126 million, the Senate Committee recommended \$128 million, and conferees agreed on \$128 million; and
- Rural Transportation Accessibility Incentive Program (Section 3038), also known as the over-the-road bus accessibility program — \$7 million requested for FY2005 (\$7 million appropriated in FY2004 also), the House and Senate Committees also recommended \$7 million, which conferees agreed on.

The President's budget request proposed to create a new formula program, the New Freedom Initiative, which would use alternative methods to promote access to transportation for persons with disabilities. The President's budget requested \$148 million for this program in FY2005. Congress did not support this request.

***Job Access and Reverse Commute Program.*** TEA-21 authorized a new discretionary Job Access and Reverse Commute grant program. This program provides funding for transportation projects that assist welfare recipients and low-income persons to find and get to work in suburban areas. The Administration proposed \$153 million for it in FY2005, up from the \$125 million appropriated in FY2004; the House Committee recommended \$150 million, the Senate Committee recommended \$125 million, and conferees agreed on \$125 million.

**Table 5. FTA Appropriation, FY2003-FY2005**  
(millions of dollars)

Program	FY2003 Enacted	FY2004 Enacted *	FY2005 Request	FY2005 House**	FY2005 Senate Cmte.	FY2005 Enacted ***
Urbanized Areas Formula Program (Section 5307)	\$3,407	\$3,429	\$3,444	\$3,633	\$3,604	\$3,622
Capital Investment Grants & Loans Program (Section 5309) Total	3,016	3,119	2,771	2,853	3,414	3,363
<i>New Starts Program</i>	<i>1,207</i>	<i>1,324</i>	<i>1,532</i>	<i>1,031</i>	<i>1,474</i>	<i>1,474</i>
<i>Fixed Guideway Modernization Program</i>	<i>1,207</i>	<i>1,207</i>	<i>1,239</i>	<i>1,214</i>	<i>1,214</i>	<i>1,214</i>
<i>Bus Discretionary Program****</i>	<i>603</i>	<i>607</i>	—	<i>607</i>	<i>725</i>	<i>675</i>
Non-Urbanized Areas Formula Program (Section 5311)	237	239	367	253	251	253
Job Access & Reverse Commute Program	149	124	153	150	125	125
Elderly & Individuals with Disabilities Formula Program (Section 5310)	90	91	89	95	95	95
Rural Transportation Accessibility Incentive Program (Section 3038), also known as the Over-the-Road Bus Accessibility program	7	7	7	7	7	7
Planning & Research	121	125	169	126	128	128
Other	145	155	118	133	133	115
New Freedom Initiative	—	—	148	—	—	—
<b>FTA Total</b>	<b>7,179</b>	<b>7,266</b>	<b>7,266</b>	<b>7,249</b>	<b>7,758</b>	<b>7,708</b>

**Note:** numbers may not add due to rounding.

**Source:** Figures were taken from Transportation-Treasury Budget Authority tables provided by the House Committee on Appropriations.

\*FY2004 figures reflect an across-the-board rescission of 0.59%.

\*\*All FTA funding for FY2005 was eliminated during House floor debate on a point of order. As the Transportation-Treasury Appropriations subcommittee chair told his colleagues that the funding would be restored in conference, the figures recommended by the Appropriations Committee have been retained in this table.

\*\*\*FY2005 figures do not reflect an across-the-board rescission of 0.80%.

\*\*\*\*The FY2004 appropriation of \$607 million was supplemented with \$70 million transferred from other FTA programs, for a total of \$677 million; the FY2005 appropriation of \$675 million was supplemented with \$50 million transferred from other FTA programs, for a total of \$725 million.

## Maritime Administration (MARAD)

[<http://www.marad.dot.gov>]

MARAD's mission is to promote the development and maintenance of a U.S. merchant marine capable of carrying the nation's waterborne domestic commerce, a portion of its waterborne foreign commerce, and to serve as a naval and military auxiliary in time of war. MARAD administers programs that benefit U.S. vessel owners, shipyards, and ship crews. For FY2005, the President requested \$234.4 million for MARAD, which is about \$13 million more than was enacted in FY2004. In the omnibus appropriations measure for FY2005, Congress provided a total of \$305 million for MARAD. Most of the difference between the amount Congress provided and the amount the President requested has to do with a new program to construct U.S.-flagged oil tankers, which is explained further below.

Much of the discussion concerning MARAD's budget focuses on the Maritime Guaranteed Loan Program (the "Title XI" program). This program provides guaranteed loans for purchasing ships from U.S. shipyards and for the modernization of U.S. shipyards. The purpose of the program is to promote the growth and modernization of U.S. shipyards. Consistent with its budget requests in prior years, the Administration has requested no funds for additional loans in FY2005, calling the program a "corporate subsidy." The Administration has, however, requested \$4.8 million for the administration of existing loans which Congress agreed to. In FY2004, no funds were provided for additional loans, but \$4.5 million was provided for the administration of existing loans.

The DOT Inspector General issued a report in March 2003 on the Title XI program (CR-2003-031) calling on MARAD to review loan applications more effectively, exercise more rigorous financial oversight of borrowers, and use an external financial advisor in reviewing loan applications. The IG's investigation was prompted by the bankruptcy of American Classic Voyages, leaving MARAD with \$367 million in bad loans for the construction of two cruise ships. At a June 5, 2003 Senate Commerce Committee hearing on the Title XI program, the General Accounting Office also identified weaknesses in the program and made recommendations for improving the financial oversight of the program (GAO-03-728T). In July 2004, the DOT announced the creation of a department-wide Credit Council to enhance the oversight and management of the Title XI program and other loan and loan guarantee programs administered by other DOT agencies.<sup>11</sup>

For operations and training, the Administration requested \$109.3 million, about \$3 million more than Congress enacted in FY2004. In the omnibus appropriations measure, Congress provided \$109.5 million. The Senate Appropriations Committee also directed MARAD to prepare a conditions and performance report and needs assessment of the nation's inland waterway system in order to prepare for an anticipated increase in domestic and international maritime trade. This type of study was also one of the recommendations made by the Marine Board of the

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<sup>11</sup> See MARAD press release no. 12-04, July 14, 2004.

Transportation Research Board.<sup>12</sup> For the Maritime Security Program (MSP), the Administration requested \$98.7 million which is the same amount that Congress provided in the omnibus appropriations measure and virtually the same amount as Congress provided last year. MSP is a fleet of 47 privately-owned U.S. flag commercial vessels engaged in international trade that are available to support the Department of Defense in a national emergency.

For the disposal of obsolete vessels in the National Defense Reserve Fleet (NDRF), the Administration requested and Congress provided \$21.6 million, about \$5.5 million more than was enacted for FY2004. There are over 130 vessels in the NDRF that are awaiting disposal because of their age. These vessels have raised environmental concerns due to the presence of asbestos and other hazardous substances. MARAD has until 2006 to dispose of these surplus ships, most of which are located on the James River in Virginia and in Suisan Bay, California.

In the omnibus appropriations measure, Congress provided \$75 million in funding for a financial assistance program designed to encourage the construction of up to five privately owned product tanker vessels. This financial assistance program was authorized under subtitle D of the Maritime Security Act of 2003 (P.L. 108-136), National Defense Tank Vessel Construction Assistance. The program would provide up to \$50 million per vessel for the construction of a commercial tank vessel in a U.S. shipyard, provided that the vessel was also capable of carrying militarily useful petroleum products and the shipowner entered into an agreement with the Department of Defense to make the ship available for the military's use in time of war. The intent of the law is to decrease the Department of Defense's reliance on foreign-flag oil tankers. An aspect of the program that has proved controversial is the allowance of up to 10% of a vessel's total steel weight to be constructed by a foreign shipyard. Some argue this is necessary to allow U.S. shipyards to import foreign technological expertise, while others argue that it results in subsidies flowing to foreign shipyards. Before the conference agreement was reached on \$75 million, the Senate bill had provided \$150 million for this program while the House bill had provided no funds.

## Research and Special Programs Administration (RSPA)

[<http://www.rspa.dot.gov>]

The Research and Special Programs Administration (RSPA) includes a variety of operating entities, including the Office of Pipeline Safety and the Office of Hazardous Materials Safety. RSPA also conducts a multimodal research program, helps coordinate and plan for transportation research and technology transfer activities, sponsors educational activities to promote innovative transportation, and manages DOT's transportation-related emergency response and recovery responsibilities.

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<sup>12</sup> Transportation Research Board, *The Marine Transportation System and the Federal Role*, Special Report 279, 2004, available at [<http://trb.org/publications/sr/sr279.pdf>].

For FY2005, the Administration requested a budget of \$123.25 million for RSPA (not including a limitation on the emergency preparedness fund of \$14.3 million); most of this funding is for activities that promote transportation safety. For RSPA's pipeline transportation safety program, \$70 million was proposed by the Administration (an increase of \$4 million over the FY2004 appropriation); for the hazardous materials transportation safety program, \$25.5 million was requested. The House Committee recommended \$115.3 million for RSPA, including \$68.5 million for the pipeline safety program and \$24.9 million for the hazardous material transportation safety program. The Senate Committee recommended \$120.3 million, including \$24.5 million for hazardous materials safety and \$71.1 million for pipeline safety. The conference report provides \$117 million for FY2005, which includes \$25.2 million for hazmat transportation safety and \$69.8 million for pipeline safety.

## Title II: Treasury Appropriations

**Table 6. Title II: Department of the Treasury Appropriations**  
(millions of dollars)

Program or Account	FY2004 Enacted*	FY2005 Request	FY2005 House	FY2005 Senate	FY2005 Enacted**
Departmental Offices	\$175	\$185	\$177	\$161	\$158
Office of Foreign Asset Control	—	—	—	22	22
Department-wide Systems and Capital Investments	36	36	36	30	32
Office of Inspector General	13	14	17	16	17
Treasury Inspector General for Tax Administration	127	129	129	129	129
Air Transportation Stabilization Program	3	3	2	2	2
Treasury Building Repair and Restoration	25	20	20	12	12
Financial Crimes Enforcement Network	57	65	90	73	73
Financial Management Service	227	231	231	231	231
Alcohol and Tobacco Tax and Trade Bureau	80	82	83	83	83
Bureau of the Public Debt	173	175	175	175	175
Internal Revenue Service, Total	10,185	10,674	10,292	10,253	10,319
<i>Processing, Assistance and Management</i>	<i>4,009</i>	<i>4,148</i>	<i>4,072</i>	<i>4,107</i>	<i>4,090</i>
<i>Tax Law Enforcement</i>	<i>4,171</i>	<i>4,564</i>	<i>4,278</i>	<i>4,519</i>	<i>4,399</i>
<i>Information Systems</i>	<i>1,582</i>	<i>1,642</i>	<i>1,622</i>	<i>1,607</i>	<i>1,590</i>
<i>Business Systems Modernization</i>	<i>388</i>	<i>285</i>	<i>285</i>	<i>125</i>	<i>205</i>
<i>Health Insurance Tax Credit Administration</i>	<i>35</i>	<i>35</i>	<i>35</i>	<i>35</i>	<i>35</i>
<b>Total, Dept. of the Treasury</b>	<b>11,100</b>	<b>11,610</b>	<b>11,247</b>	<b>11,184</b>	<b>11,248</b>

**Source:** Figures are from a budget authority table provided by the House Committee on Appropriations. Because of differing treatment of offsets, the totals will not always match the Administration's totals. The figures within this table may differ slightly from those in the text due to supplemental appropriations, rescissions, and other funding actions. Columns may not add due to rounding or exclusion of smaller program line-items.

\*FY2004 figures reflect an across-the-board rescission of 0.59%.

\*\*FY2005 figures do not reflect an across-the-board rescission of 0.80%.

### Department of the Treasury Budget and Key Policy Issues

In recent decades, the Treasury Department has performed four basic functions: (1) formulating, recommending, and implementing economic, financial, tax, and fiscal policies; (2) serving as the financial agent for the federal government; (3) enforcing federal financial, tax, counterfeiting, customs, tobacco, alcoholic beverage,

and gun laws; and (4) producing postage stamps, currency, and coinage. The creation of the Department of Homeland Security (DHS) in late 2002 and its assumption of the authorities transferred to it by executive order in March 2003 significantly changed Treasury's functional profile. While Treasury still serves as a principal source of economic policymaking within the executive branch of the federal government and the government's financial manager, revenue collector, and producer of currency, coinage, and stamps, its role in law enforcement is now much more circumscribed.

At the most basic level of organization, the department consists of departmental offices and operating bureaus. The departmental offices are responsible for the formulation and implementation of policy and the management of the department as a whole, and the operating bureaus carry out specific tasks assigned to the department. The bureaus typically account for more than 95% of the department's personnel and funding.

With one notable exception, the bureaus can be divided into those discharging financial responsibilities and those engaged in law enforcement. In recent decades, financial responsibilities have been handled by the Comptroller of the Currency, U.S. Mint, Bureau of Engraving and Printing, Financial Management Service, Bureau of Public Debt, Community Development Financial Institutions Fund, and Office of Thrift Supervision; law enforcement has been done by the Bureau of Alcohol, Tobacco, and Firearms (BATF), U.S. Secret Service, Federal Law Enforcement Training Center, U.S. Customs Service, Financial Crimes Enforcement Network (FinCen), and Treasury Forfeiture Fund. The exception to this ineluctably simplified dichotomy is the Internal Revenue Service (IRS), whose main responsibilities combine the collection of tax revenue and the enforcement of federal tax laws.

The creation of DHS has greatly diminished Treasury's involvement in law enforcement. Under the law establishing DHS (P.L. 107-296), the Secret Service, Customs Service, and Federal Law Enforcement Training Center were transferred from Treasury to DHS, while the Treasury Forfeiture Fund and many functions of BATF were transferred to the Justice Department (DOJ). On January 24, 2003, the Treasury Department announced the establishment of a new bureau to administer laws governing the use of alcohol and tobacco and implement regulations formerly handled by BATF: the Alcohol and Tobacco Tax and Trade Bureau. Its main duties consist of collecting alcohol and tobacco excise taxes, classifying those products for tax purposes, and regulating the operations of industrial users of distilled spirits.

Treasury is taking steps to revamp its involvement in the federal government's inter-agency fight against the financing of international terrorist networks and other financial crimes. In March 2003, the Treasury Secretary announced the establishment of the Executive Office of Terrorist Financing and Financial Crimes (EOTF). According to the initial plans released at the time, the Office was to coordinate and direct Treasury's efforts to combat terrorist financing and other financial crimes and implement certain key provisions of the Bank Secrecy Act and the USA Patriot Act, and to represent the United States in international organizations dedicated to uncovering and thwarting terrorist financing and financial crimes. In carrying out this task, EOTF was to have the authority to oversee and offer policy guidance to FinCen and the Office of Foreign Assets Control (OFAC). But these



plans evidently never came to fruition. In March 2004, the Treasury Secretary announced the formation of still another office to oversee and co-ordinate the department's contributions to government efforts to combat terrorist financing and other financial crimes: the Office of Terrorism and Financial Intelligence (OTFI). According to available information, OTFI is to guide and manage Treasury's efforts to uncover, monitor, and disrupt the networks of financial support for international terrorist groups, assuming some of the responsibilities held by EOTF. The new office is to perform two critical functions: (1) assemble, integrate, and analyze financial intelligence through a newly formed Office of Intelligence and Analysis, and (2) offer policy guidance and centralized direction to the Treasury bureaus involved in the enforcement of laws against money laundering and other financial crimes through the Office of Terrorist Financing and Financial Crimes.

In FY2004, the Treasury Department received \$11.100 billion in appropriated funds. Most of these funds were used to fund the operations of the IRS, whose budget was set at \$10.184 billion. The remainder was distributed as follows among departmental offices and bureaus: departmental offices, \$175.1 million; departmental systems and capital investment programs, \$36.2 million; Office of Inspector General, \$12.9 million; Inspector General for Tax Administration, \$127.3 million; Air Transportation Stabilization program, \$2.5 million; Treasury Building and Annex Repair and Restoration, \$24.8 million; Financial Crimes Enforcement Network, \$57.2 million; Financial Management Service, \$227.2 million; Alcohol and Tobacco Tax and Trade Bureau, \$79.5 million; and Bureau of Public Debt, \$172.6 million. These totals included a 0.59% across-the-board cut imposed on all non-defense discretionary spending funded through appropriations measures in FY2004.<sup>13</sup>

For FY2005, the Bush Administration requested a budget for Treasury of \$11.610 billion, or \$510 million above its level of funding in FY2004. Once again, the vast share of this budget request was allocated to the IRS, which would receive \$10.674 billion, or \$490 million more than it did in FY2004. The remaining departmental offices and bureaus would receive the following appropriated amounts: departmental offices, \$185.0 million; departmental systems and capital investments, \$36.1 million; Office of Inspector General, \$14.1 million; Inspector General for Tax Administration, \$129.1 million; Air Transportation Stabilization program, \$2.8 million; Treasury Building and Annex Repair and Restoration, \$20.3 million; Financial Crimes Enforcement Network, \$64.5 million; Financial Management Service, \$230.9 million; Alcohol and Tobacco Tax and Trade Bureau, \$81.9 million; and Bureau of the Public Debt, \$175.2 million. Each account except that for departmental systems and capital investments would be funded at a higher level than in FY2004.

According to budget documents released by the Treasury Department, the FY2005 budget request sought to accomplish the following objectives: (1) making permanent the tax relief enacted under the Economic Growth and Tax Relief Reconciliation Act of 2001 and the Jobs and Growth Tax Relief Reconciliation Act of 2003; (2) improving individual and business compliance with tax laws; (3) modernizing the IRS's computer and management systems; (4) stepping up the effort

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<sup>13</sup> See Division H of section 168 of P.L. 108-109.

to monitor and disrupt terrorist financing; and (5) maintaining and safeguarding the integrity of federal finances and the U.S. financial system. Recent congressional testimony by Treasury officials has suggested that the two highest priorities were improving tax compliance and thwarting terrorist financing. Oversight of Treasury operations in the current Congress has focused on both activities.

The House Appropriations Subcommittee on Transportation, Treasury and Independent Agencies took the first critical step in the annual appropriations cycle for Treasury by approving by voice vote on July 15, 2004 a bill (H.R. 5025) to fund its operations in FY2005. One week later the full Appropriations Committee favorably reported the bill (H.Rept. 108-671). The House began to consider the measure on September 14, 2004 and passed it eight days later by a vote of 397-12.

In its report on H.R. 5025, the Appropriations Committee issued what might be construed as a stern rebuke to the department for creating a new office for combating terrorist financing and other financial crimes (OTFI). The Committee charged that “this action is completely contrary to the direction of the 2004 appropriation” and noted that it has received neither “adequate information on any new terrorism office” nor an “official budget amendment from the administration.”

Under H.R. 5025, as passed by the House, Treasury would receive \$11.247 billion in funding in FY2005, or \$147.1 million more than FY2004 but \$362.9 million less than the amount requested by the Bush Administration for FY2005. The IRS would receive the vast majority of the appropriated funds: \$10.292 billion, or 92% of recommended appropriations for Treasury in FY2005. While such a budget was \$107.3 million above the amount appropriated for the IRS in FY2004, it is \$382.5 million below what the Administration requested for FY2005. (More details on the budget for IRS in FY2004 and FY2005 can be found in the next section.) H.R. 5025 would also provide \$177.0 million in funding for Treasury’s departmental offices (or \$1.9 million more than FY2004 but \$8.0 million less than the amount the Bush Administration requested for FY2005), of which \$21.8 million was designated for the operations of OFAC; \$36.1 million for the Treasury’s systems and capital investments program (or \$113,000 less than FY2004 but identical to the amount requested for FY2005); \$16.5 million for Treasury’s Office of Inspector General (or \$3.6 million more than FY2004 and \$2.3 million more than the amount requested for FY2005); \$129.1 million for Treasury’s Inspector General for Tax Administration (or \$1.8 million more than FY2004 but identical to the amount requested for FY2005); \$2.0 million for the Air Transportation Stabilization Program (or \$523,000 less than FY2004 and \$800,000 less than the amount requested for FY2005); \$20.3 million for Treasury’s building and annex repair and restoration program (or \$4.5 million less than FY2004 but identical to the amount requested for FY2005); \$90.0 million for the Financial Crimes Enforcement Network (after a House floor amendment added \$25.5 million; the \$90 million is \$32.7 million more than FY2004 and \$25.5 million more than requested for FY2005); \$230.9 million for the Financial Management Service (or \$3.7 million more than FY2004 but identical to the amount requested for FY2005); \$82.5 million for the Alcohol and Tobacco Tax and Trade Bureau (or \$3.0 million more than FY2004 and \$600,000 more than the amount requested for FY2005); and \$175.2 million for the Bureau of the Public Debt (or \$2.5 million more than FY2004 and identical to the amount requested for FY2005). In addition, H.R. 5025 supported the Administration’s request to eliminate two current

programs — expanded access to financial services and violent crime reduction — by canceling their unobligated balances from previous fiscal years.

During the floor debate in the House on H.R. 5025, several contentious amendments were considered. A provision (Section 216 of Title II) in the version of H.R. 5025 reported by the Appropriations Committee would have prohibited the Treasury Department from issuing or implementing regulations to allow financial institutions to accept matricula consular cards as a legitimate form of identification for opening new accounts at financial institutions; it was struck by amendment on the House floor. Another amendment approved during the debate specified that the Treasury Department may use none of the funds appropriated for FY2005 to plan, enter into, or implement contracts for collection of delinquent tax debt between the IRS and private debt collectors. The House also approved amendments to prevent any funds appropriated for FY2005 from being used to implement a directive from the Office of Management and Budget known as Circular A-76 that requires federal agencies to open up to competition from the private sector any functions or activities that are not “inherently governmental,” and to prohibit the Treasury Department from using appropriated funds for FY2005 to attempt to overturn a 2003 decision by a U.S. district court that certain cash-balance pensions plans violate federal laws barring age discrimination.

The Senate formally joined the deliberations in Congress over funding Treasury operations in FY2005 when the Senate Appropriations Subcommittee on Transportation, Treasury, and General Government approved an appropriations measure (S. 2806) by voice vote on September 9, 2004. Five days later, the Senate Appropriations Committee favorably reported the bill (S.Rept. 108-342) by a vote of 29-0. For a variety of reasons, the full Senate never voted on the bill.

Under S. 2806, as reported by the Appropriations Committee, Treasury’s FY2005 budget would be set at \$11.329 billion, or \$228.9 million more than FY2004 but \$286.1 million less than the amount requested by the Bush Administration for FY2005. Nearly 90% of this amount, or \$10.253 billion — which was \$68.8 million more than FY2004 but \$421.1 million less than the amount requested for FY2005 — would go to the IRS. The measure would also appropriate \$161.3 million (or \$13.7 million less than FY2004 and \$23.7 million less than FY2005 budget request) for departmental offices; \$30.3 million (or \$5.9 million less than FY2004 and \$5.8 million less than the FY2005 budget request) for the department’s systems and capital investments program; \$16.1 million (or \$3.2 million more than FY2004 and \$2.0 million more than the FY2005 budget request) for the Office of the Inspector General; \$129.1 million for the Treasury Inspector General for Tax Administration (\$1.8 million more than FY2004 but identical to the FY2005 budget request); \$2.0 million (or \$523,000 less than FY2004 and \$800,000 less than the budget request for FY2005) for the Air Transportation Stabilization Program; \$12.3 million (or \$12.5 million less than FY2004 and \$8.0 million less than the budget request for FY2005) for Treasury’s Building and Annex Repair and Restoration Program; \$72.5 million (or \$15.3 million more than FY2004 and \$8.0 million more than the budget request for FY2005) for FinCen; \$230.9 million (or \$3.7 million more than FY2004 and identical to the budget request for FY2005) for the Financial Management Service; \$83.0 million (or \$3.5 million more than FY2004 and \$1.0 million more than the budget request for FY2005) for the Alcohol and Tobacco Tax and Trade Bureau; and

\$175.2 million (or \$2.5 million more than FY2004 but identical to the budget request for FY2005) for the Bureau of the Public Debt.

Contrary to the wishes of the Bush Administration, S. 2806 would also establish a separate appropriation account for OFAC and set aside \$22.3 million for its operations in FY2005. (In FY2004, funding for OFAC was folded into the appropriation for departmental offices.) Like H.R. 5025, S. 2806 supported the Administration's request to eliminate the initiative to expand access to financial services and the violent crime reduction program by canceling unobligated balances from previous fiscal years. But unlike H.R. 5025, the bill endorsed the creation of OTFI and recommended that it receive \$12.7 million in appropriated funds in FY2005 and that the Treasury Secretary be given the authority to transfer up to \$2.0 million in unobligated balances to the new office from the funds for departmental offices.

The House and Senate finally agreed on a budget for the Treasury Department in FY2005, in separate votes cast on November 20, 2004. It was included in a broader appropriations measure (H.R. 4818, P.L. 108-447) known as the Consolidated Appropriations Act, 2005, which covered nine of the 13 regular appropriations bills. Funding for Treasury is set forth in Title II of Division H of the Act. To keep total spending under H.R. 4818 within a discretionary spending limit of \$821.9 billion set by President Bush, the bill incorporates a 0.83 percent across-the-board cut in all spending unrelated to national defense and homeland security. President Bush signed the measure into law on December 8th.

A controversial provision (Section 222 of Title II, Division H) added to H.R. 4818 late in the conference negotiations that would permit the chairmen of the House and Senate Appropriations Committees or designated members of their staff to have access to "Internal Revenue Service facilities and any tax returns or return information contained therein" delayed the signing of the bill. The provision did not explicitly include criminal penalties for violating existing statutory protections of taxpayer privacy for committee chairmen or their aides. Under current law, members of the House Ways and Means Committee, Senate Finance Committee, and Joint Committee on Taxation have the authority to examine tax return information, as well as designated members of their staff. They face criminal and civil penalties if they improperly disclose personal tax information obtained from their research or carelessly lose tax return documents. Republican leaders in both houses agreed to pass an enrolling resolution (H.Con.Res. 528) to delete the provision. The Senate passed the resolution on November 21<sup>st</sup>, and the House followed suit on December 6<sup>th</sup>.

Under H.R. 4818, Treasury is to receive \$11.248 billion in appropriated funds, an amount that does not reflect the mandatory 0.83% across-the-board reduction in spending. This total is \$147.6 million more than the total enacted for FY2004 but \$362.0 million less than the amount requested by the Bush Administration. Virtually all of this gain (91%) and this shortfall (98%) are tied to approved funding for the IRS, which is set at \$10.318 billion in FY2005, or \$134.1 million above its funding for FY2004. Other Treasury accounts receiving budgetary increases in FY2005 are the Office of Inspector General (\$16.5 million, or \$3.6 million above FY2004), the Treasury Inspector General for Tax Administration (\$129.1 million, or \$1.8 million

above FY2004), FinCen (\$72.5 million, or \$15.3 million above FY2004), the Financial Management Service (\$230.9 million, or \$3.7 million above FY2004), the Alcohol and Tobacco Tax and Trade Bureau (\$83.0 million, or \$3.5 million above FY2004), and the Bureau of the Public Debt (\$175.2 million, or \$2.5 million above FY2004). Three Treasury accounts are receiving less money than they did in FY2004: Department-Wide Systems and Capital Investments Program (\$32.3 million, or \$3.9 million below FY2004), the Air Transportation Stabilization Program (\$2.0 million, or \$0.5 million below FY2004), and Treasury Building and Annex Repair and Restoration (\$12.3 million, or \$12.5 million below FY2004). Contrary to the wishes of the Bush Administration, H.R. 4818 creates a separate appropriations account for OFAC and gives it a budget of \$22.3 million in FY2005, with the caveat that the funds be used to establish the equivalent of 138 full-time staff positions. The bill also appropriates \$157.6 million for Treasury departmental offices in FY2005 and eliminates programs to expand access to financial services among low-income households and reduce violent crime by rescinding their unobligated balances.

**Internal Revenue Service (IRS).** In order to help finance its operations and programs, the federal government levies individual and corporate income taxes, social insurance taxes, excise taxes, estate and gift taxes, customs duties, and miscellaneous taxes and fees. The federal agency responsible for administering all these taxes and fees, except customs duties, is the IRS. In discharging this duty, the IRS receives and processes tax returns and other related documents, processes payments and refunds, enforces compliance through audits and other methods, collects delinquent taxes, and provides a variety of services to taxpayers to help them understand their rights and responsibilities and resolve problems. In FY2003, the IRS collected \$1,969 billion before refunds, the largest component of which was individual income tax revenue of \$987 billion.

In FY2004, the IRS received \$10.184 billion in appropriated funds. Of this amount, \$4.009 billion was used for processing, assistance, and management; \$4.171 billion for tax law enforcement; \$1.582 billion for information systems management; \$388 million for the business systems modernization program; and \$35 million to administer the health insurance tax credit established by the Trade Act of 2002. Of the funds allocated to processing, assistance, and management, \$4.1 million was mandated for the Tax Counseling for the Elderly program and \$7.5 million was set aside to pay for grants for low-income taxpayer clinics. None of the funds appropriated for the business systems modernization program could be spent without the prior approval of the House and Senate Appropriations Committees. The IRS was also barred from using appropriated funds from FY2004 to issue final regulations lifting a moratorium on the conversion of corporate pension plans from traditional defined-benefit plans to cash-balance plans imposed in 1999.

The Bush Administration requested that the IRS receive \$10.674 billion in funding for FY2005, or \$490 million more than in FY2004. This amount was to be allocated in the following manner: \$4.148 billion for processing, assistance, and management (an increase of \$138 million over FY2004); \$4.564 billion for tax law enforcement (+\$393 million over FY2004); \$1.642 billion for information systems management (+\$60 million over FY2004); \$285 million for the business systems modernization program (-\$103 million from FY2004); and \$35 million for the

administration of the health insurance tax credit (virtually the same amount as FY2004). According to budget documents issued by the IRS, this proposal was intended to achieve three strategic goals: (1) continued improvement of taxpayer service; (2) strengthened enforcement of the tax laws; and (3) continued improvement of the IRS's information infrastructure.

The budget proposal suggested that the Administration assigned a high priority to improving compliance with tax laws. Public disclosures about illegal corporate tax shelters and sharp declines in audit rates for high-income taxpayers and large corporations in recent years have sparked heightened congressional scrutiny of agency performance and strategic goals and calls inside and outside of Congress for substantial increases in funding for tax law enforcement. The IRS estimates that the overall gross tax gap in the 2001 tax year, the most recent year for which data are available, amounted to \$310.6 billion.<sup>14</sup>

A key player in the annual budget cycle for the IRS is the IRS Oversight Board. Under the IRS Restructuring and Reform Act of 1998, the Board is required to review the agency's annual budget request, submit its own budget recommendation to the Treasury Department, and determine whether the budget submitted by the President to Congress is adequate to support the annual and long-term strategic plans of the IRS.<sup>15</sup> The Board recommended a budget of \$11.204 billion for the IRS in FY2005, an amount that would be 10% above the amount enacted for FY2004 and 5% above the amount requested by the Bush Administration for FY2005. It found fault with the administration's request on the grounds that it would produce a \$230 million shortfall in light of the administration's stated objectives of adding nearly 2,000 full-time employees to bolster IRS's resources for tax law enforcement. In the Board's judgment, if Congress were to enact its recommended budget, the IRS would be able to hire another 3,315 individuals in FY2005 to boost enforcement efforts and eventually collect an additional \$5 billion per year in revenue once the new employees received proper training.<sup>16</sup>

Under H.R. 5025, as passed by the House in September 2004, the IRS would receive \$10.291 billion in funding in FY2005, or \$107.3 million more than in FY2004 but \$382.5 million less than the amount requested by the Bush Administration. The measure would funnel \$4.072 billion into processing, assistance, and management; \$4.278 billion into tax law enforcement; \$1.622 billion into information systems; \$285 million into business systems modernization; and \$34.8 million into administering the health insurance tax credit. About 75% of the difference between the budget recommended in the bill and the Administration's requested budget was due to lower recommended funding for tax law enforcement. In addition, H.R. 5025 would require the IRS to spend \$7.5 million of the

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<sup>14</sup> The gross tax gap is simply the total amount of taxes owed for a given tax year but not paid voluntarily or in a timely manner.

<sup>15</sup> See 26 U.S.C. § 7802(d).

<sup>16</sup> See testimony of Nancy Killefer of the IRS Oversight Board during a hearing held by the House Ways and Means Oversight Subcommittee on March 30, 2004. Available at [<http://waysandmeans.house.gov/>].

appropriated funds for processing, assistance, and management on low-income taxpayer clinics and \$4.1 million on the Tax Counseling Program for the Elderly.

Some of the amendments to H.R. 5025 approved during the floor debate in the House would affect IRS operations in FY2005. One would prevent the IRS from using any appropriated funds to plan, enter into, or implement contracts for collection of delinquent individual income tax debt involving the IRS and private debt collectors. As a result of the recently enacted American jobs Creation Act of 2004 (P.L. 108-357), the IRS has the authority to hire private debt collectors under certain conditions for the purpose of collecting overdue taxes. Another amendment would prohibit the IRS from using any appropriated funds to attempt to overturn a 2003 decision by a U.S. district court that certain cash-balance pension plans violate federal laws barring age discrimination.

Under S. 2806 as reported by the Senate Appropriations Committee (but not considered by the full Senate), IRS operations would be funded at \$10.253 billion in FY2005, or \$68.8 million more than the FY2004 budget but \$38 million less than the amount recommended in H.R. 5025 and \$421.1 million less than the amount requested by the Bush Administration. The bill would allocate \$4.107 billion for processing, assistance, and management (of which \$4.1 million would go to the Tax Counseling Program for the Elderly and \$7.0 million to low-income taxpayer clinics), \$4.519 billion for tax law enforcement, \$1.606 billion for information systems, \$125 million for business systems modernization, and \$34.8 million for administering the health insurance tax credit. In addition, the bill would rescind \$140 million in unobligated balances in the account for business systems modernization. In its report on S. 2806, the Appropriations Committee expressed the concern that the IRS "has consistently used the majority of its new compliance funding for purposes other than those that Congress intended." In order to insure that the agency uses most of the funding it receives for tax law enforcement in FY2005 for programs intended to improve compliance among high-income individuals and large corporations, the bill would restrict the IRS's ability to transfer funds from the tax law enforcement account to 3% of the appropriated amount; transfers at higher levels would require the prior consent of the House and Senate Appropriations Committees.

The House and Senate agreed on a budget for the IRS for FY2005 by passing an omnibus appropriations bill (H.R. 4818) in separate votes on November 20, 2004. Under the measure, the IRS would receive a total of \$10.319 billion, or \$134.1 million more than in FY2004 but \$355.8 million less than the amount requested by the Bush Administration. More than 46% of this latter difference is due to reduced levels of spending on tax law enforcement. The measure appropriates \$4.089 billion for processing, assistance and management (\$80.3 million above FY2004), \$4.399 billion for tax law enforcement (\$227.5 million above FY2004), \$1.590 billion for information systems (\$8.9 million above FY2004), \$205.0 million for business systems modernization (\$182.7 million below FY2004), and \$34.8 million for administering the health insurance tax credit (\$47 million above FY2004). In addition, H.R. 4818 specifies that the IRS spend \$4.1 million of the funds appropriated for processing, assistance and management on tax counseling for the elderly and \$8.0 million on low-income taxpayer clinics, and that the IRS Commissioner submit quarterly reports to the House and Senate Appropriations Committees on the agency's compliance activities. The measure does not contain the

contentious provision in the House-passed version of H.R. 5025 barring the IRS from spending any appropriated funds on the outsourcing of certain individual tax debt collection to the private sector.

The decision not to fully fund the Bush Administration's budget request for the IRS is being met with disapproval by some inside and outside Congress. These critics are mainly concerned that the agency will lack the resources needed to address its highest short-term priorities, including better service to taxpayers, improved compliance, and a more modern information system.

### **Title III: Executive Office of the President and Funds Appropriated to the President**

**Table 7. Title III: Executive Office of the President (EOP) and Funds Appropriated to the President Appropriations**  
(millions of dollars)

<b>Office</b>	<b>FY2004 Enacted*</b>	<b>FY2005 Request</b>	<b>FY2005 House</b>	<b>FY2005 Senate</b>	<b>FY2005 Enacted**</b>
Compensation of the President	\$0.5	—	\$0.5	\$0.5	\$0.5
The White House Office (salaries and expenses)	68.8	—	60.0	63.7	62.0
Homeland Security Council	—	—	2.5	—	—
Executive Residence at the White House (operating expenses)	12.4	—	12.8	12.8	12.8
White House Repair and Restoration	4.2	—	1.9	1.9	1.9
Council of Economic Advisors	4.5	—	4.0	4.0	4.0
Office of Policy Development	4.1	—	2.3	2.4	2.3
National Security Council	10.5	—	8.9	8.9	8.9
Office of Administration	82.3	—	92.7	92.9	92.3
The White House	—	\$181.0	—	—	—
Office of Management and Budget	66.8	76.6	67.8	68.4	68.4
Office of National Drug Control Policy (salaries and expenses)	27.8	27.6	28.1	27.0	27.0
Office of National Drug Control Policy Counterdrug Technology Assessment Center	41.8	40.0	30.0	42.0	42.0
Federal Drug Control Programs: High Intensity Drug Trafficking Areas Program	225.0	208.4	215.4	228.4	228.4
Federal Drug Control Programs: Other Programs	227.6	235.0	195.0	195.5	213.7
Office of the Vice President (salaries and expenses)	4.4	4.6	4.6	4.6	4.6
Official Residence of the Vice President (operating expenses)	0.3	0.3	0.3	0.3	0.3
<b>Total, EOP and Funds Appropriated to the President</b>	<b>782.0</b>	<b>774.5</b>	<b>727.2</b>	<b>754.2</b>	<b>770.0</b>



**Source:** Figures are from a budget authority table provided by the House Committee on Appropriations. Because of differing treatment of offsets, the totals will not always match the Administration's totals. The figures within this table may differ slightly from those in the text due to supplemental appropriations, rescissions, and other funding actions. Columns may not add due to rounding or exclusion of smaller program line-items.

\*FY2004 figures reflect an across-the-board rescission of 0.59%.

\*\*FY2005 figures do not reflect an across-the-board rescission of 0.80%.

The Transportation, Treasury, and Independent Agencies Appropriations Act funds all but three offices in the Executive Office of the President (EOP). Of the three exceptions, the Council on Environmental Quality and Office of Environmental Quality, and the Office of Science and Technology Policy are funded under the Veterans Affairs, Housing and Urban Development, and Independent Agencies appropriations; and the Office of the United States Trade Representative is funded under the Commerce, Justice, State, the Judiciary and Related Agencies appropriations.

The President's FY2005 budget proposed to consolidate and financially realign several annual EOP salaries and expenses appropriations that directly support the President into a single annual appropriation, called "The White House." This consolidated appropriation would total \$181.0 million in FY2005, a decrease of 3.3% from the \$187.2 million appropriated in FY2004, after the 0.59% rescission,<sup>17</sup> for the accounts proposed to be consolidated. The accounts included in the consolidated appropriation would be as follows:

- Compensation of the President
- White House Office (including the Homeland Security Council)
- Executive Residence at the White House
- White House Repair and Restoration
- Office of Policy Development
- Office of Administration
- Council of Economic Advisers
- National Security Council

According to the FY2005 budget, the consolidation "initiative provides enhanced flexibility in allocating resources and staff in support of the President and Vice President, and permits more rapid response to changing needs and priorities."<sup>18</sup>

The Administration proposed similar consolidations in the FY2002, FY2003, and FY2004 budgets, but the conference committees for the Treasury and General Government Appropriations Act, 2002 (P.L. 107-67) and 2003 (P.L. 108-7, Division J), and the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (P.L. 108-199, Division F), decided to continue with separate appropriations for the EOP accounts. The Administration reportedly sought to eliminate the

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<sup>17</sup> P.L. 108-199, Consolidated Appropriations Act for FY2004, at Division H, Section 168 required a 0.59% across the board rescission in non-defense discretionary spending accounts. The FY2004 appropriation for the EOP accounts proposed to be consolidated totaled \$188.332 million before the rescission.

<sup>18</sup> U.S. Executive Office of the President, Office of Management and Budget, *Budget of the United States Government Fiscal Year 2005 Appendix* (Washington: GPO, 2004), p. 952. (Hereafter referred to as FY2005 Budget, Appendix.)

“needless complexity [of different accounts] that adds expense, that adds burdens, that adds administrative hurdles that they must go through to accomplish anything.”<sup>19</sup> Congressional concern about this proposed consolidation has centered on Congress’s “legitimate needs and desires to have oversight over spending of public funds.”<sup>20</sup>

Proposed in the FY2005 budget request for consolidation was a Title VI general provision (a similar provision was proposed in FY2004) that would provide authority for the EOP to transfer 10% of the appropriated funds among the following accounts:

- The White House (Compensation of the President, White House Office (including the Homeland Security Council), Executive Residence at the White House, White House Repair and Restoration, Office of Policy Development, Office of Administration, Council of Economic Advisers, National Security Council)
- Office of Management and Budget (OMB)
- Office of National Drug Control Policy
- Special Assistance to the President and Official Residence of the Vice President (transfers would be subject to the approval of the Vice President)
- Council on Environmental Quality and Office of Environmental Quality
- Office of Science and Technology Policy
- Office of the United States Trade Representative<sup>21</sup>

According to the EOP budget submission, the transfer authority would “allow the President to address, in a limited way, emerging priorities and shifting demands” and would “provide the President with flexibility, improve the efficiency of the EOP, and reduce administrative burdens.”<sup>22</sup>

In the first session of the 108<sup>th</sup> Congress, the conference agreement accompanying the FY2004 Consolidated Appropriations Act provided that separate appropriations for the EOP accounts be continued and that the transfer authority proposal not be accepted. For the FY2005 appropriations for the EOP, the House Committee on Appropriations recommended, the House passed, and the Senate Committee on Appropriations recommended the same. According to the committee report accompanying the Senate bill:

The Committee recommends funding for the offices that directly support the President according to the existing structure of accounts. This arrangement has

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<sup>19</sup> Rep. Ernest Istook, then chairman of the Subcommittee on Treasury, Postal Service and General Government of the House Committee on Appropriations, discussing the FY2002 proposal for consolidation of the Executive Office of the President accounts. *Congressional Record*, daily edition, July 25, 2001, p. H4570.

<sup>20</sup> Ibid.

<sup>21</sup> FY2005 Budget, Appendix, p. 952. U.S. Executive Office of the President, *Fiscal Year 2005 Congressional Budget Submission* (Washington: GPO [Feb. 2004]), p. 3. (Hereafter referred to as EOP Budget Submission.)

<sup>22</sup> EOP Budget Submission, p. 3.

served the Committee's and the public's need for transparency in the funding and operation of these important functions while also providing the executive branch with the flexibility it needs to reprogram funds within accounts to address unforeseen budget needs. As noted in discussions with administration officials in past years, at no time has the Committee rejected an administration's request to reprogram existing funds within these accounts.

The conference agreement and the Consolidated Appropriations Act for FY2005 authorizes the transfers, but continues separate appropriations for the EOP accounts. With regard to the transfers, Section 533 of Title V of Division H of the Consolidated Appropriations Act provides that up to 10% of the appropriated funds among the accounts for the

- White House Office (including the Homeland Security Council), Executive Residence at the White House, White House Repair and Restoration, Office of Policy Development, Office of Administration, Council of Economic Advisers, National Security Council
- Office of Management and Budget
- Office of National Drug Control Policy
- Special Assistance to the President and Official Residence of the Vice President (transfers would be subject to the approval of the Vice President)

could be transferred to any other such appropriation, "to be merged with and available for the same time and for the same purposes as the appropriation to which transferred" by the OMB Director (or such other officer as the President may designate in writing). The House and Senate Committees on Appropriations must receive 15 days notice of the transfer from the OMB Director. The amount of an appropriation cannot be increased by more than 50% by such transfers.

## **EOP Offices Funded Through Treasury and General Government Appropriations<sup>23</sup>**

The President's FY2005 budget for EOP programs funded under the Treasury and General Government appropriations proposed an appropriation of \$774.5 million, a decrease of 1% from the \$782.0 million appropriated in FY2004, after the 0.59% rescission.<sup>24</sup> The FY2005 budget proposals for specific accounts (see **Table 7**) are discussed below.

**Compensation of the President.** The President's FY2005 budget proposed an appropriation of \$450,000, which includes an expense allowance of \$50,000. This is the same amount as was appropriated in FY2004. The salary of the President is \$400,000 per annum, effective January 20, 2001. The House and Senate Committees

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<sup>23</sup> Except as otherwise indicated, amounts proposed in the FY2005 budget are taken from the EOP Budget Submission.

<sup>24</sup> The FY2004 appropriation for the EOP accounts totaled \$786.6 million before the rescission.

on Appropriations recommended, the House passed, and the conference agreement and the law provide the same amount as the President requested.

**White House Office (WHO).** This account provides the President with staff assistance and administrative services.

The President's FY2005 budget proposed an appropriation of \$63.7 million. The FY2004 appropriation was \$69.2 million, but after the 0.59% rescission was \$68.8 million. The requested amount is 7.4% less than the FY2004 funding after the rescission. For FY2005, the WHO will participate in the White House Core Enterprise Pilot Program, under which the Office of Administration (OA) centrally manages certain operations in an effort to achieve cost savings and administrative efficiencies. Costs associated with rent payments to the General Services Administration (GSA) (\$8.2 million) and after-hours utilities use (\$243,000) will be realigned to the OA and, if the pilot program is successful, the costs will be permanently realigned to that office.<sup>25</sup>

The WHO request also included the transfer of the annual budget for audiovisual support associated with Presidential Diplomatic Missions (\$534,000) to the Department of State.

The House Committee on Appropriations recommended and the House passed an appropriation of \$59.5 million. Of this amount, \$8.3 million would be available for reimbursements to the White House Communications Agency. The recommended funding is \$4.2 million less than the President's request. According to the committee report that accompanies the House bill, the \$4.2 million is the amount the President proposed for the Homeland Security Council (HSC) as part of the WHO appropriation. The Committee funds the HSC as a separate appropriation (see below).

The Senate Committee on Appropriations recommended the same amount as the President requested (\$63.7 million). No more than \$9.975 million of this amount would be available for reimbursements to the White House Communications Agency.

The conference agreement and the law provide an appropriation of \$62 million, which is \$1.7 million less than the President's request. After the 0.80% rescission, the FY2005 funding is \$61.5 million, a reduction of \$2.2 million from the President's request. Reimbursements to the White House Communications Agency are provided at the level recommended by the Senate Committee on Appropriations.

**Homeland Security Council (HSC).** The Homeland Security Council provides support and advice to the President and interagency coordination of all aspects of homeland security, including the implementation of the National Strategy for Homeland Security. The HSC's funding is included in the White House Office request, but the EOP budget submission does not specify the amount requested for allocation to the council in FY2005. (The House Appropriations Committee report accompanying the House bill states that the President proposed an appropriation of

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<sup>25</sup> EOP Budget Submission, p. 30.

\$4.173 million for the HSC.) The FY2004 appropriation for the HSC was \$7.23 million, but after the 0.59% rescission was \$7.19 million.

The House Committee funds the HSC as a separate appropriation, thereby treating it the same as the National Security Council and other policy-related offices for budgetary purposes. The Committee recommended and the House passed an appropriation of \$2.475 million. This amount is \$1.7 million less than the President's request. According to the committee report, "The recommended reduction reflects the unobligated balance in this account, which can be partially applied to offset FY2005 activities."<sup>26</sup> The report also expresses concern that the HSC did not provide the Committee with a definitive request for staffing or budgetary resources for FY2005 and notes that the appropriations hearing record reflected 66 staff for the council — approximately 40 full-time equivalent staff years as direct hires and 26 detailees. The Committee states that this approximate staffing level would be significantly above the May 2004 onboard staffing level and tells the EOP that "budget-quality estimates rather than approximations" will be expected in future budget submissions. Finally, the report expresses the Committee's concern about the council's high travel budget, particularly "the high proportion that is applied to travel within the Washington, DC metropolitan area," and states that the Committee will work with the council to reduce these costs.<sup>27</sup>

The Senate Committee on Appropriations includes the HSC's funding in the White House Office request and does not specify the amount requested for allocation to the council in FY2005. The conference agreement states that the Senate bill assumed funding of \$4.173 million.<sup>28</sup>

The conference agreement and the law provide an appropriation of \$2.475 million and include the funding under the White House Office. This amount is \$1.7 million less than the President's request. After the 0.80% rescission, the FY2005 funding is \$2.455 million.

**Executive Residence at the White House and White House Repair and Restoration.** These accounts provide for the care, maintenance, and operation of the Executive Residence and its repair, alteration, and improvement.

The President's FY2005 budget proposed an appropriation of \$12.8 million for the executive residence. The FY2004 appropriation was \$12.5 million, but after the 0.59% rescission was \$12.4 million. The requested amount is 2.7% more than the FY2004 funding after the rescission. The House and Senate Committees on Appropriations recommended, the House passed, and the conference agreement and the law provide the same amount as the President requested. After the 0.80% rescission, the FY2005 funding is \$12.7 million, a reduction of \$100,000 from the President's request.

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<sup>26</sup> H.Rept. 108-671, p. 129.

<sup>27</sup> Ibid.

<sup>28</sup> *Congressional Record*, daily edition, vol. 150, Nov. 19, 2004, p. H10819.

For repair and restoration of the White House, the budget proposed an appropriation of \$1.9 million. The FY2004 appropriation was \$4.2 million after the 0.59% rescission. The requested amount is 55% less than the FY2004 funding after the rescission. The EOP budget submission stated that the repair and restoration funding would be used to replace the existing cooling towers and associated electrical, mechanical, and control equipment (\$1.7 million); and, with the possible change of Administration in 2005, to move and pack items for the outgoing First Family and set up the living quarters for the incoming First Family (\$100,000); and redecorate the living quarters in the White House (\$100,000).<sup>29</sup>

The House and Senate Committees on Appropriations recommended, the House passed, and the conference agreement and the law provide the same amount as the President requested. After the 0.80% rescission, the FY2005 funding is \$1.885 million, a reduction of \$15,000 from the President's request.

Maintenance and repair costs for the White House are also funded by the National Park Service as part of that agency's responsibility for national monuments. Entertainment costs for state functions are funded by the Department of State. Reimbursable political events in the Executive Residence are to be paid for in advance by the sponsor, and all such advance payments are to be credited to a Reimbursable Expenses account. The political party of the President is to deposit \$25,000 to be available for expenses relating to reimbursable political events during the fiscal year. Reimbursements are to be separately accounted for and the sponsoring organizations billed, and charged interest, as appropriate. The staff of the Executive Residence must report to the Committees on Appropriations, after the close of each fiscal year, and maintain a tracking system on the reimbursable expenses.

**Council of Economic Advisers (CEA).** The three-member council was created in 1946 to assist and advise the President in the formulation of economic policy. The council analyzes and evaluates the national economy, economic developments, federal programs, and federal policy to formulate economic advice. The council assists in the preparation of the annual *Economic Report of the President to Congress*.

The President's FY2005 budget proposed an appropriation of \$4.040 million. The FY2004 appropriation was \$4.5 million after the 0.59% rescission. The requested amount is 9.7% less than the FY2004 funding after the rescission. For FY2005, the CEA will participate in the White House Core Enterprise Pilot Program. Costs associated with rent payments to the GSA (\$683,000), after-hours utilities use (\$4,000), and prorated Medical Unit costs (\$4,000) will be realigned to the OA and, if the pilot program is successful, the costs will be permanently realigned to that office.<sup>30</sup>

The House and Senate Committees on Appropriations recommended, the House passed, and the conference agreement and the law provide the same amount as the

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<sup>29</sup> EOP Budget Submission, p. 49.

<sup>30</sup> EOP Budget Submission, p. 109.

President requested. After the 0.80% rescission, the FY2005 funding is \$4.008 million, a reduction of \$32,000 from the President's request. During consideration of its version of the appropriations bill, the House, by voice vote, agreed to an amendment (incorporated at Section 643) offered by Representative Sherrod Brown to provide that "None of the funds made available in this act may be used by the [CEA] to produce an Economic Report of the President regarding the inclusion of employment at a retail fast food restaurant as part of the definition of manufacturing employment."<sup>31</sup> This provision is Section 524 of Title V of Division H of the Consolidated Appropriations Act for FY2005.

**Office of Policy Development.** The Office supports and coordinates the Domestic Policy Council (DPC) and the National Economic Council (NEC) in carrying out their responsibilities to advise and assist the President in formulating, coordinating, and implementing economic and domestic policy, and other policy initiatives.

The President's FY2005 budget proposed an appropriation of \$3.6 million. The FY2004 appropriation was \$4.1 million. The requested amount is 12.1% less than the FY2004 funding after the rescission. The EOP budget submission did not specify the amounts that would be allocated to the Office of Policy Development's DPC and NEC functions. For FY2005, the Office of Policy Development will participate in the White House Core Enterprise Pilot Program. Costs associated with rent payments to the GSA (\$482,000) and after-hours utilities use (\$7,000) will be realigned to the OA and, if the pilot program is successful, the costs will be permanently realigned to that office.<sup>32</sup>

The House Committee on Appropriations recommended and the House passed an appropriation of \$2.267 million. This amount is \$1.3 million less than the President's request. According to the committee report accompanying the House bill, "The reduction reflects current unobligated balances in this account appropriated as far back as FY2000 ... [which] can be applied to FY2005 requirements."<sup>33</sup> The Senate Committee on Appropriations recommended an appropriation of \$2.4 million which is \$1.2 less than the President's request. The committee report accompanying the Senate bill states that the recommendation was "based on the amount of funding that has lapsed in this account in recent years."<sup>34</sup>

The conference agreement and the law provide an appropriation of \$2.3 million, which is \$1.3 million less than the President's request. After the 0.80% rescission, the FY2005 funding is \$2.282 million, likewise, a reduction of \$1.3 million from the President's request.

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<sup>31</sup> *Congressional Record*, daily edition, vol. 150, Sept. 15, 2004, p. 7207.

<sup>32</sup> EOP Budget Submission, p. 84.

<sup>33</sup> H.Rept. 108-671, p. 128.

<sup>34</sup> S.Rept. 108-342, p. 161.

**National Security Council (NSC).** The NSC advises the President on integrating domestic, foreign, military, intelligence, and economic policies relating to national security.

The President's FY2005 budget proposed an appropriation of \$8.932 million. The FY2004 appropriation was \$10.6 million, but after the 0.59% rescission was \$10.5 million. The requested amount is 14.8% less than the FY2004 funding after the rescission. Of the total amount requested, \$574,000 would fund the President's Foreign Intelligence Advisory Board (PFIAB).<sup>35</sup> For FY2005, the NSC will participate in the White House Core Enterprise Pilot Program. Costs associated with rent payments to the GSA (\$1.7 million), after-hours utilities use (\$45,000), and prorated Medical Unit costs (\$5,000) will be realigned to the OA and, if the pilot program is successful, the costs will be permanently realigned to that office. The PFIAB requests realignment of rent payments (\$168,000) and communications, utilities, and miscellaneous charges (\$4,000) to the OA.<sup>36</sup>

The House and Senate Committees on Appropriations recommended, the House passed, and the conference agreement and the law provide the same amount as the President requested. After the 0.80% rescission, the FY2005 funding is \$8.861 million, a reduction of \$71,000 from the President's request. The committee report accompanying the House bill notes that "The number of full-time equivalent staff years remains at the FY2004 enacted level of 71."<sup>37</sup>

**Office of Administration (OA).** The Office of Administration provides administrative services, including information technology; human resources management; library and records management; financial management; and facilities, printing, and supply, to the Executive Office of the President.

The President's FY2005 budget proposed an appropriation of \$85.7 million. The FY2004 appropriation was \$82.8 million, but after the 0.59% rescission was \$82.3 million. The requested amount is 4.1% more than the FY2004 funding after the rescission. Of the total amount requested, \$73.6 million is for salaries and expenses; \$1.1 million is for cyber security needs; and \$12.1 million is for the capital investment plan (CIP). Among the monies in the CIP are \$2.0 million for customer service and desktop systems and \$700,000 for information security. The offsite data center will be fully operational by FY2005 and funding of \$6.0 million for the center will be transferred from the capital investment plan to the salaries and expenses budget.<sup>38</sup>

The House Committee on Appropriations recommended and the House passed an appropriation of \$92.7 million. This amount is \$7 million more than the President's request. Of the total, \$12.1 million would fund the CIP for continued modernization of the information technology infrastructure within the EOP. Four

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<sup>35</sup> EOP Budget Submission, p. 101.

<sup>36</sup> EOP Budget Submission, pp. 93-94.

<sup>37</sup> H.Rept. 108-671, p. 128.

<sup>38</sup> EOP Budget Submission, pp. 56-59 and 68-69.



million of the CIP funds could not be obligated until the EOP has submitted a report to the Committees on Appropriations that includes an Enterprise Architecture that is reviewed and approved by OMB, reviewed by the GAO, and approved by the Committees on Appropriations. The Committee would restore the Office of Management and Budget (OMB) to the White House Core Enterprise Pilot Program and transfer \$8.3 million from the OMB appropriation to the OA appropriation. According to the committee report accompanying the House bill, the Committee continues to believe that the OA, under the enterprise pilot program, should make rental payments and pay other administrative expenses for EOP offices, including OMB.

The Senate Committee on Appropriations recommended an appropriation of \$92.9 million which is \$7.2 million more than the President's request. Continued modernization of the information technology infrastructure within the EOP through the CIP would be funded at \$12.1 million. The Core Enterprise Services Program would receive funding of \$18.5 million. The committee report accompanying the Senate bill states that "The budget request

proposes to transfer non-discretionary GSA rent and rent-related costs from White House Offices, Office of Policy Development, Council of Economic Advisors, and National Security Council to the Office of Administration to provide for central management. To achieve greater administrative and cost efficiencies, the Committee has included the Office of Management and Budget in the core enterprise services program and funding above the budget estimate represents OMB's costs for rent, after-hours utilities, and prorated costs of health unit operations.<sup>39</sup>

The conference agreement and the law provide an appropriation of \$92.3 million, which is \$6.6 million more than the President's request. After the 0.80% rescission, the FY2005 funding is \$91.5 million, an increase of \$5.8 million above the President's request. Funding for the CIP is provided at the level recommended by the House and Senate Committees. Four million of the CIP funds could not be obligated until the reporting requirements discussed above are met.

**Chief Financial Officer (CFO).** The Chief Financial Officer oversees all financial management activities of the EOP. The CFO directs, manages, and provides policy guidance and oversight of the financial management personnel under the EOP. Funding of \$5.1 million for the CFO is included in the Office of Administration's request. This amount is 1.4% more than the \$5.0 million provided in FY2004 after the 0.59% rescission. Among other items, this amount "continues funding for travel expenses associated with business management and information technology support for Presidential and Vice Presidential travel."<sup>40</sup> The House and Senate Committees on Appropriations did not state, and neither do the conference agreement or the law, what portion of the OA appropriation would be allocated to the CFO.

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<sup>39</sup> S.Rept. 108-342, p. 161.

<sup>40</sup> EOP Budget Submission, p. 76.

**Office of Management and Budget (OMB).** OMB assists the President in discharging budgetary, management, and other executive responsibilities. The agency's activities include preparing the budget documents; examining agency programs, budget requests, and management activities; preparing the government-wide financial management status report and five-year plan (with the Chief Financial Officer Council); reviewing and coordinating agency regulatory proposals and information collection requirements; and promoting economical, efficient, and effective procurement of property and services for the executive branch.

The President's FY2005 budget proposed an appropriation of \$76.6 million. The FY2004 appropriation was \$67.2 million, but after the 0.59% rescission was \$66.8 million. The requested amount is 15% more than the FY2004 funding after the rescission. However, according to the EOP budget submission, after OMB's FY2004 budget is adjusted to restore \$8.2 million (the House Committee states the amount as \$8.3 million) to the Office of Administration for the White House Core Enterprise Pilot Program, the increase over the FY2004 amount is 2.1%. The submission also stated that the request "includes only the resources needed to maintain existing staffing levels and capabilities .... No new initiatives are proposed."<sup>41</sup>

The House Committee on Appropriations recommended, and the House passed, an appropriation of \$67.8 million, of which up to \$1,500 would be available for official representation expenses. This amount is \$8.8 million less than the President's request. The House bill would provide that none of the funds appropriated or made available could be used for any of the following purposes: to review any agricultural marketing orders or any activities or regulations under the Agricultural Marketing Agreement Act of 1937, to alter the transcript of actual testimony of witnesses, except for the testimony of OMB officials, before the Committees on Appropriations or their subcommittees (this provision would not apply to printed hearings released by the Committees on Appropriations), and to pay the salary or expenses of any OMB employee who calculates, prepares, or approves any tabular or other material that proposes the sub-allocation of budget authority or outlays by the Committees on Appropriations among their subcommittees. The Committee's recommended appropriation includes adjusting OMB staffing to a level of 500 full-time equivalents (FTEs). The report accompanying the House bill states that the Committee reviewed hearing data and found that OMB requested excess staffing funds for at least the last two years. OMB used 491 FTE in FY2003 and told the Committee that the FY2004 request for 510 FTE included "no new staff." OMB's FY2005 budget estimate assumes that the FY2004 full-time equivalent (FTE) staffing level of 510 would be continued. According to the Committee, actual on-board employment at OMB was 491 as of June 1, 2004. The Committee believes that this indicates that the FY2004 budget estimate "was more than needed to maintain a constant staffing level" and that the same would apply for the FY2005 estimate.<sup>42</sup>

The committee report addresses several other issues related to OMB's appropriation as follows. The funding for the Financial Accounting Standards Advisory Board (FASAB) and the Joint Financial Management Improvement

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<sup>41</sup> EOP Budget Submission, p. 144.

<sup>42</sup> H.Rept. 108-671, p. 130.

Program (JFMIP) would be retained in the OMB account because the Committee believes that “budget and program accountability and control should go together wherever possible.”<sup>43</sup> The President’s budget proposed transferring OMB’s portion of the funding for the FASAB and the JFMIP to the Department of the Treasury, but keeping the “lead responsibility” for the activities with OMB. At present, a member of the Senior Executive Service is on detail from the National Aeronautics and Space Administration (NASA) to the federal enterprise architecture program management office at OMB. The Committee believes that the employee should return to NASA and the office should be closed because it questions whether a one-person office could have an appreciable impact on the development of government-wide information technology policy.

As discussed under the Office of Administration account above, \$8.3 million would be transferred to the OA account for the White House Core Enterprise Pilot Program to be used to make rental payments and pay other administrative expenses for EOP offices. After reviewing spending from previous years, the Committee again limits reception and representation expenses to \$1,500. Also, within 90 days of the act’s enactment, OMB is directed by the Committee to provide

a report detailing its blueprint and master plan for realizing substantive reductions in regulatory burdens on industries, which, if achieved, will result in true savings regardless of system efficiencies. The report should identify regulatory areas with the greatest time, cost and volume burden, and note how OMB’s blueprint and master plan addresses these areas for substantive reduction. The Committee recommends that OMB first direct its reduction efforts at regulations where the greatest gain can be achieved with the least effort. The Committee considers paperwork reduction to be especially crucial in the area of health care ... The Committee strongly encourages OMB to give priority attention to the health care area for reducing the paperwork burden on hospitals and physicians and their staffs .... OMB is urged to convene and coordinate the government-wide task force that includes industry representatives to examine the original intent of the underlying laws ... and determine where regulations could be coordinated and simplified to reduce costs and regulatory burdens ...<sup>44</sup>

The Senate Committee on Appropriations recommended an appropriation of \$68.4 million, of which up to \$3,000 would be available for official representation expenses. This amount is \$8.2 million less than the President’s request. The Senate bill would provide that none of the funds appropriated or made available could be used for any of the following purposes: to review any agricultural marketing orders or any activities or regulations under the Agricultural Marketing Agreement Act of 1937, to alter the transcript of actual testimony of witnesses, except for the testimony of OMB officials, before the Committees on Appropriations or the Committees on Veterans’ Affairs, or their subcommittees (this provision would not apply to printed hearings released by the Committees on Appropriations or the Committees on Veterans’ Affairs), and to pay the salary or expenses of any OMB employee who calculates, prepares, or approves any tabular or other material that proposes the sub-

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<sup>43</sup> Ibid, p. 131.

<sup>44</sup> Ibid., pp. 131-132.

allocation of budget authority or outlays by the Committee on Appropriations among their subcommittees.

Additionally, the Senate bill would provide that none of the funds provided in this act, in prior acts, or in subsequent acts would be used, directly or indirectly, by OMB to evaluate or determine if water resource project or study reports submitted by the Chief of Engineers acting through the Secretary of the Army are in compliance with all applicable laws, regulations, and requirements relevant to the Civil Works water resource planning process. OMB would have not more than 60 days to perform budgetary policy reviews of water resource matters on which the Chief of Engineers has reported. The OMB Director would notify the appropriate authorizing and Appropriations Committees when the 60-day review is initiated. If water resource reports have not been transmitted to the appropriate authorizing and appropriating committees within 15 days of the end of the OMB review period based on the notification from the director, Congress would assume OMB concurrence with the report and act accordingly. The committee report accompanying the Senate bill explains the need for these provisions related to OMB review of water resource projects. According to the Committee, it is

aware that numerous water resource projects that have been fully vetted through the lengthy water resource planning process established by the executive branch are being held up by the [OMB] for technical reviews or other policy questions that are unrelated to budgetary matters. The Committee has found that OMB does not have the proper staffing or expertise to make these types of decisions. In addition, the Committee is deeply concerned that water resource matters are being unnecessarily delayed for extended periods of time, sometimes without further action ever being taken because of such obstinacy.<sup>45</sup>

The committee report accompanying the Senate bill addresses several issues related to OMB's funding as follows. OMB's request to transfer funding for the Federal Accounting Standards Advisory Board (FASAB) and the Joint Financial Management Improvement Program (JFMIP) to the Department of the Treasury is denied. According to the Committee

The justification for consolidating OMB's annual payments to FASAB and JFMIP in the Treasury Department is exceptionally weak and rests on the desire to include the expense in the organization where the services are contracted rather than in the organization that initiates the expense. This proposal is inconsistent with the manner in which similar payments are treated in other agencies' budgets and leaves the impression that the transfer of these payments is being requested to mask the actual amount of resources for fiscal year 2005. The recommendation assumes an adjustment of \$639,000.<sup>46</sup>

As for the Core Enterprise Services Program, "The Committee recommendation transfers \$7,193,000 back to the Office of Administration to consolidate OMB's rent, after-hour utilities, and health unit costs in the ... program." The committee report states that "Keeping as many entities in the ... program reduces the number of

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<sup>45</sup> S.Rept. 108-342, p. 163.

<sup>46</sup> Ibid., pp. 162-163.

individual bills that have to be processed and reconciled, reduces the administrative burden on preparing additional interagency agreements, and also reduces the duplicate administrative structures inherent in a decentralized environment.”<sup>47</sup>

Because of budget constraints, the Committee defers \$1.6 million requested “to hire additional personnel to reach the currently authorized level of full-time equivalent positions.”<sup>48</sup> With regard to the Harry S. Truman Memorial Scholarships, “The Committee directs the Board of the Truman Scholarship program to strictly adhere to its statutory mandate to ‘assure that at least one Truman scholar shall be selected each year from each State in which there is at least one resident applicant who meets the minimum criteria established by the Foundation’.”<sup>49</sup>

The conference agreement and the law, likewise, provide an appropriation of \$68.4 million, of which up to \$1,500 shall be available for official representation expenses. This amount is \$8.2 million less than the President’s request. After the 0.80% rescission, the FY2005 funding is \$67.9 million, a reduction of \$8.7 million from the President’s request. The provisions which discuss the use of the appropriation are the same as recommended by the Senate Committee, except that the reference to the Committee on Veterans’ Affairs is removed, and the provision related to water resource reports relates to funds provided in this act or in prior acts, but not in subsequent acts.

**Office of National Drug Control Policy (ONDCP).** The ONDCP develops policies, objectives, and priorities for the National Drug Control Program. The account also funds general policy research to support the formulation of the National Drug Control Strategy.

The President’s FY2005 budget proposed an appropriation of \$27.6 million. The FY2004 appropriation was \$28.0 million, but after the 0.59% rescission was \$27.8 million. The requested amount is 0.8% less than the FY2004 funding after the rescission. Of the total amount requested, \$26.3 million is for salaries and expenses operations and \$1.4 million is for policy research.<sup>50</sup> An additional five full-time equivalent employees are requested.

The House Committee on Appropriations recommended, and the House passed, an appropriation of \$28.1 million. This amount is \$500,000 more than the President’s request. Of the total, \$1.3 million would be for policy research and evaluation, \$25.8 million would be for operations, and \$1 million would be used to reduce the demand for methamphetamine. The Committee approves five additional full-time equivalent employees for ONDCP, but no additional funding for staff is provided because of budget constraints. The Office could accept, hold, administer, and utilize gifts (both real and personal, public and private), without fiscal year limitation to aid or facilitate its work.

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<sup>47</sup> Ibid., p. 163.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid., p. 164.

<sup>50</sup> EOP Budget Submission, p. 162.

The Senate Committee on Appropriations recommended and the conference agreement and the law provide an appropriation of \$27 million, which is \$600,000 less than the President's request. After the 0.80% rescission, the FY2005 funding is \$26.8 million, a reduction of \$800,000 from the President's request. Of the total amount requested, \$1.4 million is for policy research and evaluation. The Committee's report accompanying the Senate bill lists the funding and number of full-time equivalent employees for specific offices under ONDCP.<sup>51</sup> ONDCP is directed "to utilize a portion of its policy research funding to explore ways in which to increase inhalant outreach activities without compromising other ongoing educational efforts."<sup>52</sup> The Office must report its findings to the House and Senate Committees on Appropriations within 180 days of the act's enactment.

The conference report states that the "agreement retains specific funding and staffing levels for ONDCP administrative offices as proposed in the Senate report. In addition, 2.5 new FTE are approved to be allocated to administrative offices at the Director's discretion."<sup>53</sup>

***The Counterdrug Technology Assessment Center (CTAC).*** The CTAC is the central counterdrug research and development organization for the federal government.

The President's FY2005 budget proposed an appropriation of \$40 million. The FY2004 appropriation was \$42 million, but after the 0.59% rescission was \$41.8 million. The requested amount is 4.2% less than the FY2004 funding after the rescission. Of the total amount requested, \$18 million is for counternarcotics research and development projects (which shall be available for transfer to other federal departments or agencies), and \$22 million is for the continued operation of the technology transfer program.<sup>54</sup>

The House Committee on Appropriations recommended and the House passed an appropriation of \$30 million. This amount is \$10 million less than the President's request. Of the total, \$10 million would fund counternarcotics research and development projects (which shall be available for transfer to other federal departments or agencies), and \$20 million would fund the continued operation of the technology transfer program.

The Senate Committee on Appropriations recommended an appropriation of \$42 million, which is \$2 million more than the President's request. Of the total amount requested, \$18 million is for counternarcotics research and development projects which would be available for transfer to other federal departments or agencies and \$24 million is for the continued operation of the technology transfer program. The Committee's report accompanying the Senate bill establishes various reporting requirements for programs under CTAC as follows.

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<sup>51</sup> S.Rept. 108-342, p. 164.

<sup>52</sup> Ibid., p. 165.

<sup>53</sup> *Congressional Record*, daily edition, vol. 150, Nov. 19, 2004, p. H10820.

<sup>54</sup> FY2005 Budget, Appendix, p. 1135.

Prior to the obligation of any of [the CTAC] funds, the Committee directs CTAC's chief scientist to submit to the House and Senate Committees on Appropriations a detailed itemization of anticipated expenditures. The Committee also directs the chief scientist to continue to provide biannual reports on the priority counterdrug enforcement research and development requirements identified by CTAC and on the status of resulting projects funded thereby. These reports should continue to provide the same level of detail that was provided in the March 1, 2004, CTAC report to Congress.

The Committee ... directs CTAC to complete all ongoing technology acquisition R&D projects with the funding provided in fiscal year 2005. Thereafter, CTAC is directed to adhere its R&D spending to those research efforts outlined in its demand reduction vision statement as well as its supply reduction priorities listing included in appendices E and F, respectively, of its March 1, 2004, CTAC report.

The Committee directs CTAC to consider more equally funding all R&D activities in the future and to report on its progress in this regard in its next CTAC report.

The Committee ... directs CTAC to expeditiously obligate all of its R&D funding exclusively in pursuit of the functions for which it has been appropriated. The Committee further directs CTAC to report to the House and Senate Committees on Appropriations within 30 days of enactment of this Act on the reasons for the delay in obligating these funds.

[T]he Committee encourages CTAC to work with private industry to make their developed technology available to State and local law enforcement agencies and to report on the progress of these efforts in its next CTAC report to Congress.

In order to maintain a clear understanding of CTAC's ability to meet demand for the TTP, the Committee directs that the fiscal year 2006 budget justification include a specific accounting of the total number of grant applications received and the number awarded in the previous year.<sup>55</sup>

The conference agreement and the law, likewise, provide an appropriation of \$42 million, which is \$2 million more than the President's request. After the 0.80% rescission, the FY2005 funding is \$41.7 million, an increase of \$1.7 million above the President's request. The counternarcotics research and development projects and the technology transfer program are funded at the levels recommended by the Senate Committee. The conference report states that the "agreement retains language ... directing the CTAC chief scientist to submit an expenditures report prior to the obligation of funds ... retains language directing CTAC to complete all on-going technology acquisition projects and adhere to its research and development spending plan ... [and agrees] with language ... directing CTAC to expeditiously obligate all of its research funding in pursuit of functions for which it was appropriated."<sup>56</sup>

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<sup>55</sup> S.Rept. 108-342, pp. 165-166.

<sup>56</sup> *Congressional Record*, daily edition, vol. 150, Nov. 19, 2004, p. H10820.

**Federal Drug Control Programs.** The High Intensity Drug Trafficking Areas (HIDTA) program provides assistance to federal, state, and local law enforcement entities operating in those areas most adversely affected by drug trafficking. Funds are disbursed at the discretion of the director of ONDCP for joint local, state, and federal initiatives.

The President's FY2005 budget proposed an appropriation of \$208.4 million. The FY2004 appropriation was \$226.4 million, but after the 0.59% rescission was \$225.0 million. The requested amount is 7.4% less than the FY2004 funding after the rescission. No less than 51% of the total shall be transferred to state and local entities for drug control activities, which shall be obligated within 120 days of enactment of the Transportation/Treasury appropriations act. Up to 49% of the total shall remain available until September 30, 2006, and may be transferred to federal agencies and departments at a rate to be determined by the director, of which not less than \$2.1 million shall be used for auditing services and associated activities, and at least \$500,000 of the \$2.1 million shall be used to develop and implement a data collection system to measure the performance of the HIDTA Program.<sup>57</sup>

The House Committee on Appropriations recommended and the House passed an appropriation of \$215.4 million. This amount is \$7 million more than the President's request. Of the total, not less than \$208 million would be provided as base funding to HIDTAs. The other provisions related to allocation of the funds are the same as the President's request, except that \$2 million would be used for auditing services and associated activities. The House bill would provide that prior to the obligation of funds of an amount in excess of the FY2005 budget request, a request, made in compliance with the reprogramming guidelines, would be submitted to the House and Senate Committees on Appropriations for approval. The committee report accompanying the House bill states that the increased appropriation "is to meet requirements to fully fund existing HIDTA program activity, to expand existing HIDTAs where such expansion is justified, and to fund new HIDTAs as appropriate."<sup>58</sup> The Committee recommends that increased funding be considered for the North Texas, Appalachian, Central Florida, Central Valley, and Lake County HIDTAs and that expansion be considered for the Gulf Coast HIDTA.

The Senate Committee on Appropriations recommended an appropriation of \$228.4 million, which is \$20 million more than the President's request. The Senate bill includes a provision that HIDTA programs designated as of September 30, 2003, would be funded at no less than the FY2004 initial allocation levels unless the Director submits to the House and Senate Committees on Appropriations, and the Committees approve, justification for changes in those levels based on clearly articulated priorities for the HIDTA programs and performance measures of effectiveness published by the ONDCP. Prior to the obligation of funds of an amount in excess of the FY2005 budget request, a request, made in compliance with the reprogramming guidelines, would be submitted to the House and Senate Committees on Appropriations for approval. The Senate bill also would provide that none of the funds would be available to support the Consolidated Priority

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<sup>57</sup> FY2005 Budget, Appendix, p. 1133.

<sup>58</sup> H.Rept. 108-671, p. 133.



Organization Target program. The Committee's report accompanying the Senate bill includes the following directives.

In allocating HIDTA funds, the Committee expects the Director of ONDCP to ensure that the entities receiving these limited resources make use of them strictly for implementing the strategy for each HIDTA, taking into consideration local conditions and resource requirements. These funds should not be used to supplant existing support for ongoing Federal, State, or local drug control operations normally funded out of the operating budgets of each agency.

The Committee directs ONDCP to refocus its distribution of HIDTA funding in excess of the initial allocation on enhancing the domestic interdiction of illegal drugs by launching additional investigations, by disrupting and dismantling local mid-level drug trafficking organizations through a systematic and coordinated effort and by supporting the various HIDTA Intelligence Support Centers throughout the country.<sup>59</sup>

With respect to specific HDTAs, the Committee directs the ONDCP

- in the Appalachia HIDTA, “to maintain funding at no less than [the] FY2004 initial allocation.”
- in the New York/New Jersey HIDTA, “to work with the affected counties [in upstate New York] to determine whether they meet the statutory criteria required for designation as a HIDTA. The Committee directs ONDCP to ensure that funding for the New York/New Jersey HIDTA is provided at a level no less than the FY2004 initial allocation and to work with the Executive Board of the ... HIDTA to assess the needs of the HIDTA and to provide additional resources if necessary.”
- in the Northwest HIDTA, “to provide adequate resources to combat [the threat of methamphetamine, marijuana, cocaine, and heroin] .... the Committee notes the value of State and local task forces in addressing these issues and encourages the continued incorporation of such entities in this and other HDTAs.”<sup>60</sup>

The conference agreement and the law, likewise, provide an appropriation of \$228.4 million, which is \$20 million more than the President's request. After the 0.80% rescission, the FY2005 funding is \$226.5 million, an increase of \$18.1 million above the President's request. No less than 51% of the total shall be transferred to state and local entities for drug control activities, which shall be obligated within 120 days of enactment of the act. Up to 49% of the total shall remain available until September 30, 2006, and may be transferred to federal agencies and departments at a rate to be determined by the director, of which not less than \$2 million shall be used for auditing services and associated activities, and at least \$500,000 of the \$2 million

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<sup>59</sup> S.Rept. 108-342, p. 167.

<sup>60</sup> Ibid., pp. 167-168.

shall be used to develop and implement a data collection system to measure the performance of the HIDTA Program.

HIDTA programs designated as of September 30, 2004, are funded at no less than the FY2004 initial allocation levels unless the Director submits to the House and Senate Committees on Appropriations, and the Committees approve, justification for changes in those levels based on clearly articulated priorities for the HIDTA programs and performance measures of effectiveness published by the ONDCP. Prior to the obligation of funds of an amount in excess of the FY2005 budget request, a request, made in compliance with the reprogramming guidelines, must be submitted to the House and Senate Committees on Appropriations for approval. Up to \$2 million of the funds made available to HIDTAs in excess of the FY2005 budget request shall be available for the Consolidated Priority Organization Target program. The conference report states that “The conferees encourage ONDCP to refocus the distribution of excess funding on enhancing the domestic interdiction of illegal drugs by launching additional investigations, by disrupting and dismantling local mid-level drug trafficking organizations and by supporting the HIDTA Intelligence Support Centers.”<sup>61</sup>

**Other Federal Drug Control Programs (formerly The Special Forfeiture Fund).** The account, administered by the director of ONDCP, supports high-priority drug control programs. The funds may be transferred to drug control agencies or directly obligated by the ONDCP director.

The President’s FY2005 budget proposed an appropriation of \$235 million. The FY2004 appropriation was \$229 million, but after the 0.59% rescission was \$227.6 million. The requested amount is 3.2% more than the FY2004 funding after the rescission. Of the total amount requested, \$145 million is to support a national media campaign, as authorized by the Drug-Free Media Campaign Act of 1998; \$80 million is to continue a program of matching grants to drug-free communities, of which \$1 million shall be a directed grant to the Community Anti-Drug Coalitions of America; \$4.5 million is for the Counterdrug Intelligence Executive Secretariat; \$2 million is for evaluations and research related to National Drug Control Program performance measures; \$1 million is for the National Drug Court Institute; \$1.5 million is for the United States Anti-Doping Agency for anti-doping activities; and \$1 million is for the United States membership dues to the World Anti-Doping Agency.<sup>62</sup>

The House Committee on Appropriations recommended and the House passed an appropriation of \$195 million. This amount is \$40 million less than the President’s request. The appropriation would be allocated as follows: a national media campaign (\$120 million), matching grants to drug-free communities (\$70 million) of which \$1 million would be a directed grant to the Community Anti-Drug Coalitions of America, the Counterdrug Intelligence Executive Secretariat (\$1 million), evaluations and research related to National Drug Control Program performance measures (\$1.5 million), the National Drug Court Institute (\$500,000), the United States Anti-Doping Agency (\$1.5 million), and the United States

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<sup>61</sup> *Congressional Record*, daily edition, vol. 150, Nov. 19, 2004, p. H10820.

<sup>62</sup> FY2005 Budget, Appendix, p. 1134.

membership dues to the World Anti-Doping Agency (\$500,000). The funds could be transferred to other federal departments and agencies to carry out such activities. No less than 78% of the funds appropriated for a national media campaign would be used to purchase advertising time and space for the campaign. ONDCP is directed by the Committee to ensure that the timeline and application processes for releasing funds to the U.S. Anti-Doping Agency is followed. The release of funds cannot be expedited by ONDCP unless it submits a justification for such to the House and Senate Committees on Appropriations. The GAO is directed to conduct a study of government-sponsored public service campaigns and report its findings to the appropriation Committees no later than June 1, 2005. The study should examine “the federal agencies and other participants involved; the basis and purpose of these sponsorships; the annual and cumulative federal government and other participant costs for each campaign; [and] the target audiences, media employed, and results achieved for each campaign.”<sup>63</sup>

The Senate Committee on Appropriations recommended an appropriation of \$195.5 million which is \$39.5 million less than the President’s request. The appropriation would be allocated as follows: a national media campaign (\$100 million), matching grants to drug-free communities (\$80 million) of which \$2 million would be a directed grant to the Community Anti-Drug Coalitions of America, the Counterdrug Intelligence Executive Secretariat (\$3.050 million), the National Drug Court Institute (\$1 million), the National Alliance for Model State Drug Laws (\$1.5 million), the United States Anti-Doping Agency (\$7.5 million), the United States membership dues to the World Anti-Doping Agency (\$1.450 million), and evaluation and research related to National Drug Control Program performance measures (\$1 million). The funds could be transferred to other federal departments and agencies to carry out such activities. Not more than 10% of the amounts appropriated for a national media campaign would be for administering the national media campaign.

The Committee’s report accompanying the Senate bill establishes various reporting requirements for programs under this account as follows.

The Committee ... directs ONDCP to utilize the individual [advertising] and overall Campaign assessments provided by the [media campaign] evaluation study [on drug use] to measure the effectiveness of its advertisements and to focus and shape the Media Campaign for the future.

The Committee ... directs ONDCP to maintain funding for its non-advertising services at no less than the fiscal year 2003 level and to re-institute the corporate outreach program as it operated prior to its cancellation.

The Committee directs ONDCP to use its voice and vote as the United States’ representative in ... [the World Anti-Doping Agency] to ensure that all countries’ athletes are subject to fair and equal standards and treatment so as to establish and maintain the objectivity and integrity of this ... regulatory organization. The Committee ... directs ONDCP to provide the entire amount [of funding for the National Alliance for Model State Drug Laws (NAMSDL)] directly to NAMSDL within 30 days after enactment of this Act.

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<sup>63</sup> H.Rept. 108-671, p. 135.

[T]he Committee directs ONDCP to submit its planned [Performance Measures Development (PMD)] activities to CTAC's chief scientist for review and then to report to the House and Senate Committees on Appropriations within 90 days of enactment of this Act providing the chief scientist's findings and explaining why these anticipated PMD functions are most properly funded within PMD.<sup>64</sup>

The conference agreement and the law provide an appropriation of \$213.7 million, which is \$21.3 million less than the President's request. After the 0.80% rescission, the FY2005 funding is \$212 million, a reduction of \$23 million from the President's request. The appropriation is allocated (before the rescission) as follows: a national media campaign (\$120 million), matching grants to drug-free communities (\$80 million) of which \$2 million would be a directed grant to the Community Anti-Drug Coalitions of America, the Counterdrug Intelligence Executive Secretariat (\$2 million), the National Drug Court Institute (\$750,000), the National Alliance for Model State Drug Laws (\$1 million), the United States Anti-Doping Agency (\$7.5 million), the United States membership dues to the World Anti-Doping Agency (\$1.450 million), and evaluation and research related to National Drug Control Program performance measures (\$1 million). The funds may be transferred to other federal departments and agencies to carry out such activities. Not more than 10% of the amounts appropriated for a national media campaign shall be for administration, advertising production, research and testing, labor and related costs of the campaign.

According to the conference report, the "agreement directs ONDCP to maintain funding for nonadvertising services for the Media Campaign at no less than the FY2003 ratio of service funding to total funds and to re-institute the corporate outreach programs as it operated prior to its cancellation ... direct ONDCP to obligate the appropriation for NAMSDL expeditiously, although not outside normal grant procedures [and] ... retain[s] language ... directing ONDCP to submit the planned performance measures development plan."<sup>65</sup>

**Unanticipated Needs.** The account provides funds for the President to meet unplanned and unbudgeted contingencies for national interest, security, or defense purposes.

The President's FY2005 budget proposed an appropriation of \$1 million. The same amount was appropriated in FY2004, but after the 0.59% rescission, the funding was \$994,000. The House and Senate Committees on Appropriations recommended, the House passed, and the conference agreement and the law provide the same amount as the President requested. After the 0.80% rescission, the FY2005 funding is \$992,000, a reduction of \$8,000 from the President's request.

**Special Assistance to the President (Office of the Vice President).** This account funds the Vice President in carrying out the responsibilities assigned to him by the President and by law.

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<sup>64</sup> S.Rept. 108-342, pp. 169-172.

<sup>65</sup> *Congressional Record*, daily edition, vol. 150, Nov. 19, 2004, p.H10820.

The President's FY2005 budget proposed an appropriation of \$4.6 million for salaries and expenses. The FY2004 appropriation was \$4.5 million, but after the 0.59% rescission was \$4.4 million. The requested amount is 3.1% more than the FY2004 funding after the rescission. The House and Senate Committees on Appropriations recommended, the House passed, and the conference agreement and the law provide the same amount as the President requested. After the 0.80% rescission, the FY2005 funding is \$4.5 million, a reduction of \$100,000 from the President's request.

**Official Residence of the Vice President.** This account provides for the care and operation of the Vice President's official residence and includes the operation of a gift fund for the residence.

The President's FY2005 budget proposed an appropriation of \$333,000 for the operating expenses of the Official Residence. The FY2004 appropriation was \$331,000, but after the 0.59% rescission was \$329,000. The requested amount is 1.2% more than the FY2004 funding after the rescission. The House and Senate Committees on Appropriations recommended, the House passed, and the conference agreement and the law provide the same amount as the President requested. After the 0.80% rescission, the FY2005 funding is \$330,336, a reduction of some \$2,600 from the President's request. Advances or repayments or transfers may be made from the appropriation to any department or agency for expenses related to the account. The committee report accompanying the Senate bill states that the budget for the Department of the Navy funds renovations at the residence and that the Committee "expects to be kept fully apprized by the Vice President's office of any and all renovations and alterations made to the residence by the Navy."<sup>66</sup>

**Merit Systems Protection Board (MSPB).** The MSPB serves as guardian of the federal government's merit-based system of employment. The agency carries out its mission by hearing and deciding appeals from federal employees of removals and other major personnel actions. The MSPB also hears and decides other types of civil service cases, reviews OPM regulations, and conducts studies of the merit systems. The agency's efforts are to assure that personnel actions taken involving employees are processed within the law and that actions taken by OPM and other agencies support and enhance federal merit principles.

The President's FY2005 budget proposed an appropriation of \$37.3 million for the MSPB. The FY2004 appropriation was \$32.9 million, but after the 0.59% rescission was reduced to \$32.7 million. In addition, up to \$2.626 million for administrative expenses could be transferred from the Civil Service Retirement and Disability Fund to adjudicate retirement appeals. After the 0.59% rescission, the amount available for transfer was reduced to up to \$2.611 million. The requested amount is 5.7% more than the FY2004 total funding after the rescission.

As in its FY2004 budget proposal, MSPB again proposed that the funding previously provided from the trust fund for adjudication of civil service retirement appeals be requested as part of the agency's regular appropriation. OMB

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<sup>66</sup> S.Rept. 108-342, p. 173.

recommended this change to simplify financial record keeping. The FY2005 budget proposal does not specify how much of the requested \$37.3 million would be allocated as transferred funds for adjudication purposes. The House and Senate Committees on Appropriations in FY2004 did not agree with the proposal and instead recommended (with the conferees concurring) that the trust fund transfer be continued. According to the House committee report accompanying H.R. 2989, the Committee decided

to continue the practice of appropriating funds to MSPB from the Civil Service Retirement and Disability Fund rather than discontinuing this practice as requested by the President; this request has not been adequately justified.<sup>67</sup>

The House Committee on Appropriations recommended, and the House passed, an appropriation of \$34.7 million and a trust fund transfer of up to \$2.620 million. The recommended appropriation is \$2.6 million less than the President's request. According to the committee report accompanying the House bill, "The decrease ... reflects the Committee's decision to continue the practice of appropriating funds to MSPB from the Civil Service Retirement and Disability Fund rather than discontinuing this practice as proposed in the budget request as this proposal has not been adequately justified."<sup>68</sup>

The Senate Committee on Appropriations recommended and the conference agreement and the law provide an appropriation of \$34.7 million, \$2.6 million less than the President's request. After the 0.80% rescission, the FY2005 funding is \$34.4 million, a reduction of \$2.9 million from the President's request. The committee report accompanying the Senate bill states that "The decrease from the President's request reflects the Committee's decision to continue the practice of appropriating funds to MSPB from the Civil Service Retirement and Disability Fund rather than discontinuing this practice as requested by the President; this request has not been adequately justified."<sup>69</sup> The Committee recommended and the conference agreement and the law provide the same amount as the President requested for the trust fund transfer (up to \$2.626 million). After the 0.80% rescission, this amount would be up to \$2.605 million, a reduction of \$21,000 from the President's request.

**Office of Personnel Management (OPM).** The budget for OPM is composed of budget authority for both permanent and current appropriations. This report discusses the budget authority for current appropriations. The agency "is the central human resources agency for the Federal Government and the primary agency helping the President carry out his responsibilities in managing the Federal workforce." The Strategic Human Resources Policy Division "designs, develops, and leads the implementation of innovative, flexible, merit-based human resources policies and strategies that enable Federal agencies to meet their missions and

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<sup>67</sup> H.Rept. 108-243 (2003), pp. 191-192.

<sup>68</sup> H.Rept. 108-671, p. 148.

<sup>69</sup> S.Rept. 108-342, p. 187.

achieve their goals.”<sup>70</sup> The Human Capital Leadership and Merit System Accountability Division assists agencies in implementing and assessing human capital standards. The Human Resources Products and Services Division supports federal agencies by administering retirement and insurance programs, providing personnel investigation services, managerial and executive training, and other human resources services.

The Office of Inspector General (OIG) conducts audits, investigations, evaluations, and inspections throughout the agency and may issue administrative sanctions related to the operation of the Federal Employees Health Benefits Program that “debar from participation in the health insurance program those health care providers whose conduct may pose a threat to the financial integrity of the program itself or to the well-being of insurance program enrollees.”<sup>71</sup>

The President’s FY2005 budget proposed an appropriation of \$18.2 billion for OPM. This total includes discretionary funding of \$131.3 million<sup>72</sup> for OPM salaries and expenses and \$1.627 million for OIG salaries and expenses. It also includes mandatory funding of \$8.1 billion for the government payment for annuitants of the employees health benefits program,<sup>73</sup> \$35 million for the government payment for annuitants of the employee life insurance program, and \$9.8 billion for payment to the civil service retirement and disability fund. Included in this total as well are trust fund transfers of \$128.5 million<sup>74</sup> to the OPM salaries and expenses account (for administrative expenses for the retirement and insurance programs) and \$16.461 million<sup>75</sup> to the OIG salaries and expenses account (for administrative expenses to audit, investigate, and provide other oversight of OPM’s retirement and insurance programs).

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<sup>70</sup> U.S. Office of Personnel Management, *Congressional Budget Justification; Performance Budget Fiscal Year 2005*, Feb. 2004, p. 4. (Hereafter referred to as OPM Budget Justification.)

<sup>71</sup> FY2005 Budget, Appendix, p. 1060.

<sup>72</sup> The total of \$131.3 million would be allocated as follows: Enterprise Human Resources Integration project (\$2 million); leading the government-wide initiative to modernize the federal payroll systems and service delivery (\$6.6 million); e-Human Resources Information System project (\$800,000); e-Clearance project (\$2 million); and coordination and conduct of program evaluation and performance measurement (\$5 million shall remain available through September 30, 2006).

<sup>73</sup> The FY2005 Budget, Appendix, at p. 1061, states the FY2005 budget request for the government payment for annuitants of the employees health benefits program as \$8.0 billion. The House Appropriations Committee report accompanying the House bill shows the FY2005 budget request and the Committee’s recommended appropriation for this account as \$8.1 billion.

<sup>74</sup> Of this total of \$128.5 million, \$27.6 million would fund automation of the retirement record keeping systems.

<sup>75</sup> This money is for administrative expenses to audit, investigate, and provide other oversight of OPM’s retirement and insurance programs.

According to OPM's budget submission, the \$131.3 million requested for salaries and expenses "includes \$114.876 million in annual funds, \$11.415 million in no-year funds for e-Government (e-Gov) projects, and \$5 million in two-year funds to coordinate and conduct program evaluation and performance measurement." The budget submission states that "Annual funds include an increase of \$3,042,000... to provide human capital support, hiring solutions, enhanced IT support, competitive sourcing studies, and homeland security and emergency response."<sup>76</sup>

With regard to the OIG, the budget reported that the amount requested

will finance more audit staff, special agent criminal investigators, and improved information systems. OPM expects to reduce the audit cycle to 2.9 years for FEHBP [Federal Employees Health Benefits Plan] carriers. Total recoveries are expected to increase by \$14 million annually. In 2005, OPM will add audits of pharmacy benefit managers and expand the scope of audits for the largest community-rated health plans (comprehensive medical plans commonly referred to as health maintenance organizations) participating in FEHBP.<sup>77</sup>

The FY2004 appropriation for OPM was \$17.5 billion after the 0.59% rescission. The requested amount for FY2005 is 4% more than the FY2004 total funding after the rescission. Specifically, it is 10.5% more than the \$118.8 million appropriated in FY2004 for salaries and expenses after the rescission; 9.3% more than the \$1.5 million for OIG salaries and expenses after the rescission; 12.5% more than the \$7.2 billion for the government payment for annuitants of the employees health benefits program; the same amount (\$35 million) for the government payment for annuitants of the employee life insurance program; 2.2% less than the \$10.0 billion for payment to the civil service retirement and disability fund; 4.9% less than the \$135.1 million for OPM salaries and expenses transferred from trust funds after the rescission; and 14.8% more than the \$14.3 million for OIG salaries and expenses transferred from trust funds after the rescission.<sup>78</sup>

The House Committee on Appropriations recommended, and the House passed, an appropriation of \$120.4 million for OPM salaries and expenses, \$10.9 million less than the President's request. The funds for the enterprise human resources integration project, the government-wide initiative to modernize the federal payroll systems and service delivery, the e-human resources information system project, and the e-clearance project would be allocated in the same manner as the President

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<sup>76</sup> OPM Budget Justification, p. 8.

<sup>77</sup> FY2005 Budget, Appendix, p. 1060.

<sup>78</sup> The FY2004 appropriation prior to the 0.59% rescission was \$119.5 million for salaries and expenses, \$1.5 million for OIG salaries and expenses, \$135.9 million for OPM salaries and expenses transferred from trust funds, and \$14.4 million for OIG salaries and expenses transferred from trust funds. The amounts of \$7.2 billion, \$35 million, and \$10 billion for FY2004 are from P.L. 108-199. OPM notifies the Secretary of the Treasury of the "such sums as may be necessary" to fund these accounts each fiscal year. The FY2005 budget appendix states that the FY2005 estimates for these accounts are \$8.0 billion, \$35 million, and \$9.8 billion. (p. 1061) The House Appropriations Committee report accompanying the House bill shows the FY2005 budget request and the Committee's recommended appropriation for the employees health benefits program as \$8.1 billion.



requested. The recruitment one stop project would be appropriated \$3.3 million. The appropriations recommended for OIG salaries and expenses, the employees health benefits program, the employee life insurance program, the Civil Service retirement and disability fund, and the trust fund transfers to the OPM and OIG salaries and expenses accounts are the same amounts as the President requested. The trust funds under the OPM salaries and expenses account would be allocated as the President requested.

The House Committee on Appropriations' committee report accompanying the House bill lists appropriations for specific programs as follows: performance culture under strategic human resources policy should not exceed the FY2004 funding level of \$5.8 million, providing advice to agencies under human capital leadership merit systems accountability should not exceed the FY2004 funding level of \$16.8 million, the compliance program under human capital leadership merit systems accountability should not exceed the FY2004 funding level of \$16.5 million, management strategy is funded at \$46.2 million, E-gov initiative fees are not funded, completion of the current retirement readiness project is funded at \$250,000, and expansion of the project to non-federal government employees is funded at \$500,000. Within 60 days of the act's enactment, OPM is directed to submit an operating plan for FY2005, signed by the Director, to the House and Senate Committees on Appropriations. The plan "should include funding levels for the various offices, programs and initiatives covered in the budget justification and supporting documents referenced in the House and Senate appropriations reports, and the statement of the managers." According to the committee report

The Committee finds that the budget justification materials are severely lacking in any real detail about the programs proposed or underway at OPM and the resources involved. Many of the verbose descriptions in the budget justification did not provide concrete information on the programs, activities and funding requirements and changes to OPM's work."<sup>79</sup>

Additionally, OPM is directed "to include with the 'Annual Report on Locality-Based Comparability Payments for the General Schedule' in FY2005 and all future fiscal years a report comparing the total pay and non-pay compensation packages of the Federal workforce and the private sector" and, within 30 days of the act's enactment, "respond to the formal request of the Butner Low Security Correctional Institution regarding its petition on the Central Carolina/Richmond-Petersburg wage area."<sup>80</sup> The committee report notes that OPM's decision to make health savings accounts a part of the federal employees' benefits package is welcomed.

The Senate Committee on Appropriations recommended an appropriation of \$130.6 million for OPM salaries and expenses which is \$691,000 less than the President's request. The total would be allocated as follows: Enterprise Human Resources Integration project (\$1.9 million); leading the government-wide initiative to modernize the federal payroll systems and service delivery (\$6.2 million); e-Human Resources Information System project (\$748,000); e-Clearance project (\$1.9

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<sup>79</sup> H.Rept. 108-671, pp. 152-153.

<sup>80</sup> Ibid., p. 153.

million); and coordination and conduct of program evaluation and performance measurement (\$5 million would remain available through September 30, 2006). The committee report accompanying the Senate bill states that “no more than \$10,724,000 is to be used for e-Government projects.”<sup>81</sup>

The Committee recommended funding in the same amounts as the President requested for OIG salaries and expenses, the employees health benefits program, the employee life insurance program, the Civil Service retirement and disability fund, and the trust fund transfers to the OPM and OIG salaries and expenses accounts. Of the total transferred from trust funds to the OPM salaries and expenses account (\$128.5 million), \$27.6 million would fund automation of the retirement record keeping systems.

The Senate bill also would provide that none of the funds appropriated or made available under this act or any other appropriations act could be used to implement or enforce restrictions or limitations on the Coast Guard Congressional Fellowship Program, or to implement OPM’s proposed regulations, relating to the detail of executive branch employees to the legislative branch, published in the *Federal Register* on September 9, 2003. If the proposed regulations are final on this act’s enactment date, none of the funds appropriated or made available under this act could be used to implement, administer, or enforce such final regulations.

The Senate Committee on Appropriations directs the GAO, in consultation with OPM and the GSA, to study the child care needs of federal employees in executive, legislative, and judicial branch agencies. GAO is “to provide guidance and recommendations of possible options to develop and evaluate additional child care facility needs and how best to serve the needs of all Federal employees.” OPM is directed “to reevaluate its efforts to provide information and education to agencies” on programs which provide subsidized child care for lower income employees.<sup>82</sup>

With regard to OPM’s ongoing program to automate and streamline the processes for administering the federal retirement program, the Committee recommends that OPM continue to seek GAO guidance and support. The GAO is directed “to do a comprehensive audit on the problems and any mismanagement of the modernization project.”<sup>83</sup>

The conference agreement and the law provide an appropriation of \$125.5 million for OPM salaries and expenses, of which \$12 million shall remain available until September 30, 2007. This amount is \$5.8 million less than the President’s request. Funding in the same amounts as the President requested is provided for OIG salaries and expenses, the employees health benefits program, the employee life insurance program, the Civil Service retirement and disability fund, and the trust fund transfers to the OPM and OIG salaries and expenses accounts. Of the money appropriated for the trust fund transfer from the OPM salaries and expenses account,

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<sup>81</sup> S.Rept. 108-342, p. 193.

<sup>82</sup> Ibid.

<sup>83</sup> Ibid., pp. 193-194.

\$27.6 million shall remain available until expended for the cost of automating the retirement recordkeeping systems. After the 0.80% rescission, the FY2005 funding for OPM salaries and expenses is \$124.5 million, for OIG salaries and expenses is \$1.614 million, for the trust fund transfer from the OPM salaries and expenses account is \$127.4 million, and from the OIG salaries and expenses account is \$16.329 million. These amounts represent reductions from the President's request of \$6.8 million, \$13,000, \$1.1 million, and \$132,000, respectively.

According to the conference report, the conferees

have not included bill language identifying specific resource levels for various e-gov projects ... but direct the Office not to exceed the funding levels for the following projects: \$1,870,000 for the enterprise human resources integration project, \$6,219,000 for the federal payroll project, \$748,000 for the e-human resources information system project, and \$1,887,000 for the e-clearance project. To accommodate the obligation rate of these projects ... \$12,000,000 of the funds are made available until September 30, 2007. No funds are provided for the recruitment one stop project or the program evaluation and performance assessment project.

provide \$250,000 to complete the retirement readiness project [and] ... urge the Office to expand the ... project to non-federal employees.

allow the Director the flexibility to allocate the budget resources consistent with the direction provided in this statement of the managers and the budget justifications. The conferees reiterate the direction in the House report to submit an operating plan within 60 days of enactment of this Act to the House and Senate Committees on Appropriations detailing program funding levels for fiscal year 2005.

reiterates the House direction to the Director to respond to the Butner Low Security Correctional Institution petition within 30 days of enactment of this Act.

direct the Director to submit a report by March 4, 2005 comparing the pay and non-pay compensation packages of the Federal workforce and the private sector.

expect OPM and GSA, with technical assistance from GAO, to work collaboratively to collect data on child care needs, analyze options to meet the identified needs, and provide the data and analysis to GAO. The conferees direct GAO to review the data and analyses and provide an evaluation of the results to the Committees on Appropriations. The conferees expect an update on the status of these efforts 90 days after enactment of this Act ... the conferees reiterate the Senate direction to the Office to reevaluate efforts to inform low-income employees of programs to assist with child care expenses.<sup>84</sup>

**Human Capital Performance Fund.** The President's FY2005 budget proposed an appropriation of \$300 million for this fund. The FY2004 appropriation was \$1 million, but after the 0.59% rescission was \$994,000. The fund

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<sup>84</sup> *Congressional Record*, daily edition, vol. 150, Nov. 19, 2004, p. H10822.

is designed to create performance-driven pay systems for employees and reinforce the value of employee performance management systems. It will provide additional pay over and above any annual, across-the-board pay raise to certain civilian employees based on individual or organizational performance and/or other critical agency human capital needs. Ninety percent of funds appropriated are to be distributed to agencies on a pro rata basis, upon OPM approval of an agency's plan. The remainder, and any amount withheld from agencies due to inadequate plans, will be allocated at the discretion of OPM.<sup>85</sup>

The House Committee on Appropriations recommended, and the House passed, an appropriation of \$12.5 million. This amount is \$287.5 million less than the President's request. The House bill would allow the OPM Director to determine and transfer to federal agencies such amounts as necessary to carry out the purposes of the fund. No funds would be obligated or transferred until the Director has notified the relevant subcommittees of the Committees on Appropriations of the approval of an agency's performance plan and the prior approval of such subcommittees has been obtained. OPM is directed to report annually to the House and Senate Appropriations Committees "on the performance pay plans that have been approved, and the amounts that have been obligated or transferred."<sup>86</sup>

The Senate Committee on Appropriations did not recommend and the conference agreement and the law do not provide funding for the performance fund. The committee report accompanying the Senate bill states that such an initiative "should be budgeted and administered within the salaries and expenses of each individual agency."<sup>87</sup>

**Office of Special Counsel (OSC).** The agency investigates federal employee allegations of prohibited personnel practices and, when appropriate, prosecutes matters before the Merit Systems Protection Board; provides a channel for whistle blowing by federal employees; and enforces the Hatch Act. In carrying out the latter activity, the OSC issues both written and oral advisory opinions. The OSC may require an agency to investigate whistle blower allegations and report to the Congress and the President as appropriate.

The President's FY2005 budget proposed an appropriation of \$15.449 million for the OSC. The FY2004 appropriation was \$13.5 million, but after the 0.59% rescission was reduced to \$13.4 million. The requested amount is 15.1% more than the FY2004 funding after the rescission. According to the budget, the funding "will enable OSC to hire the additional staff needed to increase the case closure rate. Without additional staff, case backlogs will continue to increase at OSC."<sup>88</sup>

The House and Senate Committees on Appropriations recommended, the House passed, and the conference agreement and the law provide the same amount as the President requested. After the 0.80% rescission, the FY2005 funding is \$15.325

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<sup>85</sup> FY2005 Budget, Appendix, p. 1060.

<sup>86</sup> H.Rept. 108-671, p. 155.

<sup>87</sup> S.Rept. 108-342, p. 196.

<sup>88</sup> FY2005 Budget, Appendix, p. 1172.

million, a reduction of \$124,000 from the President's request. Aware of OSC's critical need for more staff to address its case backlog of more than three years, the committee report accompanying the Senate bill states that "the Committee expects OSC to acquire an appropriate mix of new staff that will maximize its ability to reduce this backlog" instead of hiring just attorneys. No later than March 31, 2005, OSC must report to the Committees on Appropriations on "the status of its staffing efforts, particularly describing those new positions hired and how the reduction of OSC's case backlog has benefitted as a result of the new personnel."<sup>89</sup>

## Title IV: Independent Agencies

**Table 8. Title IV: Independent Agencies Appropriations**  
(in millions of dollars)

Agency	FY2004 Enacted*	FY2005 Request	FY2005 House	FY2005 Senate Cmte.	FY2005 Enacted**
National Transportation Safety Board	\$74	\$74	\$77	\$76	\$77
Federal Election Commission	51	52	52	52	52
Election Assistance Commission	1,492	50	15	10	14
Federal Labor Relations Authority	29	30	30	26	26
Federal Maritime Commission	18	19	19	19	19
General Services Administration	645	243	1,825	97	97
Merit Systems Protection Board	35	37	35	35	35
Morris K. Udall Foundation	3	1	3	3	3
National Archives and Records Administration	307	304	302	312	313
Office of Personnel Management (total)	17,512	18,520	18,222	18,219	18,214
<i>Salaries and Expenses</i>	<i>119</i>	<i>131</i>	<i>120</i>	<i>131</i>	<i>126</i>
<i>Government Payments for Annuity, Employees Health Benefits</i>	<i>7,219</i>	<i>8,135</i>	<i>8,135</i>	<i>8,135</i>	<i>8,135</i>
<i>Government Payments for Annuity, Employee Life Insurance</i>	<i>35</i>	<i>35</i>	<i>35</i>	<i>35</i>	<i>35</i>
<i>Payment to Civil Service Retirement and Disability Fund</i>	<i>9,987</i>	<i>9,772</i>	<i>9,772</i>	<i>9,772</i>	<i>9,772</i>
Office of Special Counsel	13	15	15	15	15
Postal Service	96	98	98	127	598
United States Tax Court	40	41	41	41	41
<b>Total, Independent Agencies</b>	<b>20,332</b>	<b>19,494</b>	<b>19,121</b>	<b>19,552</b>	<b>19,547</b>

<sup>89</sup> S.Rept. 108-342, p. 197.

**Source:** Figures are from a budget authority table provided by the House Committee on Appropriations. Because of differing treatment of offsets, the totals will not always match the Administration's totals. The figures within this table may differ slightly from those in the text due to supplemental appropriations, rescissions, and other funding actions. Columns may not add due to rounding or exclusion of smaller program line-items.

**Note:** A newly created independent agency which began operation in FY2004, the Election Assistance Commission, received an appropriation of \$1 billion for election reform grants in a separate division of the FY2004 Consolidated appropriations bill.

\*FY2004 figures reflect an across-the-board rescission of 0.59%.

\*\*FY2005 figures do not reflect an across-the-board rescission of 0.80%.

**Federal Election Commission (FEC).** The FEC administers federal campaign finance law, including overseeing disclosure requirements, limits on contributions and expenditures, and the presidential election public funding system; the agency retains civil enforcement authority for the law. The Office of Election Administration, which serves as a clearinghouse for information on voting laws and procedures for state and local election officers, is another part of the FEC.

The President's FY2005 budget proposed an appropriation of \$52.2 million for the FEC, an increase of \$919,000 above the fiscal 2004 appropriation of \$51.2 million; the increase reflects adjustments for inflation and salary and benefit increases. The FEC endorsed the Administration proposal, with its estimated 391 full-time employees. Of the total amount, no less than \$4.7 million is to be designated for automated data processing systems. In addition, \$800,000 is designated for use by the Office of Election Administration, which is slated to be moved to the newly created Election Assistance Commission, along with any funds left over at the time of the move.

The House Appropriations Committee recommended, the House passed, and the Senate Committee on Appropriations recommended the \$52.2 million requested in the President's budget. The House added a requirement that the FEC accept no reports and filings from House and Senate Members and candidates in other than electronic form. The Senate Committee also added two legislative provisions: one to enable (excess) federal campaign funds to be donated to state and local candidates and to be used for other lawful purposes, and the other to clarify that principal campaign committees of federal candidates are limited to contributions of \$2,000 to any authorized committee of another federal candidate. The Omnibus Appropriations measure enacted by Congress authorized \$52.2 million for the FEC and included the two legislative provisions recommended by the Senate Committee (the House provision was dropped).

**Federal Labor Relations Authority (FLRA).** The FLRA serves as a neutral party in the settlement of disputes that arise between unions, employees, and federal agencies on matters outlined in the Federal Service Labor Management Relations Statute; decides major policy issues; prescribes regulations; and disseminates information appropriate to the needs of agencies, labor organizations, and the public. The FLRA also engages in case-related interventions and training and facilitates labor-management relationships. It has three components: the Authority which adjudicates labor-management disputes; the Office of the General Counsel which, among other duties, investigates all allegations of unfair labor practices filed and processes all representation petitions received; and the Federal Service Impasses Panel which resolves impasses which occur during labor negotiations between federal agencies and labor organizations.

The President's FY2005 budget proposed an appropriation of \$29.7 million for the FLRA. The FY2004 appropriation was \$29.6 million but after the 0.59% rescission was \$29.4 million. The requested amount is 0.81% more than the FY2004 funding after the rescission. The House Committee on Appropriations recommended and the House passed the same appropriation as the President requested.

The Senate Committee on Appropriations recommended and the conference agreement and the law provide an appropriation of \$25.7 million, \$4 million less than the President's request. Three million dollars is rescinded from prior year appropriations which were unobligated. After the 0.80% rescission, the FY2005 funding is \$25.5 million, a reduction of \$4.2 million from the President's request. The committee report accompanying the Senate bill states that the recommendation "reflects the decline in caseload and the reduction of the FTE level from 215 to 210." A rescission of \$3 million of prior appropriations is recommended for salaries and expenses because "significant amounts of annual appropriations have lapsed at the end of FY2002 and 2003 which reflect salary and benefit surpluses related to the decline in caseload and actual FTE usage over the same period."<sup>90</sup>

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

As agreed to in the conference report (H.Rept. 108-792) on H.R. 4818, the Consolidated Appropriations Act for FY2005, the House and Senate recommended an appropriation of \$62.1 million for government-wide policy and \$92.2 million for operating expenses; \$42.4 million for the Office of Inspector General; \$3.1 million for allowances and office staff for former Presidents; and \$3.0 million for the electronic government fund. Due to the outcome of the 2004 presidential election, no funds are needed for a presidential transition in FY2005. The conferees did not provide additional funds for activities associated with the President's second term of office. They stated that the resources for these activities should be funded out of the agencies and departments as necessary.

S. 2806 recommended an appropriation of \$62.1 million for government-wide policy and \$85.2 million for operating expenses; \$42.4 million for the Office of Inspector General; \$3.1 million for allowances and office staff for former Presidents; and \$3.0 million to remain available until expended for the electronic government fund. A total of \$7.7 million was also recommended for the expenses associated in the event of a presidential transition. The Senate Committee on Appropriations (S.Rept. 108-342) denied the request to amend the Presidential Transition Act to allow \$1.0 million for training and briefings for incoming appointees associated with the second term of an incumbent President. The Committee stated that it had no objection to funding such training, but believed that "it should be properly budgeted for and requested by the appropriate agencies."

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<sup>90</sup> Ibid., pp. 176-177.

As passed in the House, H.R. 5025 recommended an appropriation of \$62.1 million for government-wide policy and \$82.2 million for operating expenses; \$42.4 million for the Office of Inspector General; \$3.5 million for allowances and office staff for former Presidents; and \$5.0 million to remain available until expended for the electronic government fund. A total of \$7.7 million was also recommended for the expenses associated with a presidential transition. The House Committee on Appropriations (H.Rept. 108-671) stated that it recommended the provision in the President's budget request to allow \$1.0 million of the total \$7.7 million appropriation to remain available for the training and briefings of incoming appointees associated with the second term of an incumbent President. The remaining \$6.7 million would be returned to the general fund of the Treasury.

The President's FY2005 budget contained a request of \$62.1 million for government-wide policy and \$82.2 million for operating expenses; \$42.4 million for the Office of Inspector General; \$3.5 million for allowances and office staff for former Presidents; \$45.0 million for interagency electronic government initiatives; and \$17.6 million to be deposited into the Federal Consumer Information Center Fund. In the event of a presidential transition, a total of \$7.7 million was requested in accordance with the Presidential Transition Act, as amended, to provide for an orderly transfer of executive leadership. Of this total, \$1.0 million would be provided for briefing new personnel associated with the incoming administration. Beginning in FY2005, appropriation language is proposed to amend the Presidential Transition Act to permit the expenditure of not more than \$1.0 million for briefings for incoming appointees associated with the second term of an incumbent President. If there is no presidential transition, no other expenditures of transition funds would be made available to an incumbent President. The remaining \$6.7 million in appropriated funds would be returned to the general fund of the Treasury.



**Table 9. General Services Administration Appropriations**  
(in millions of dollars)

Fund / Office	FY2004 Enacted *	FY2005 Request	FY2005 House	FY2005 Senate Comm.	FY2005 Enacted **
Federal Buildings Fund					
<i>Appropriations</i>	\$443	—	\$1,622	—	—
<i>Limitations on Obligations</i>	6,812	\$7,215	7,012	\$7,200	\$7,258
Government-wide Policy	56	62	62	62	62
Operating Expenses	88	82	82	85	92
Office of Inspector General	39	42	42	42	42
Allowances and Office Staff for Former Presidents	3	3	3	3	3
Electronic Government (E- Gov) Fund	3	45	5	3	3
<b>GSA appropriations total***</b>	<b>645</b>	<b>243</b>	<b>203</b>	<b>97</b>	<b>97</b>

**Source:** Figures are from a budget authority table provided by the House Committee on Appropriations, except Senate figure is from budget authority table in S.Rept. 108-342. Because of differing treatment of offsets, the totals will not always match the Administration's totals. The figures within this table may differ slightly from those in the text due to supplemental appropriations, rescissions, and other funding actions. Columns may not add due to rounding or exclusion of smaller program line-items.

\*FY2004 figures reflect an across-the-board rescission of 0.59%.

\*\*FY2005 figures do not reflect an across-the-board rescission of 0.80%.

\*\*\*The appropriations total does not include the limitations on obligations figure for the Federal Buildings Fund.

**Federal Buildings Fund (FBF).** Revenue to the FBF is the principal source of funding. Congress, however, directs the GSA as to the allocation or limitation on spending of funds.

As agreed to in the conference report (H.Rept. 108-792) on H.R. 4818, the Consolidated Appropriations Act for FY2005, the House and Senate recommended that \$708.5 million remain available for new construction projects from the \$7.2 billion Federal Buildings Fund. An additional \$980.2 million is to remain available for repairs and alterations. The conferees also recommended that the following amounts be made available from the FBF: \$161.4 million for installment acquisition payments; \$3.7 billion for rental of space; and \$1.7 for building operations.

The Senate Committee on Appropriations recommended that \$710.9 million remain available until expended for new construction projects from the Federal Buildings Fund, which totals \$7.2 billion. An additional \$980.2 million was to remain available until expended for repairs and alterations. This amount included \$20.0 million to implement a glass fragmentation program; \$13.0 million to implement a chlorofluorocarbons program; and amounts necessary to provide reimbursable special services such as fencing, lighting, and guard booths on private

or other property not owned by the federal government as may be appropriate to enable the U.S. Secret Service to perform its protective functions. The Committee also recommended that the following amounts be made available from the FBF: \$161.4 million for installment acquisition payments; \$3.7 billion for rental of space; and \$1.7 billion for building operations.

As passed in the House, H.R. 5025 directs that \$522.3 million remain available until expended for new construction projects from the FBF. An additional \$931.2 million was to remain available until expended for repairs and alterations. This amount also included \$20.0 million to implement a glass fragmentation program; \$13.0 million to implement a chlorofluorocarbons program; and amounts necessary to provide reimbursable special services such as fencing, lighting, and guard booths on private or other property not owned by the federal government, as may be appropriate to enable the U.S. Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056. H.R. 5025 also directed that the following amounts be made available from the FBF: \$161.4 million for installment acquisition payments; \$3.7 billion for rental of space; and \$1.7 billion for building operations.

The President's FY2005 budget requested that \$650.2 million remain available until expended for new construction projects from the Federal Buildings Fund, which totals \$7.2 billion. This amount included \$381.0 million for the construction of three new courthouses. An additional \$980.2 million was to remain available until expended for repairs and alterations. This amount included \$135.1 million for repairs to five existing courthouses; \$20.0 million to implement a glass fragmentation program; \$13.0 million to implement a chlorofluorocarbons program; and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056.

**Electronic Government Fund (E-gov Fund).** The fund was ultimately allocated \$3 million in the consolidated appropriations legislation approved by both houses of Congress. This was \$2 million less than the \$5 million requested by the President. The House had provided the amount requested by the President, but the Senate had approved the \$3 million allocation recommended, without any explanation for the reduction, by its Committee on Appropriations.

Although the President had requested \$5 million for the e-gov fund for FY2005, the account statement in the appendix to the President's proposed FY2005 budget stated: "In addition to the \$5 million requested for this appropriation, it is proposed that an additional \$40 million will be made available for this activity from surplus revenues generated in the General Supply Fund."<sup>91</sup> Those two figures equal the \$45 million requested for FY2004, but were \$42 million more than the \$3 million actually allocated by Congress for FY2004. The fund received an appropriation of \$5 million in both FY2002 and FY2003.

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<sup>91</sup> U.S. Office of Management and Budget, *Fiscal Year 2005 Budget of the U.S. Government: Appendix*, p. 971.

The account statement for the General Supply Fund explains that it “finances certain activities within the Federal Supply Service (FSS) and the Federal Technology Service (FTS)” of GSA. The “FSS offers Federal agencies an extensive range of commercial services and more than 4 million commercial products.” These services and products are “provided by commercial suppliers through more than 10,000 FSS contractors. In FY2003, FSS’ business volume was \$33.8 billion, and is projected to be \$38.5 billion in FY2005.”<sup>92</sup>

Funding for the Electronic Government Fund has been a somewhat contentious matter between the President and Congress. On February 28, 2001, in advance of his proposed budget for FY2002, the President released: *A Blueprint for New Beginnings: A Responsible Budget for America’s Priorities*. Intended as a 10-year budget plan, the *Blueprint*, among other innovations, proposed the establishment of an electronic government account seeded with “\$10 million in 2002 as the first installment of a fund — that will grow to a total of \$100 million over three years — to support interagency electronic Government (e-gov) initiatives.”

Managed by OMB, the fund was foreseen as supporting “projects that operate across agency boundaries,” facilitating “the development of a Public Key Infrastructure to implement digital signatures that are accepted across agencies for secure online communications,” and furthering “the Administration’s ability to implement the Government Paperwork Elimination Act of 1998, which calls upon agencies to provide the public with optional use and acceptance of electronic information, services and signatures, when practicable, by October 2003.”<sup>93</sup> About one month later, on March 22, OMB announced that the Administration had decided to double the amount to be allocated to the e-gov fund, bringing it to \$20 million.<sup>94</sup>

As included in the President’s FY2002 budget, the fund was established as an account within the General Services Administration (GSA), to be administered by the Administrator of General Services “to support interagency projects, approved by the Director of the Office of Management and Budget, that enable the Federal Government to expand its ability to conduct activities electronically, through the development and implementation of innovative uses of the Internet and other electronic methods.”

The President’s initial request for the fund was \$20 million, to remain available until September 30, 2004. Congress, however, appropriated \$5 million for the fund for FY2002, to remain available until expended. Appropriators specified that transfers of monies from the fund to federal agencies could not be made until 10 days after a proposed spending plan and justification for each project to be undertaken using such monies had been submitted to the Committees on Appropriations. Expressing general support for the purposes of the fund, they also recommended, and

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<sup>92</sup> Ibid., p. 966.

<sup>93</sup> U.S. Executive Office of the President, Office of Management and Budget, *A Blueprint for New Beginnings* (Washington: GPO, 2001), pp. 179-180.

<sup>94</sup> William Matthews, “Bush E-gov Fund to Double,” *Federal Computer Week*, vol. 15, Mar. 26, 2001, p. 8.

both chambers agreed, that the Administration work with the House Committee on Government Reform and the Senate Committee on Governmental Affairs to clarify the status of its authorization.

The President's budget for FY2003 recognized "GSA as operator of the official federal portal for providing citizens with one-stop access to federal services via the Internet or telephone" and, therefore, a key agency in implementing the President's e-gov vision, which will "require cross-agency approaches that permit citizens, businesses, and state and local governments to easily obtain services from, and electronically transact business with the federal government." In this regard, an Administration interagency Quicksilver E-Gov Task Force, according to the budget, had "identified 23 high priority Internet services for early development."

Seeking \$45 million for the e-gov fund, the budget acknowledged that this amount was "a significant increase over the \$20 million requested in 2002," but noted that the request "is supported by specific project plans developed by the Quicksilver Task Force."<sup>95</sup> Furthermore, according to the fund account statement, these monies "would also further the Administration's implementation of the Government Paperwork Elimination Act (GPEA) of 1998, which calls upon agencies to provide the public with optional use and acceptance of electronic information, services, and signatures, when practicable, by October 2003."

The House appropriators again rejected the amount requested by the President and recommended \$5 million for the fund, reiterating, as previously, that transfers of monies from the fund to federal agencies could not be made until 10 days after submission of project information to the Committees on Appropriations. The House Committee also declined to recommend an appropriation for the fund as a GSA account, but did fund it as an account under the jurisdiction of OMB.<sup>96</sup> Senate appropriators, however, recommended the full \$45 million requested by the President. Their report stated that OMB "would control the allocation of the fund and direct its use for information systems projects and affect multiple agencies and offer the greatest improvements in access and service."<sup>97</sup> Final funding, nonetheless, was \$5 million.

The President again requested \$45 million for the fund for FY2004. House appropriators provided \$1 million, offered no report language regarding this reduced amount, but noted that the fund had been authorized by the E-Government Act of

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<sup>95</sup> U.S. Office of Management and Budget, *Fiscal Year 2003 Budget of the U.S. Government* (Washington: GPO, 2002), pp. 386-387.

<sup>96</sup> U.S. Congress, House Committee on Appropriations, *Treasury, Postal Service, and General Government Appropriations Bill, 2003*, a report to accompany H.R. 5120, 107<sup>th</sup> Cong., 2<sup>nd</sup> sess., H.Rept. 107-575 (Washington: GPO, 2002), pp. 64, 83.

<sup>97</sup> U.S. Congress, Senate Committee on Appropriations, *Treasury and General Government Appropriation Bill, 2003*, a report to accompany S. 2740, 107<sup>th</sup> Cong., 2<sup>nd</sup> sess., S.Rept. 107-212 (Washington: GPO, 2002), p. 77.

2002, which had previously been a matter of concern for appropriators.<sup>98</sup> This allocation was subsequently approved by the House. The Senate approved \$5 million for the fund, as recommended by its appropriators. Ultimately, a midpoint compromise of \$3 million was set by conferees and adopted by each chamber.

**National Archives and Records Administration (NARA).** The custodian of the historically valuable records of the federal government since its establishment in 1934, NARA also prescribes policy and provides both guidance and management assistance concerning the entire life cycle of federal records. It also administers the presidential libraries system; publishes the laws, regulations, and presidential and other documents; and assists the Information Security Oversight Office (ISOO), which manages federal security classification and declassification policy; and the National Historical Publications and Records Commission (NHPRC), which makes grants nationwide to help nonprofit organizations identify, preserve, and provide access to materials that document American history.

The funds ultimately allocated to NARA by the consolidated appropriations legislation, as approved by both houses of Congress, were a little over \$321 million, an amount very close to the funds recommended by Senator appropriators. This amount, however, was almost \$20 million more than those provided by the House, and \$17 million more than the President's request. Of this \$321 million, the following distributions were specified: \$266.9 for operating expenses, \$35.9 for the electronic records archives, \$13.4 for repairs and restoration, and \$5 for the NHPRC. Within the repairs and restoration account, \$3 million was specified for a new regional archives facility in Anchorage, AK, and \$2 for repairs and restoration at the Lyndon B. Johnson presidential library in Austin, TX.

The House had earlier approved the \$302.2 million recommended by the Committee on Appropriations for NARA, a reduction of a little less than \$2 million from the amount sought by the President. This reduction largely fell in the operating expenses account, for which \$264.2 million had been recommended. Amounts proposed for the electronic records archive and the NHPRC were at the level requested by the President. An additional \$1 million had been recommended above the \$6.1 million requested for repairs and restoration.

The Senate Committee on Appropriations had recommended a little over \$320 million for NARA, exceeding the President's request by \$16 million. Of the amount, \$266.9 million was allocated for operating expenses; \$35.9 million for electronic records archives; \$12.1 for repairs and restoration; and \$5 million for the NHPRC.

The President had requested \$304 million for NARA for FY2005, which was approximately \$2.6 million less than the \$306.6 million appropriated for FY2004. The bulk of this new amount, \$266.9 million, was sought for operating expenses, which is approximately \$10 million more than the \$255 million allocated to this account for FY2004. In addition, of the requested amount, \$6.1 million would have funded repairs and restoration and \$3 million would have been provided to the

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<sup>98</sup> See 116 Stat. 2899 at 2906; 44 U.S.C. § 3604.

NHPRC. These requests were significantly lower than the \$13.6 million appropriated for repairs and restoration and the almost \$10 million provided to the NHPRC for FY2004. When Congress approved \$35.7 million for FY2004 for the new electronic records archive account, \$22 million of this amount was designated to remain available until the end of FY2006. The President requested \$35.9 million for this account for FY2005.

**Merit Systems Protection Board (MSPB).** The MSPB serves as guardian of the federal government's merit-based system of employment. The agency carries out its mission by hearing and deciding appeals from federal employees of removals and other major personnel actions. The MSPB also hears and decides other types of civil service cases, reviews OPM regulations, and conducts studies of the merit systems. The agency's efforts are to assure that personnel actions taken involving employees are processed within the law and that actions taken by OPM and other agencies support and enhance federal merit principles.

The President's FY2005 budget proposed an appropriation of \$37.3 million for the MSPB. The FY2004 appropriation was \$32.9 million, but after the 0.59% rescission was reduced to \$32.7 million. In addition, up to \$2.626 million for administrative expenses could be transferred from the Civil Service Retirement and Disability Fund to adjudicate retirement appeals. After the 0.59% rescission, the amount available for transfer was reduced to up to \$2.611 million. The requested amount is 5.7% more than the FY2004 total funding after the rescission.

As in its FY2004 budget proposal, MSPB again proposed that the funding previously provided from the trust fund for adjudication of civil service retirement appeals be requested as part of the agency's regular appropriation. OMB recommended this change to simplify financial record keeping. The FY2005 budget proposal does not specify how much of the requested \$37.3 million would be allocated as transferred funds for adjudication purposes. The House and Senate Committees on Appropriations in FY2004 did not agree with the proposal and instead recommended (with the conferees concurring) that the trust fund transfer be continued. According to the House committee report accompanying H.R. 2989, the Committee decided

to continue the practice of appropriating funds to MSPB from the Civil Service Retirement and Disability Fund rather than discontinuing this practice as requested by the President; this request has not been adequately justified.<sup>99</sup>

The House Committee on Appropriations recommended, and the House passed, an appropriation of \$34.7 million and a trust fund transfer of up to \$2.620 million. The recommended appropriation is \$2.6 million less than the President's request. According to the committee report accompanying the House bill, "The decrease ... reflects the Committee's decision to continue the practice of appropriating funds to MSPB from the Civil Service Retirement and Disability Fund rather than

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<sup>99</sup> H.Rept. 108-243 (2003), pp. 191-192.

discontinuing this practice as proposed in the budget request as this proposal has not been adequately justified.”<sup>100</sup>

The Senate Committee on Appropriations recommended and the conference agreement and the law provide an appropriation of \$34.7 million, \$2.6 million less than the President’s request. After the 0.80% rescission, the FY2005 funding is \$34.4 million, a reduction of \$2.9 million from the President’s request. The committee report accompanying the Senate bill states that “The decrease from the President’s request reflects the Committee’s decision to continue the practice of appropriating funds to MSPB from the Civil Service Retirement and Disability Fund rather than discontinuing this practice as requested by the President; this request has not been adequately justified.”<sup>101</sup> The Committee recommended and the conference agreement and the law provide the same amount as the President requested for the trust fund transfer (up to \$2.626 million). After the 0.80% rescission, this amount would be up to \$2.605 million, a reduction of \$21,000 from the President’s request.

**Office of Personnel Management (OPM).** The budget for OPM is composed of budget authority for both permanent and current appropriations. This report discusses the budget authority for current appropriations. The agency “is the central human resources agency for the Federal Government and the primary agency helping the President carry out his responsibilities in managing the Federal workforce.” The Strategic Human Resources Policy Division “designs, develops, and leads the implementation of innovative, flexible, merit-based human resources policies and strategies that enable Federal agencies to meet their missions and achieve their goals.”<sup>102</sup> The Human Capital Leadership and Merit System Accountability Division assists agencies in implementing and assessing human capital standards. The Human Resources Products and Services Division supports federal agencies by administering retirement and insurance programs, providing personnel investigation services, managerial and executive training, and other human resources services.

The Office of Inspector General (OIG) conducts audits, investigations, evaluations, and inspections throughout the agency and may issue administrative sanctions related to the operation of the Federal Employees Health Benefits Program that “debar from participation in the health insurance program those health care providers whose conduct may pose a threat to the financial integrity of the program itself or to the well-being of insurance program enrollees.”<sup>103</sup>

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<sup>100</sup> H.Rept. 108-671, p. 148.

<sup>101</sup> S.Rept. 108-342, p. 187.

<sup>102</sup> U.S. Office of Personnel Management, *Congressional Budget Justification; Performance Budget Fiscal Year 2005*, Feb. 2004, p. 4. (Hereafter referred to as OPM Budget Justification.)

<sup>103</sup> FY2005 Budget, Appendix, p. 1060.

The President's FY2005 budget proposed an appropriation of \$18.2 billion for OPM. This total includes discretionary funding of \$131.3 million<sup>104</sup> for OPM salaries and expenses and \$1.627 billion for OIG salaries and expenses. It also includes mandatory funding of \$8.1 billion for the government payment for annuitants of the employees health benefits program,<sup>105</sup> \$35 million for the government payment for annuitants of the employee life insurance program, and \$9.8 billion for payment to the civil service retirement and disability fund. Included in this total as well are trust fund transfers of \$128.5 million<sup>106</sup> to the OPM salaries and expenses account (for administrative expenses for the retirement and insurance programs) and \$16.461 million<sup>107</sup> to the OIG salaries and expenses account (for administrative expenses to audit, investigate, and provide other oversight of OPM's retirement and insurance programs).

According to OPM's budget submission, the \$131.3 million requested for salaries and expenses "includes \$114.876 million in annual funds, \$11.415 million in no-year funds for e-Government (e-Gov) projects, and \$5 million in two-year funds to coordinate and conduct program evaluation and performance measurement." The budget submission states that "Annual funds include an increase of \$3,042,000... to provide human capital support, hiring solutions, enhanced IT support, competitive sourcing studies, and homeland security and emergency response."<sup>108</sup>

With regard to the OIG, the budget reported that the amount requested

will finance more audit staff, special agent criminal investigators, and improved information systems. OPM expects to reduce the audit cycle to 2.9 years for FEHBP [Federal Employees Health Benefits Plan] carriers. Total recoveries are expected to increase by \$14 million annually. In 2005, OPM will add audits of pharmacy benefit managers and expand the scope of audits for the largest community-rated health plans (comprehensive medical plans commonly referred to as health maintenance organizations) participating in FEHBP.<sup>109</sup>

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<sup>104</sup> The total of \$131.3 million would be allocated as follows: Enterprise Human Resources Integration project (\$2 million); leading the government-wide initiative to modernize the federal payroll systems and service delivery (\$6.6 million); e-Human Resources Information System project (\$800,000); e-Clearance project (\$2 million); and coordination and conduct of program evaluation and performance measurement (\$5 million shall remain available through September 30, 2006).

<sup>105</sup> The FY2005 Budget, Appendix, at p. 1061, states the FY2005 budget request for the government payment for annuitants of the employees health benefits program as \$8.0 billion. The House Appropriations Committee report accompanying the House bill shows the FY2005 budget request and the committee's recommended appropriation for this account as \$8.1 billion.

<sup>106</sup> Of this total of \$128.5 million, \$27.6 million would fund automation of the retirement record keeping systems.

<sup>107</sup> This money is for administrative expenses to audit, investigate, and provide other oversight of OPM's retirement and insurance programs.

<sup>108</sup> OPM Budget Justification, p. 8.

<sup>109</sup> FY2005 Budget, Appendix, p. 1060.



The FY2004 appropriation for OPM was \$17.5 billion after the 0.59% rescission. The requested amount for FY2005 is 4% more than the FY2004 total funding after the rescission. Specifically, it is 10.5% more than the \$118.8 million appropriated in FY2004 for salaries and expenses after the rescission; 9.3% more than the \$1.5 million for OIG salaries and expenses after the rescission; 12.5% more than the \$7.2 billion for the government payment for annuitants of the employees health benefits program; the same amount (\$35 million) for the government payment for annuitants of the employee life insurance program; 2.2% less than the \$10.0 billion for payment to the civil service retirement and disability fund; 4.9% less than the \$135.1 million for OPM salaries and expenses transferred from trust funds after the rescission; and 14.8% more than the \$14.3 million for OIG salaries and expenses transferred from trust funds after the rescission.<sup>110</sup>

The House Committee on Appropriations recommended, and the House passed, an appropriation of \$120.4 million for OPM salaries and expenses, \$10.9 million less than the President's request. The funds for the enterprise human resources integration project, the government-wide initiative to modernize the federal payroll systems and service delivery, the e-human resources information system project, and the e-clearance project would be allocated in the same manner as the President requested. The recruitment one stop project would be appropriated \$3.3 million. The appropriations recommended for OIG salaries and expenses, the employees health benefits program, the employee life insurance program, the Civil Service retirement and disability fund, and the trust fund transfers to the OPM and OIG salaries and expenses accounts are the same amounts as the President requested. The trust funds under the OPM salaries and expenses account would be allocated as the President requested.

The House Committee on Appropriations' committee report accompanying the House bill lists appropriations for specific programs as follows: performance culture under strategic human resources policy should not exceed the FY2004 funding level of \$5.8 million, providing advice to agencies under human capital leadership merit systems accountability should not exceed the FY2004 funding level of \$16.8 million, the compliance program under human capital leadership merit systems accountability should not exceed the FY2004 funding level of \$16.5 million, management strategy is funded at \$46.2 million, E-gov initiative fees are not funded, completion of the current retirement readiness project is funded at \$250,000, and expansion of the project to non-federal government employees is funded at \$500,000. Within 60 days of the act's enactment, OPM is directed to submit an operating plan for FY2005, signed by the Director, to the House and Senate Committees on Appropriations. The

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<sup>110</sup> The FY2004 appropriation prior to the 0.59% rescission was \$119.5 million for salaries and expenses, \$1.5 million for OIG salaries and expenses, \$135.9 million for OPM salaries and expenses transferred from trust funds, and \$14.4 million for OIG salaries and expenses transferred from trust funds. The amounts of \$7.2 billion, \$35 million, and \$10 billion for FY2004 are from P.L. 108-199. OPM notifies the Secretary of the Treasury of the "such sums as may be necessary" to fund these accounts each fiscal year. The FY2005 budget appendix states that the FY2005 estimates for these accounts are \$8.0 billion, \$35 million, and \$9.8 billion. (p. 1061) The House Appropriations Committee report accompanying the House bill shows the FY2005 budget request and the committee's recommended appropriation for the employees health benefits program as \$8.1 billion.

plan “should include funding levels for the various offices, programs and initiatives covered in the budget justification and supporting documents referenced in the House and Senate appropriations reports, and the statement of the managers.” According to the committee report

The Committee finds that the budget justification materials are severely lacking in any real detail about the programs proposed or underway at OPM and the resources involved. Many of the verbose descriptions in the budget justification did not provide concrete information on the programs, activities and funding requirements and changes to OPM’s work.”<sup>111</sup>

Additionally, OPM is directed “to include with the ‘Annual Report on Locality-Based Comparability Payments for the General Schedule’ in FY2005 and all future fiscal years a report comparing the total pay and non-pay compensation packages of the Federal workforce and the private sector” and, within 30 days of the act’s enactment, “respond to the formal request of the Butner Low Security Correctional Institution regarding its petition on the Central Carolina/Richmond-Petersburg wage area.”<sup>112</sup> The committee report notes that OPM’s decision to make health savings accounts a part of the federal employees’ benefits package is welcomed.

The Senate Committee on Appropriations recommended an appropriation of \$130.6 million for OPM salaries and expenses which is \$691,000 less than the President’s request. The total would be allocated as follows: Enterprise Human Resources Integration project (\$1.9 million); leading the government-wide initiative to modernize the federal payroll systems and service delivery (\$6.2 million); e-Human Resources Information System project (\$748,000); e-Clearance project (\$1.9 million); and coordination and conduct of program evaluation and performance measurement (\$5 million would remain available through September 30, 2006). The committee report accompanying the Senate bill states that “no more than \$10,724,000 is to be used for e-Government projects.”<sup>113</sup>

The Committee recommended funding in the same amounts as the President requested for OIG salaries and expenses, the employees health benefits program, the employee life insurance program, the Civil Service retirement and disability fund, and the trust fund transfers to the OPM and OIG salaries and expenses accounts. Of the total transferred from trust funds to the OPM salaries and expenses account (\$128.5 million), \$27.6 million would fund automation of the retirement record keeping systems.

The Senate bill also would provide that none of the funds appropriated or made available under this act or any other appropriations act could be used to implement or enforce restrictions or limitations on the Coast Guard Congressional Fellowship Program, or to implement OPM’s proposed regulations, relating to the detail of executive branch employees to the legislative branch, published in the *Federal Register* on September 9, 2003. If the proposed regulations are final on this act’s

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<sup>111</sup> H.Rept. 108-671, pp. 152-153.

<sup>112</sup> Ibid., p. 153.

<sup>113</sup> S.Rept. 108-342, p. 193.

enactment date, none of the funds appropriated or made available under this act could be used to implement, administer, or enforce such final regulations.

The Senate Committee on Appropriations directs the GAO, in consultation with OPM and the GSA, to study the child care needs of federal employees in executive, legislative, and judicial branch agencies. GAO is “to provide guidance and recommendations of possible options to develop and evaluate additional child care facility needs and how best to serve the needs of all Federal employees.” OPM is directed “to reevaluate its efforts to provide information and education to agencies” on programs which provide subsidized child care for lower income employees.<sup>114</sup>

With regard to OPM’s ongoing program to automate and streamline the processes for administering the federal retirement program, the Committee recommends that OPM continue to seek GAO guidance and support. The GAO is directed “to do a comprehensive audit on the problems and any mismanagement of the modernization project.”<sup>115</sup>

The conference agreement and the law provide an appropriation of \$125.5 million for OPM salaries and expenses, of which \$12 million shall remain available until September 30, 2007. This amount is \$5.8 million less than the President’s request. Funding in the same amounts as the President requested is provided for OIG salaries and expenses, the employees health benefits program, the employee life insurance program, the Civil Service retirement and disability fund, and the trust fund transfers to the OPM and OIG salaries and expenses accounts. Of the money appropriated for the trust fund transfer from the OPM salaries and expenses account, \$27.6 million shall remain available until expended for the cost of automating the retirement recordkeeping systems. After the 0.80% rescission, the FY2005 funding for OPM salaries and expenses is \$124.5 million, for OIG salaries and expenses is \$1.614 million, for the trust fund transfer from the OPM salaries and expenses account is \$127.4 million, and from the OIG salaries and expenses account is \$16.329 million. These amounts represent reductions from the President’s request of \$6.8 million, \$13,000, \$1.1 million, and \$132,000, respectively.

According to the conference report, the conferees

have not included bill language identifying specific resource levels for various e-gov projects ... but direct the Office not to exceed the funding levels for the following projects: \$1,870,000 for the enterprise human resources integration project, \$6,219,000 for the federal payroll project, \$748,000 for the e-human resources information system project, and \$1,887,000 for the e-clearance project. To accommodate the obligation rate of these projects ... \$12,000,000 of the funds are made available until September 30, 2007. No funds are provided for the recruitment one stop project or the program evaluation and performance assessment project.

provide \$250,000 to complete the retirement readiness project [and] ... urge the Office to expand the ... project to non-federal employees.

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<sup>114</sup> Ibid.

<sup>115</sup> Ibid., pp. 193-194.

allow the Director the flexibility to allocate the budget resources consistent with the direction provided in this statement of the managers and the budget justifications. The conferees reiterate the direction in the House report to submit an operating plan within 60 days of enactment of this Act to the House and Senate Committees on Appropriations detailing program funding levels for fiscal year 2005.

reiterates the House direction to the Director to respond to the Butner Low Security Correctional Institution petition within 30 days of enactment of this Act.

direct the Director to submit a report by March 4, 2005 comparing the pay and non-pay compensation packages of the Federal workforce and the private sector.

expect OPM and GSA, with technical assistance from GAO, to work collaboratively to collect data on child care needs, analyze options to meet the identified needs, and provide the data and analysis to GAO. The conferees direct GAO to review the data and analyses and provide an evaluation of the results to the Committees on Appropriations. The conferees expect an update on the status of these efforts 90 days after enactment of this Act ... the conferees reiterate the Senate direction to the Office to reevaluate efforts to inform low-income employees of programs to assist with child care expenses.<sup>116</sup>

**Human Capital Performance Fund.** The President's FY2005 budget proposed an appropriation of \$300 million for this fund. The FY2004 appropriation was \$1 million, but after the 0.59% rescission was \$994,000. The fund

is designed to create performance-driven pay systems for employees and reinforce the value of employee performance management systems. It will provide additional pay over and above any annual, across-the-board pay raise to certain civilian employees based on individual or organizational performance and/or other critical agency human capital needs. Ninety percent of funds appropriated are to be distributed to agencies on a pro rata basis, upon OPM approval of an agency's plan. The remainder, and any amount withheld from agencies due to inadequate plans, will be allocated at the discretion of OPM.<sup>117</sup>

The House Committee on Appropriations recommended, and the House passed, an appropriation of \$12.5 million. This amount is \$287.5 million less than the President's request. The House bill would allow the OPM Director to determine and transfer to federal agencies such amounts as necessary to carry out the purposes of the fund. No funds would be obligated or transferred until the Director has notified the relevant subcommittees of the Committees on Appropriations of the approval of an agency's performance plan and the prior approval of such subcommittees has been obtained. OPM is directed to report annually to the House and Senate Appropriations Committees "on the performance pay plans that have been approved, and the amounts that have been obligated or transferred."<sup>118</sup>

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<sup>116</sup> *Congressional Record*, daily edition, vol. 150, Nov. 19, 2004, p. H10822.

<sup>117</sup> FY2005 Budget, Appendix, p. 1060.

<sup>118</sup> H.Rept. 108-671, p. 155.

The Senate Committee on Appropriations did not recommend and the conference agreement and the law do not provide funding for the performance fund. The committee report accompanying the Senate bill states that such an initiative “should be budgeted and administered within the salaries and expenses of each individual agency.”<sup>119</sup>

**Office of Special Counsel (OSC).** The agency investigates federal employee allegations of prohibited personnel practices and, when appropriate, prosecutes matters before the Merit Systems Protection Board; provides a channel for whistle blowing by federal employees; and enforces the Hatch Act. In carrying out the latter activity, the OSC issues both written and oral advisory opinions. The OSC may require an agency to investigate whistle blower allegations and report to the Congress and the President as appropriate.

The President’s FY2005 budget proposed an appropriation of \$15.449 million for the OSC. The FY2004 appropriation was \$13.5 million, but after the 0.59% rescission was reduced to \$13.4 million. The requested amount is 15.1% more than the FY2004 funding after the rescission. According to the budget, the funding “will enable OSC to hire the additional staff needed to increase the case closure rate. Without additional staff, case backlogs will continue to increase at OSC.”<sup>120</sup>

The House and Senate Committees on Appropriations recommended, the House passed, and the conference agreement and the law provide the same amount as the President requested. After the 0.80% rescission, the FY2005 funding is \$15.325 million, a reduction of \$124,000 from the President’s request. Aware of OSC’s critical need for more staff to address its case backlog of more than three years, the committee report accompanying the Senate bill states that “the Committee expects OSC to acquire an appropriate mix of new staff that will maximize its ability to reduce this backlog” instead of hiring just attorneys. No later than March 31, 2005, OSC must report to the Committees on Appropriations on “the status of its staffing efforts, particularly describing those new positions hired and how the reduction of OSC’s case backlog has benefitted as a result of the new personnel.”<sup>121</sup>

**Postal Service.** The U.S. Postal Service (USPS) is self-supporting; it generates nearly all of its funding — about \$69 billion annually — by charging users of the mail for the costs of the services it provides. It does receive a regular appropriation from Congress, however, to compensate for revenue it forgoes in providing, at congressional direction, free mailing privileges for the blind and visually impaired and for overseas voting. The appropriation is termed for “revenue forgone,” because it is intended to reimburse USPS for the revenue it would have collected from the blind and state voting offices if Congress had not chosen to subsidize these services through appropriations. The terrorist attacks in the fall of 2001, however, including use of the mail for delivery of anthrax spores to

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<sup>119</sup> S.Rept. 108-342, p. 196.

<sup>120</sup> FY2005 Budget, Appendix, p. 1172.

<sup>121</sup> S.Rept. 108-342, p. 197.

congressional and media offices, generated new funding needs for bio-terrorism detection that USPS contends should be met through appropriations.

Under the Revenue Forgone Reform Act of 1993, Congress is authorized to reimburse USPS \$29 million each year until 2035, for services provided below cost to non-profit organizations at congressional direction in the 1990s, but not paid for at the time. For the past 11 years, the Postal Service appropriation has consisted of that amount, plus an estimate of the amount needed to pay for mail for the blind and overseas voters for the current year. There is also a reconciliation adjustment reflected in the current year budget to bring actual payments into line with past estimates. (For more information, see CRS Report RS21025, *The Postal Revenue Forgone Appropriation: Overview and Current Issues*, by Nye Stevens.)

In FY2004, USPS received a revenue forgone appropriation of \$65.5 million, including \$36.5 million for revenue forgone in FY2004 but not payable until October 1, 2004, and the \$29 million due annually under the Revenue Forgone Reform Act of 1993. The actual estimate for revenue forgone in FY2004 was \$55.7 million, but it was reduced by \$19.2 million as a reconciliation adjustment to reflect actual versus estimated free mail volume in 2001.

In its FY2005 Budget, the Administration proposed an appropriation of \$61.7 million, including \$55.6 million for revenue forgone in FY2005. The Postal Service estimated that the FY2005 amount would be \$69.8 million, or \$14.2 million more than OMB requested, and asked Congress to appropriate that amount. Either amount would be supplemented by a \$6.1 million reconciliation adjustment reflecting that actual use of the subsidy in FY2002 was underestimated by that amount. The Administration's budget proposed that the \$61.7 million would not be available for obligation until October 1, 2005, which is in FY2006. However, USPS will have available for obligation during FY2005 the \$36.5 million provided for revenue forgone in fiscal 2004. In its FY2002 Budget, the Bush Administration had proposed to "reverse the misleading budget practice of using advance appropriations simply to avoid [annual] spending limitations." The Administration has not renewed the proposal in its three subsequent budgets.

The Postmaster General, in testimony before the House Appropriations Subcommittee on Transportation, Treasury, and Independent Agencies on February 26, 2004, complained about the \$14.2 million cut proposed by OMB in FY2005 revenue forgone. He said that it would "only compound the financial burden caused" by the recent practice of delaying the revenue forgone payment until the year after that in which the services are rendered.

Of greater consequence was the fact that the Administration's FY2005 budget did not include the usual \$29 million annual payment for revenue forgone in past years that is set forth in the Revenue Forgone Reform Act. As explained above, the act authorized annual payments to USPS of \$29 million through the year 2035. For 11 years the payment was provided as a matter of course. In its FY2005 budget, however, the Bush Administration proposed to provide no funds for the payment, and included it in the list of 65 "terminations to discretionary programs" in the budget. In response to questions on the matter, OMB pointed out that the Revenue Forgone

Reform Act of 1993 only authorized the appropriations, and many programs across government are not funded at the levels contemplated in authorization acts.

OMB also mentioned that Congress and the Administration had relieved USPS of the obligation (in P.L. 108-18, the Postal Civil Service Retirement System Funding Reform Act of 2003) to pay \$3 billion per year for pension costs and that, as a result, USPS had \$3.8 billion in net income in 2003. (For more on relieving USPS of this obligation, which would have over-funded postal pensions by \$78 billion, see CRS Report RL31684, *Funding Postal Service Obligations to the Civil Service Retirement System*, by Patrick Purcell and Nye Stevens, and CRS Report RL32346, *Pension Issues Cloud Postal Reform*, by Nye Stevens.) USPS, on the other hand, argues that cancelling the payment could result in the whole 30-year obligation, totaling \$899 million, being written off as a bad debt and charged to current postal ratepayers. (This issue is discussed further in CRS Report RS21025, *The Postal Revenue Forgone Appropriation: Overview and Current Issues*, by Nye Stevens.)

In its detailed justification of its FY2005 budget request, USPS asked Congress for an additional \$779 million in emergency response funds to protect the safety of employees and customers from threats such as the 2001 anthrax attack. The funds would be used to continue acquisition and deployment of ventilation and filtration equipment that was begun with \$762 million provided in FY2002 specifically for emergency response. The Administration's FY2005 Budget does not include any additional funds for emergency preparedness for the Postal Service.

The House Committee on Appropriations recommended, and the House passed, the amounts requested in the President's budget, including \$61.7 million as an advance appropriation not available until FY2006, and elimination of the appropriation for revenue forgone in past years. In its report, the House Committee on Appropriations expressed concern that OMB had not given sufficient attention to the safety and security of the nation's mail system in its FY2005 budget request, and directed OMB to report within 90 days of the bill's passage on the amount of federal (i.e. budgetary) funding necessary to complete work on securing the mail system. Postal issues were not brought to the House floor preceding the passage of the House Transportation, Treasury and General Government appropriations bill (H.R. 5025) on September 22.

The Senate Committee on Appropriations, in its report on S. 2806, was more generous toward the Postal Service than either the Administration or the House in its bill. In addition to the amounts requested by the Administration and reflected in the House bill, the Senate Committee recommended that the \$29 million payment for past revenue forgone be continued in FY2005. It also recommended the appropriation of \$507 million to an Emergency Preparedness Account for USPS to reimburse it for past and future expenditures on a biohazard detection program, ventilation and filtration equipment, and the construction of a mail irradiation facility in Washington, DC, for the local irradiation of government mail that is now shipped to a contractor facility in Bridgeport, NJ, and back.

Conferees provided \$598 million for the Postal Service for FY2005, an increase of \$502 million over FY2004. This appropriation includes \$507 million for biohazard protection.

## Title V: General Provisions

This section of the report discusses, briefly, general provisions such as government-wide guidance on basic infrastructure and overhead policies that are customarily included in the Transportation, Treasury, and Independent Agencies appropriation legislation. Examples are provisions related to the Buy America Act, drug-free federal workplaces, and authorizing agencies to pay GSA bills for space renovation and other services. In the past provisions have been included which relate to specific agencies or programs. For both Transportation- and Treasury-related general provisions and government-wide general provisions, with noted exceptions, the sections discussed here will be those which are new in the FY2005 budget or which contain modified policies. There are also general provisions at the end of each individual title within the bill which relate only to agencies and accounts within that title.

The Administration's proposed language for government-wide general provisions can be found in the *FY2005 Budget Appendix*.<sup>122</sup> Most of the general provisions continued language which has appeared under that title for several years. For an array of reasons, Congress has determined that reiterating the language is preferable to placing the provisions in permanent law.

The Administration recommended dropping several such provisions. The provisions are shown in **Table 10**.

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<sup>122</sup> *FY2005 Budget, Appendix*, pp. 9-17.



**Table 10. Summary of Proposed Changes to Government-wide General Provisions**

Administration Proposals	Public Law
<p>Recommends eliminating Section 609 (FY2004 Act<sup>1</sup>) which prohibits payment to political appointees functioning in jobs for which they have been nominated, but not confirmed. This provision has been included in the annual appropriations bill for at least 20 years. The previous Administration also recommended eliminating this provision.</p>	<p>Section 609: Continue the provision prohibiting payments to persons filling positions for which they have been nominated after the Senate has voted not to approve the nomination.</p>
<p>Recommends eliminating Section 619 (FY2004 Act) which prohibits the obligation or expenditure of appropriated funds for employee training when it: is not directly related to the employee's official duties; may induce high levels of emotional response or psychological stress in some participants; fails to inform re: course content or post-course evaluation; contains methods or content "associated with religious or quasi-religious belief systems or 'new age' belief systems;" and is offensive to, or designed to change, participants' personal values or lifestyles away from the workplace. Elimination of language in the bill since the mid-1990s was requested previously by both the Bush Administration and the Clinton Administration.</p>	<p>Section 619: Continue the prohibition of expenditures for employee training not directly related to the performance of official duties.</p>
<p>Recommends eliminating Section 620 (FY2004 Act) which prohibits the use of appropriated funds to require and execute employee non-disclosure agreements without those agreements having whistle-blower protection clauses. This provision has been in the annual appropriations bill for over ten years; the Bush Administration also proposed its elimination in its FY2002 and FY2003 budget request.</p>	<p>Section 620: Continue the prohibition of expenditures for executing non-disclosure agreements lacking whistle-blower protection clauses.</p>
<p>Recommends eliminating Section 623 (FY2004 Act) which requires that the Committees on Appropriations approve release of any "non-public" information such as mailing or telephone lists to any person or any organization outside the federal government. The Administration also requested repeal of this provision in its FY2003 budget proposal.</p>	<p>Section 623: Continue the prohibition on expenditures for the release of non-public information without the approval of the Committee on Appropriations.</p>
<p>Recommends eliminating Section 628 (FY2004 Act) which prohibits using appropriated funds to operate an online employment information service for the federal government under certain circumstances.</p>	<p>Section 628: Continue the prohibition on contracting with private companies to operate an online employment applications and processing services for the federal government.</p>

Administration Proposals	Public Law
<p>Recommends eliminating Section 636 (FY2004 Act) which requires each department's Inspector General to submit to the Committees on Appropriations a report detailing the policies and procedures in place for giving first priority to locating new offices and other facilities in rural areas.</p>	<p>Not in the Public Law.</p>
<p>Recommends eliminating Section 637 (FY2004 Act) which prohibits the purchase of a product or service offered by the Federal Prison Industries, Inc., unless the agency making such purchase determines that such product or service provides the best value.</p>	<p>Section 637: Continue the prohibition on purchasing products or services offered by the Federal Prison Industries, Inc., unless the agency determines the product or service provides the best value. (Was Section 636 of S. 2806, as reported.)</p>
<p>Recommends eliminating Section 640 (FY2004 Act) which provides a 4.1% increase in rates of basic pay for federal employees under statutory pay systems, taking effect in FY2004 .</p>	<p>Section 640: A new provision providing that the adjustment in rates of basic pay taking effect in FY2005 for federal civilian employees shall be an increase of 3.5%, the same amount requested by the Administration for military personnel. The Administration requested a smaller increase for civilian employees than military personnel. This provision echos a provision in the FY2004 bill that set the federal pay increase for civilian employees at the same level as that requested for military personnel for FY2004. (Was Section 638 of H.R. 5025, as passed by the House, and Section 640 of S. 2806, as reported.) See "General Schedule Pay" in the next section of this report for more information.</p>
<p>Recommends eliminating Section 641 (FY2004 Act) which provides for the timely filing of reports with the Federal Election Commission using overnight delivery, priority, or express mail.</p>	<p>Not in the Public Law.</p>
<p>Recommends eliminating Section 642 (FY2004 Act) which permits agencies to participate in the fractional aircraft ownership pilot program using funds appropriated for official travel.</p>	<p>Section 636: Continue to allow agencies to participate in the fractional aircraft ownership pilot program using official travel funds. (Was Section 635 of H.R. 5025, as passed by the House, and Section 638 of S. 2806, as reported.)</p>
<p>Recommends eliminating Section 643 (FY2004 Act) which prohibits the expenditure of funds for the acquisition of additional federal law enforcement training facilities.</p>	<p>Section 642: Continue to prohibit the expenditure of funds for the acquisition of additional federal law enforcement training facilities. (Was Section 641 of S. 2806, as reported, and was not in H.R. 5025, as passed by the House.)</p>
<p>Recommends eliminating Section 644 (FY2004 Act) which requires that no funds be used to implement or enforce regulations for locality pay areas that are inconsistent with the recommendations of the Federal Salary Council.</p>	<p>Not in the Public Law. (Section 636 of H.R. 5025, as passed by the House, would have continued the provision to prohibit expenditures to implement or enforce locality pay regulations that are inconsistent with Federal Salary Council recommendations.)</p>

Administration Proposals	Public Law
Recommends eliminating Section 646 (FY2004 Act) which prohibits funds from being used to implement or enforce restrictions or limitations on the Coast Guard Congressional Fellowship Program.	Section 638: Continue to prohibit expenditures to implement or enforce restrictions or limitations on the Coast Guard Congressional Fellowship Program or to implement OPM's proposed regulations of September 9, 2003, relating to the detail of executive branch employees to the legislative branch. (Was Section 637 of H.R. 5025, as passed by the House, and was under the OPM account in S. 2806, as reported.)
Recommends eliminating Section 648 (FY2004 Act) which requires each agency to reimburse the Federal Aviation Administration for the operation of the Midway Atoll Airfield.	Section 644: Continue requirement that each agency reimburse the Federal Aviation Administration for the operation of the Midway Atoll Airfield. (Was Section 645 of S. 2806, as reported, and was not in H.R. 5025, as passed by the House.)
Proposes new section (634) that would allow the Administration to transfer funds between accounts funding operations in the Executive Office of the President.	Section 533: A new provision to allow the transfer of up to 10% of funds between accounts for the Executive Office of the President. (Was not in H.R. 5025, as passed by the House, and S. 2806, as reported.)
Proposes new section (635) that would repeal section 754 of the Tariff Act of 1930.	Not in the Public Law.
Proposes new section (636) that would amend 31 U.S.C. § 3716 and place no time restraint on when "an offset may be initiated or taken."	Not in the Public Law. (Section 642 of S. 2806, as reported, included a new provision eliminating the ten year limitations period applicable to the offset of federal non-tax payments.)
Proposes new section (637) that would amend 42 U.S.C. § 653(j) by adding a new section on "Information Comparisons and Disclosure to Assist in Federal Debt Collection."	Not in the Public Law. (Section 643 of S. 2806, as reported, included a new provision amending 42 U.S.C. §653(j) by adding a new section on "Information Comparisons and Disclosure to Assist in Federal Debt Collection" which permits the Secretary of Health and Human Services (HHS) to match information on persons owing delinquent debt to the federal government with information contained in the HHS National Directory of New Hires.)

<sup>1</sup>Unless otherwise indicated, all references to sections in the "2004 Act" in this table refer to the General Provisions in Division F, Title VI of the FY2004 Consolidated Appropriations Act (P.L. 108-199).

## Federal Personnel Issues

**General Schedule Pay.** Under the Federal Employees Pay Comparability Act of 1990 (FEPCA), federal white-collar employees, paid under the General Schedule (GS) and related salary systems, are to receive pay adjustments each year based on two separate mechanisms. The first is an adjustment to base pay which is based on changes in private sector wages and salaries as reflected in the Employment Cost Index (ECI). The annual pay adjustment is set at the percentage rate of change

in the ECI, minus 0.5, which for January 2005 would be 2.5%. The second adjustment is a locality-based comparability payment, the size of which is determined by the President, and is based on a comparison of non-federal and GS salaries in 29 pay areas nationwide. By law, the disparity between non-federal and federal salaries is to be reduced to 5% in January 2005. If the ECI and locality-based comparability payments were granted as required by FEPCA in 2005, the nationwide average net pay increase would be 13.06% and the net pay increase for the Washington, DC, pay area would be 15.94%.<sup>123</sup>

The Administration's FY2005 budget proposed a 1.5% federal civilian pay adjustment, but did not state how the increase would be allocated between the annual and locality adjustments.

Concurrent resolutions introduced in the House of Representatives by Representative Steny Hoyer (H.Con.Res. 356) and in the Senate by Senator Paul Sarbanes (S.Con.Res. 88) expressed the sense of the Congress that there should continue to be parity between the pay adjustments for the uniformed military and federal civilian employees. The resolutions noted the longstanding policy of parity between both the military and civilian pay increases.

The Concurrent Resolution on the Budget for FY2005 (S.Con.Res. 95) as agreed to by the Senate, at Section 505, includes a Sense of the Senate provision regarding pay parity that states that "the rate of increase in the compensation of civilian employees should be equal to that proposed for the military in the President's Fiscal Year 2005 Budget." S.Con.Res. 95, as agreed to by the House of Representatives, does not include the provision, and the conference report to accompany the concurrent resolution (H.Rept. 108-498) also does not include it. The House version of the Concurrent Resolution on the Budget (H.Con.Res. 393), as agreed to by the House of Representatives, does not include a Sense of the House provision on pay parity. An amendment to provide such, offered by Representative James Moran during House Budget Committee markup of the concurrent resolution, was not agreed to by a 21 to 15 vote. One argument against supporting the pay parity amendment was that the job of a member of the uniformed military is more demanding than that of a civilian employee and the pay adjustment should reflect this difference.

During discussions surrounding the vote on H.Con.Res. 393, the Speaker of the House, Representative Dennis Hastert, agreed to allow a separate vote in the House of Representatives on a pay parity resolution (H.Res. 581) offered by Representative Tom Davis and 22 cosponsors. As agreed to by the House by a 299 to 126 vote, the resolution states the Sense of the House that "in FY2005, compensation for civilian employees ... should be adjusted at the same time, and in the same proportion, as are rates of compensation for members of the uniformed services." Section 640 of Title VI of Division H of the Consolidated Appropriations Act for FY2005 provides a 3.5% pay adjustment for civilian employees, including those employed by the Departments of Defense and Homeland Security. Section 636 of the House bill

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<sup>123</sup> See CRS Report RL32355, *Federal White-Collar Pay: FY2005 Salary Adjustments*, by Barbara L. Schwemle.

would have prohibited funds in the bill from being “used to implement or enforce regulations for locality pay inconsistent with recommendations of the Federal Salary Council,”<sup>124</sup> but this provision is not included in the Consolidated Appropriations Act.

**Federal Wage System.** The Federal Wage System (FWS) is designed to compensate the federal blue-collar, or skilled labor, force at rates prevailing in local wage areas for like occupations. If the statutory system were allowed to be administered as enacted, the wage rates and the rates of adjustment in the over 130 wage areas would vary according to labor costs and compensation in the private sector. Since 1979, Congress has limited the rates of pay adjustment for blue-collar workers to the average percentage pay adjustment received by federal white-collar employees (for FY2004, the limitation is at Section 613 of P.L. 108-199 and for FY2005, the limitation is at Section 613 of Title VI of Division H of the Consolidated Appropriations Act for FY2005). Part of the rationale for the limitation is that, in certain high cost areas, some FWS wages would exceed the salaries paid to General Schedule supervisors. Wages in the lower cost areas will be allowed to increase according to the findings of the wage surveys but those in the high cost areas will be capped. Notwithstanding the cap, under Section 640(b) of P.L. 108-199, for 2004 the blue-collar pay adjustment in a particular location will be no less than the increase received by GS employees in that location. Blue-collar workers in Alaska, Hawaii, and other non-foreign areas will receive a pay adjustment that is no less than the increase received by GS employees in the “rest of the United States” locality pay area. Language to continue this provision for 2005 is included in Section 640(b) of Title VI of Division H of the Consolidated Appropriations Act for FY2005.

P.L. 107-117 extended the application of out-of-area wage survey data (known as the Monroney Amendment) to Department of Defense personnel.

**Senior Executive Service Salaries.** Changes to the SES pay system — eliminating the six-tier system, changing the salary setting authority from the President to the Office of Personnel Management, removing members of the SES from the locality pay system, and capping pay rates at Level II of the Executive Schedule — were enacted under the National Defense Authorization Act for FY2004.<sup>125</sup> OPM published regulations to implement the law on January 13, 2004. For January 2005, the minimum SES salary is \$104,927 and the maximum salary for most members of the SES is \$145,600. Those employees in agencies with performance appraisal systems certified by OPM, will be able to receive a maximum SES salary of \$158,100, an amount equal to that of Members of Congress and U.S. District Court judges.<sup>126</sup> Proposed regulations to establish a new performance-based pay system for the SES and a higher aggregate limitation on pay for SES members

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<sup>124</sup> H.Rept. 108-671, p. 162.

<sup>125</sup> P.L. 108-136, Sec. 1125; Nov. 24, 2003.

<sup>126</sup> U.S. Office of Personnel Management, “Senior Executive Service Pay and Performance Awards,” *Federal Register*, vol. 69, no. 8, Jan 13, 2004, pp. 2047-2052.

were published by OPM on July 29, 2004.<sup>127</sup> The final regulations were published by OPM on December 6, 2004.<sup>128</sup>

**Human Capital Performance Fund.** The Administration's FY2005 pay proposal would combine a 1.5% across-the board increase with a performance component. A \$300 million fund would be set aside government-wide to allow managers to reward top-performing individuals with additional pay over and above any annual across-the-board pay raise.<sup>129</sup> See the section on the Office of Personnel Management above for a discussion. P.L. 108-199 provided an FY2004 appropriation of \$1 million for the fund. The Consolidated Appropriations Act for FY2005 does not provide an appropriation for the fund.

**Members of Congress, Judges, and Other Officials.** If Congress is silent on this issue in legislation, the annual adjustment for Members of Congress and other officials becomes effective automatically. For judges, the annual pay increase must be specifically authorized. (P.L. 108-167 provided the January 2004 judicial pay adjustment and Section 306 of Title III of Division B of the Consolidated Appropriations Act for FY2005 provides the January 2005 pay adjustment.) Since the authorization has been required, judges have not received lower pay adjustments than the other officials.<sup>130</sup> Under the Ethics Reform Act of 1989, as amended, pay adjustments for federal officials, including Members of Congress and judges, also are based on ECI calculations, but for a different 12-month period. The ECI calculations require a pay adjustment of 2.5% in January 2005. The law limits the size of the adjustment, however, to the rate of adjustment for General Schedule base pay.

**President.** Pursuant to the Treasury and General Government Appropriations Act, 2000 (P.L. 106-58), the President's salary was increased to \$400,000 *per annum* effective January 20, 2001. Since 1969, Presidents had been paid a salary of \$200,000. Former Presidents receive a pension equal to the rate of pay for Cabinet Secretaries (currently \$175,700) and the pension is adjusted automatically as those pay rates are changed.<sup>131</sup>

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<sup>127</sup> U.S. Office of Personnel Management, "Senior Executive Service Pay and Performance Awards and Aggregate Limitation on Pay; Proposed Rule," *Federal Register*, vol. 69, no. 145, July 29, 2004, pp. 45535-45546.

<sup>128</sup> U.S. Office of Personnel Management, "Senior Executive Service Pay and Performance Awards; Aggregate Limitation on Pay," *Federal Register*, vol. 69, no. 233, Dec. 6, 2004, pp. 70355-70367.

<sup>129</sup> *FY2005 Budget, Appendix*, pp. 1059-1060.

<sup>130</sup> See also, CRS Report RL30014, *Salaries of Members of Congress: Current Procedures and Recent Adjustments* and CRS Report 97-1011, *Salaries of Members of Congress: A List of Payable Rates and Effective Dates, 1789-2004*, by Paul E. Dwyer. Also see, CRS Report RS20388, *Salary Linkage: Members of Congress and Other Federal Officials*; CRS Report RS20278, *Judicial Salary-Setting Policy*; and CRS Report 98-53, *Salaries of Federal Officials: A Fact Sheet*, by Sharon S. Gressle.

<sup>131</sup> See CRS Report RS20114, *Salary of the President Compared with That of Other Federal Officials*, by Sharon S. Gressle.

## Cuba Sanctions<sup>132</sup>

Since 2000, either one or both houses have approved provisions in the annual Treasury appropriations bill that would ease U.S. economic sanctions on Cuba. This year, the House-passed version of the FY2005 Transportation/Treasury appropriations bill, H.R. 5025, and the Senate Appropriations Committee-reported version of the bill, S. 2806, had provisions that would have eased Cuba sanctions in various ways. In its statement of policy on H.R. 5025, the Administration indicated that the President would veto the measure if it contained provisions weakening Cuba sanctions.<sup>133</sup> Ultimately, the Cuba provisions were not included in the FY2005 omnibus appropriations measure that included the Treasury/Transportation appropriations measure (Division H of H.R. 4818, H.Rept. 108-792).

Since the early 1960s, U.S. policy toward Communist Cuba under Fidel Castro has consisted largely of efforts to isolate the island nation through comprehensive economic sanctions, including a near total trade embargo and prohibitions on U.S. financial transactions with Cuba. Under U.S. sanctions, commercial medical and food exports to Cuba are allowed, but with numerous restrictions and licensing requirements. Exporters are denied access to U.S. private commercial financing or credit, and all transactions must be conducted in cash in advance or with financing from third countries. Restrictions on travel have been a key and often contentious component in U.S. efforts to isolate the Cuban government. The embargo regulations, known as the Cuban Assets Control Regulations (CACR), are issued by the Treasury Department's Office of Foreign Assets Control (OFAC). The regulations have not banned travel itself, but have placed restrictions on any financial transactions related to travel to Cuba. Cash remittances to Cuba — estimated to be \$400-\$800 million annually — are also regulated by the CACR.

The Bush Administration has tightened travel restrictions on travel and remittances significantly. In March 2003, the Administration eliminated the category of people-to-people educational exchanges unrelated to academic coursework. In June 2004, through new OFAC regulations amending the CACR, the Administration eliminated the category of fully-hosted travel, restricted family visits to once every three years under a specific license to visit only immediate family members, and further restricted travel for educational activities, including the elimination of travel for secondary schools. The authorized per diem allowed for a family visit was reduced from the State Department per diem rate, previously \$167 per day, to \$50 per day. At the same time, cash remittances to Cuba were restricted to members of the remitter's immediate family. The amount allowed is still \$300 per quarter, although authorized travelers are limited to carrying \$300 in remittances as opposed to \$3,000 previously allowed.

There have been mixed reactions to the Bush Administration's tightening of Cuba travel and remittance restrictions. Supporters maintain that the increased

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<sup>133</sup> White House, Executive Office of the President, Office of Management and Budget, "Statement of Administration Policy, H.R. 5025," September 14, 2004.

restrictions will deny the Cuban government dollars that help maintain its repressive control. Opponents argue that the tightened sanctions are anti-family and will only result in more suffering for the Cuban people.

The House-passed version of H.R. 5025 had three provisions that would have eased Cuba sanctions. During floor consideration on September 21, 2004, the House approved a Davis (of Florida) amendment (H.Amdt. 769) by a vote of 225-174, which provided that no funds could be used to administer, implement, or enforce the Bush Administration's June 2004 tightening of restrictions on visiting relatives in Cuba — this became Section 647 of the bill. On September 22, 2004, the House approved two additional Cuba amendments by voice vote: a Lee amendment (H.Amdt. 771) that prohibited funds from being used to implement, administer, or enforce the Bush Administration's June 2004 tightening of restrictions on travel for educational activities — this became Section 648; and a Waters amendment (H.Amdt. 770) that prohibited funds from being used to implement any sanction imposed on private commercial sales of agricultural commodities or medicine or medical supplies to Cuba — this became Section 649. The House also rejected a Rangel amendment (H.Amdt. 772) on September 22, 2004, by a vote of 225-188 that would have more broadly prohibited funds from being used to implement, administer, or enforce the economic embargo of Cuba. During September 15, 2004 House floor consideration of H.R. 5025, Representative Jeff Flake announced his intention not to offer an amendment, as he had for the past three years, that would have prohibited funds from being used to administer or enforce restrictions on travel or travel-related transactions.

The Senate version of the FY2005 Transportation/Treasury appropriations bill, S. 2806, as reported out of the Senate Appropriations Committee (S.Rept. 108-342) on September 15, 2004, had a provision (Section 222) that would have prohibited funds from administering or enforcing restrictions on Cuba travel or travel-related transactions. That provision, which was proposed by Senator Byron Dorgan, was unanimously approved by the Subcommittee on Transportation, Treasury and General Government on September 9, 2004.

For additional information, see CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Remittances* and CRS Report RL31740, *Cuba: Issues for the 108<sup>th</sup> Congress*.



## Appendix 1: List of Transportation Acronyms

ARC: Amtrak Reform Council

AIP: Airport Improvement Program (FAA)

AIR21: the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (P.L. 106-181), the current aviation authorizing legislation

ARAA: the Amtrak Reform and Accountability Act of 1997 (P.L. 105-134), the current Amtrak authorizing legislation

ATSA: the Aviation and Transportation Security Act (P.L. 107-71), legislation which created the Transportation Security Administration within the DOT

BRR: Bridge Replacement and Rehabilitation program (FHWA)

BTS: Bureau of Transportation Statistics

CG: Coast Guard

CMAQ: Congestion Mitigation and Air Quality program (FHWA)

DOT: Department of Transportation

EAS: Essential Air Service (FAA)

F&E: Facilities and Equipment program (FAA)

FAA: Federal Aviation Administration

FAHP: Federal-Aid Highway Program (FHWA)

FAIR21: the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (P.L. 106-181), the current aviation authorizing legislation

FHWA: Federal Highway Administration

FRA: Federal Railroad Administration

FTA: Federal Transit Administration

Hazmat: Hazardous materials (safety program in RSPA)

HPP: High Priority Projects (FHWA)

HTF: Highway Trust Fund

IM: Interstate Maintenance program (FHWA)

ITS: Intelligent Transportation Systems (FHWA)

MCSAP: Motor Carrier Safety Assistance Program (FMCSA)

New Starts: part of the FTA's Capital Grants and Loans Program which funds new fixed-guideway systems or extensions to existing systems

NHS: National Highway System; also a program within FHWA

NHTSA: National Highway Traffic Safety Administration

NMCSA: National Motor Carrier Safety Administration

O&M: Operations and Maintenance program (FAA)

OIG: Office of the Inspector General of the DOT

OST: Office of the Secretary of Transportation

RABA: Revenue-Aligned Budget Authority

RD&T: Research, Development and Technology program (FHWA)

RE&D: Research, Engineering and Development program (FAA)

RSPA: Research and Special Projects Administration

SCASD: Small Community Air Service Development program (FAA)

STB: Surface Transportation Board

STP: Surface Transportation Program (FHWA)

TCSP: Transportation and Community and System Preservation Program (FHWA)

TEA-21: Transportation Equity Act for the 21<sup>st</sup> Century (P.L. 105-178), the current highway and transit authorizing legislation

TIFIA: Transportation Infrastructure Finance and Innovation Act program (FHWA)

TSA: Transportation Security Administration

## Appendix 2: The Transportation Appropriations Framework

Transportation is function 400 in the annual unified congressional budget. It is also considered part of the discretionary budget. Funding for the DOT budget is derived from a number of sources. The majority of funding comes from dedicated transportation trust funds. The remainder of DOT funding is from federal Treasury general funds. The transportation trust funds include the highway trust fund, which contains two accounts, the highway trust account and the transit account; the airport and airway trust fund; and the inland waterways trust fund. All of these accounts derive their respective funding from specific excise and other taxes.

In FY2002 trust funds accounted for well over two-thirds of total federal transportation spending. Together, highway and transit funding constitute the largest component of DOT appropriations. Most highway and transit programs are funded with contract authority derived by the link to the highway trust fund. This is very significant from a budgeting standpoint. Contract authority is tantamount to, but does not actually involve, entering into a contract to pay for a project at some future date. Under this arrangement, specified in Title 23 U.S.C., authorized funds are automatically made available at the beginning of each fiscal year and may be obligated without appropriations legislation; although appropriations are required to make outlays at some future date to cover these obligations.

Where most federal programs require new budget authority as part of the annual appropriations process, transportation appropriators are faced with the opposite situation. That is, the authority to spend for the largest programs under their control already exists, and the mechanism to obligate funds for these programs also is in place.

### Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21)

During the 105<sup>th</sup> and 106<sup>th</sup> Congresses, major legislation changed the relationships between the largest transportation trust funds and the federal budget. The Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) (P.L. 105-178) linked annual spending for highway programs directly to revenue collections for the highway trust fund. In addition, core highway and mass transit program funding was given special status in the discretionary portion of the federal budget by virtue of the creation of two new budget categories. The act thereby created a virtual “firewall” around highway and transit spending programs. The funding guarantees were set up in a way that makes it difficult for funding levels to be altered as part of the annual budget/appropriations process. Additional highway funds can be provided annually by a mechanism called “Revenue Aligned Budget Authority” (RABA); RABA funds accrue to the trust fund as a result of increased trust fund revenues. For FY2003, however, the RABA adjustment, if it had been applied during the appropriations process, would have led to a significant and unexpected drop in the availability of highway obligational funding. Congress set the RABA adjustment for FY2003 to \$0 (in a provision in P.L. 107-206) and appropriators ultimately provided FY2003 highway funding at the same level as provided for FY2002 (which was \$4 billion

higher than the FY2003 authorized level). RABA was not included in the FY2004 appropriations calculations.

TEA-21 changed the role of the House and Senate appropriations and budget committees in determining annual spending levels for highway and transit programs. The appropriations committees are precluded from their former role of setting an annual level of obligations. These were established by TEA-21 and are adjusted by an annual RABA computation. In addition, it appears that TEA-21 precludes, at least in part, the House and Senate appropriations committees from exercising what some Members view as their once traditional option of changing spending levels for specific core programs or projects. In the FY2000 appropriations act, the appropriators took some tentative steps to regain some of their discretion over highway spending. The FY2000 Act called for the redistribution of some funds among programs and added two significant spending projects. In the FY2001 appropriations act, the appropriators continued in this vein by adding funds for large numbers of earmarked projects. Further, the FY2001 Act called for redirection of a limited amount of funding between programs and includes significant additional funding for some TEA-21 programs. This trend continued, and even accelerated, in the FY2002 Act as appropriators made major redistributions of RABA funds and, in some instances, transferred RABA funds to agencies that are not eligible for RABA funding under TEA-21.

## Appendix 3: Transportation Budget Terminology

Transportation budgeting uses a confusing lexicon (for those unfamiliar with the process) of **budget authority** and **contract authority** — the latter, a form of budget authority. Contract authority provides **obligational authority** for the funding of trust fund-financed programs, such as the federal-aid highway program. Prior to TEA-21, changes in spending in the annual transportation budget component had been achieved in the appropriations process by combining changes in budget/contract authority and placing **limitations on obligations**. The principal function of the limitation on obligations is to control outlays in a manner that corresponds to congressional budget agreements.

Contract authority is tantamount to, but does not actually involve, entering into a contract to pay for a project at some future date. Under this arrangement, specified in Title 23 U.S.C., which TEA-21 amended, authorized funds are automatically made available to the states at the beginning of each fiscal year and may be obligated without appropriations legislation. Appropriations are required to make outlays at some future date to cover these obligations. TEA-21 greatly limited the role of the appropriations process in core highway and transit programs because the act enumerated the limitation on obligations level for the period FY1999 through FY2003 in the Statute.

Highway and transit grant programs work on a **reimbursable basis**: states pay for projects up front and federal payments are made to them only when work is completed and vouchers are presented, months or even years after the project has begun. Work in progress is represented in the trust fund as obligated funds and although they are considered “used” and remain as commitments against the **trust fund balances**, they are not subtracted from balances. Trust fund balances, therefore, appear high in part because funds sufficient to cover actual and expected future commitments must remain available.

Both the highway and transit accounts have substantial short- and long-term commitments. These include payments that will be made in the current fiscal year as projects are completed and, to a much greater extent, outstanding obligations to be made at some unspecified future date. Additionally, there are unobligated amounts that are still dedicated to highway and transit projects, but have not been committed to specific projects.

Two terms are associated with the distribution of contract authority funds to the states and to particular programs. The first of these, **apportionments**, refers to funds distributed to the states for formula driven programs. For example, all national highway system (NHS) funds are apportioned to the states. **Allocated** funds, are funds distributed on an administrative basis, typically to programs under direct federal control. For example, federal lands highway program monies are allocated; the allocation can be to another federal agency, to a state, to an Indian tribe, or to some other governmental entity. These terms do not refer to the federal budget process, but often provide a frame of reference for highway program recipients, who may assume, albeit incorrectly, that a state apportionment is part of the federal budget

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