Order Code RL33998

CRS Report for Congress

Financial Services and General Government (FSGG): FY2008 Appropriations

Updated July 20, 2007

Garrett L. Hatch
Coordinator
Government and Finance Division

Prepared for Members and Committees of Congress

Congressional Research Service

The annual consideration of appropriations bills (regular, continuing, and supplemental) by Congress is part of a complex set of budget processes that also encompasses the consideration of budget resolutions, revenue and debt-limit legislation, other spending measures, and reconciliation bills. In addition, the operation of programs and the spending of appropriated funds are subject to constraints established in authorizing statutes. Congressional action on the budget for a fiscal year usually begins following the submission of the President's budget at the beginning of each annual session of Congress. Congressional practices governing the consideration of appropriations and other budgetary matters are rooted in the Constitution, the standing rules of the House and Senate, and statutes, such as the Congressional Budget and Impoundment Control Act of 1974.

This report is a guide to a new appropriations bill that Congress is considering for the first time this year. It is designed to supplement the information provided by the House and Senate Appropriations Subcommittees on Financial Services and General Government. It summarizes the status of the bill, its scope, major issues, funding levels, and related congressional activity. The report lists the key CRS staff relevant to the issues covered and related CRS products. It is updated as events warrant.

NOTE: A Web version of this document with active links is available to congressional staff.

Financial Services and General Government (FSGG): FY2008 Appropriations

Summary

The FY2008 Financial Services and General Government (FSGG) appropriations bill (H.R. 2829) includes funding for the Department of the Treasury, the Executive Office of the President (EOP), the judiciary, the District of Columbia, and 20 independent agencies. Among the independent agencies funded by the bill are the General Services Administration (GSA), the Office of Personnel Management (OPM), the Small Business Administration (SBA), and the United States Postal Service (USPS).

On June 28, 2007, the House approved $43.8 billion for the FSGG bill, a $3.1 billion increase over FY2007 enacted funding and $101 million above the President's FY2008 request. Discretionary spending in the bill totaled $21.4 billion, a decrease of $245 million from the President's request, but $1.9 billion more than was enacted in FY2007. The Senate appropriations FSGG subcommittee marked up its version of the bill July 10, and the full committee reported it July 12.

Key issues before the 110th Congress when considering the Administration's FY2008 budget request include the following:

- The President's proposals to consolidate the EOP budget accounts, to expand the authority of the EOP to transfer funds among appropriations accounts, and to centralize funding for administrative services;
- Spending on courtroom security enhancements, pay raises for judges, and the creation of additional judgeships to meet the demands of rising caseloads;
- Proposed budget cuts for the United States Postal Service (USPS), which would receive $64 million less than requested and $20 million below the amount enacted for FY2007; and
- Funding for enforcement, taxpayer services, and business systems modernization at the Internal Revenue Service.

Note that the detailed description in this report includes action through House enactment, and that Senate action through the committee report will be in the next update.

Key Policy Staff

Area of Expertise	Name	Div.	Telephone
Title I: Department of the Treasury			
Treasury, Internal Revenue Service	Gary Guenther	G&F	7-7742
Title II: Executive Office of the President and Funds Appropriated to the President			
Executive Office of the President	Barbara Schwemle	G&F	7-8655
Title III: The Judiciary			
Judiciary	Lorraine Tong	G&F	7-5846
Judiciary	Steve Rutkus	G&F	7-7162
Title IV: District of Columbia			
District of Columbia	Eugene Boyd	G&F	7-8689
Title V: Other Independent Agencies			
Generally	Virginia McMurtry	G&F	7-8678
Consumer Product Safety Commission	Bruce Mulock	G&F	7-7775
Election Assistance Commission	Kevin Coleman	G&F	7-7878
E-Government Fund in GSA	Harold Relyea	G&F	7-8679
Federal Communications Commission	Patty Figliola	RSI	7-2508
Federal Deposit Insurance Corporation: OIG	Pauline Smale	G&F	7-7832
Federal Election Commission	R. Sam Garrett	G&F	7-6443
Federal Labor Relations Authority	Gerald Mayer	DSP	7-7815
Federal Trade Commission	Bruce Mulock	G&F	7-7775
General Services Administration	Stephanie Smith	G&F	7-8674
Merit Systems Protection Board	Barbara Schwemle	G&F	7-8655
National Archives and Record Administration	Harold Relyea	G&F	7-8679
National Credit Union Administration	Pauline Smale	G&F	7-7832
Office of Personnel Management	Barbara Schwemle	G&F	7-8655
Office of Special Counsel	Barbara Schwemle	G&F	7-8655
Securities and Exchange Commission	Mark Jickling	G&F	7-7784
Selective Service Commission	David Burrelli	FDT	7-8033
Small Business Administration	Eric Weiss	G&F	7-6209
U.S. Postal Service	Kevin Kosar	G&F	7-3968
General Provisions, Government-Wide			
Government-wide General Provisions	Barbara Schwemle	G&F	7-8655
Competitive Sourcing	L. Elaine Halchin	G&F	7-0646
Cuba	Mark Sullivan	FDT	7-7689

DSP = Domestic Social Policy Division
FDT = Foreign Affairs, Defense, and Trade Division
G&F = Government and Finance Division
RSI = Resources, Science, and Industry Division

Contents

List of Tables

Financial Services and General Government (FSGG): FY2008 Appropriations

Most Recent Developments

On June 28, 2007, the House approved $43.8 billion for agencies funded through the Financial Services and General Government (FSGG) appropriations bill (H.R. 2829), a $3.1 billion increase over FY2007 enacted funding and $101 million above the President's FY2008 request.[1] Discretionary spending in the bill totaled $21.4 billion, a decrease of $245 million from the President's request, but $1.9 billion more than was enacted in FY2007. The Senate appropriations FSGG subcommittee marked up its version of the bill July 10, and the full committee reported it July 12. **Table 1** notes the status of the FY2008 FSGG appropriations bill through the Senate Committee report, but the detailed information in the rest of the report tracks action only through House enactment. Senate action will be included in the next update of this report.

Table 1. Status of FY2008 Financial Services and General Government Appropriations

Subcommittee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
06/05/07	07/10/07	H.Rept. 110-207 06/11/07	06/28/07	S.Rept. 110-129 07/12/07					

Introduction

In early 2007, the House and Senate Committees on Appropriations reorganized their subcommittee structures. Each chamber created a new Subcommittee on Financial Services and General Government (FSGG). In the House, the jurisdiction of the FSGG Subcommittee was formed primarily of agencies that had been under the jurisdiction of the Subcommittee on Transportation, Treasury, Housing and

---

[1] On June 11, the House Appropriations Committee approved $43.9 billion for the Financial Services and General Government (FSGG) appropriations bill, but the bill was sent back to committee before reaching the floor so that earmarks could be added. The amended FSGG bill, with earmarks, was then approved by the Appropriations Committee June 21.

Urban Development, the Judiciary, the District of Columbia, and Independent Agencies, commonly referred to as "TTHUD."[2] In addition, the House FSGG Subcommittee was assigned four independent agencies that had been under the jurisdiction of the Science, State, Justice, Commerce, and Related Agencies Subcommittee.[3]

In the Senate, the jurisdiction of the new FSGG Subcommittee was a combination of agencies from the jurisdiction of three previously existing subcommittees. The District of Columbia, which had its own subcommittee in the 109th Congress, was placed under the purview of the FSGG Subcommittee, as were four independent agencies that had been under the jurisdiction of the Commerce, Justice, Science, and Related Agencies Subcommittee.[4] Additionally, most of the agencies that had been under the jurisdiction of the Subcommittee on Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies were assigned to the FSGG Subcommittee.[5] As a result of this reorganization, the House and Senate FSGG subcommittees have nearly identical jurisdictions.[6]

The FY2008 FSGG appropriations bill (H.R. 2829) provides funding through five titles, each of which is discussed in a separate section of this report. In addition, there is a section on General Provisions. The language for government-wide general provisions was proposed by the Administration in the appendix to the FY2008 budget request, and was included in Title VII of the House bill.

The House Appropriations Subcommittee on Financial Services and General Government is the primary source of the House funding figures used throughout the report. Other sources include the President's FY2008 budget request and agency budget materials.

---

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

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

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

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

[6] The Commodity Futures Trading Corporation (CFTC) is under the jurisidiction of the FSGG Subcommittee in the Senate but not in the House.

Overview of FY2008 Appropriations

On June 28, 2007, the House approved $43.8 billion for the FY2008 FSGG appropriations bill. Compared to FY2007 enacted amounts, the bill would increase appropriations for each of the five titles, with the largest gains proposed for the District of Columbia (+10.8%) and the smallest for the Executive Office of the President (+0.25%). The bill would also increase funding for the Department of the Treasury (+5.4%), the Judiciary (+4.7%), and Independent Agencies (+9.7%). Compared to the President's request, the bill would increase funding for the District of Columbia (+9.5%), the Department of the Treasury (+1.0%), and Independent Agencies (+1.0%). Funding under the bill would decrease relative to the President's request for the Judiciary (-3.9%) and the Executive Office of the President (-2.1%). **Table 2** lists, by title, the funding levels approved by the House for FY2008, the amount of the President's request for FY2008, and the enacted amounts for FY2007.

Table 2. Financial Services and General Government Appropriations, by Title, FY2007-FY2008
(in millions of dollars)

Title	FY2007 Enacted	FY2008 Request	FY2008 House Passed	FY2008 Senate	FY2008 Enacted
Title I: Department of the Treasury	$11,625	$12,137	$12,257		
Title II: Executive Office of the President	720	737	722		
Title III: The Judiciary	5,980	6,511	6,258		
Title IV: District of Columbia	591	598	655		
Title V: Independent Agencies	21,797	23,718	23,911		
Total	**$40,713**	**$43,701**	**$43,802**		

Source: Budget authority table provided by House Appropriations Subcommittee on Financial Services and General Government.

Note: Columns may not equal the total due to rounding.

The House provided amounts above the President's request for particular accounts, including increases of $301 million for the Election Assistance Commission, $119 million for the Small Business Administration, and $52 million for District of Columbia courts. In other cases, the House provided amounts below the President's request, including cuts of $254 million from Judiciary accounts.

Key Issues

The wide scope of the FY2008 FSGG appropriations bill — which provides funding for two of the three branches of the federal government, a city government, and 20 independent agencies with a range of functions — encompasses a number of controversial issues. Several key issues, identified below, may be among those before Congress.

- **Department of the Treasury.** Does the proposed budget provides adequate funding for enforcement, taxpayer services, and business systems modernization at the Internal Revenue Service?

- **Executive Office of the President (EOP).** Should Congress accept the President's proposals to (1) consolidate EOP budget accounts into a single appropriation, (2) expand the authority of the EOP to transfer funds among separate appropriations accounts, and (3) centralize funding for administrative services provided throughout the EOP in the Office of Administration?

- **The Judiciary.** What level of funding should Congress provide for judicial security enhancements and other workforce issues, such as pay raises for judges, and the hiring of additional staff and creation of additional judgeships to meet the demands of rising caseloads?

- **Independent Agencies.** Should Congress enact the President's proposed budget for the United States Postal Service (USPS), which is $64 million less than what USPS had requested and $20 million below the amount enacted for FY2007?

Title I: Department of the Treasury

This section examines FY2008 appropriations for the Treasury Department and its operating bureaus, including the Internal Revenue Service (IRS). **Table 3** shows the FY2007 enacted amount, the President's FY2008 request, and the FY2008 amount approved by the House.

Table 3. Department of the Treasury Appropriations, FY2007 to FY2008

(in millions of dollars)

Program or Account	FY2007 Enacted	FY2008 Request	FY2008 House Passed	FY2008 Senate	FY2008 Enacted
Departmental Offices	$216	$250	$251		
Department-wide Systems and Capital Investments	30	19	19		
Office of Inspector General	17	18	18		
Treasury Inspector General for Tax Administration	133	141	141		
Air Transportation Stabilization Program[a]	—	-4	-4		
Community Development Financial Institutions Fund	55	29	100		
Treasury Building and Annex Repair and Restoration	—	—	—		
Financial Crimes Enforcement Network	73	86	83		

Program or Account	FY2007 Enacted	FY2008 Request	FY2008 House Passed	FY2008 Senate	FY2008 Enacted
Financial Management Service	235	235	234		
Alcohol and Tobacco Tax and Trade Bureau	91	94	94		
Bureau of the Public Debt	178	173	173		
Internal Revenue Service, Total	10,597	11,095	11,147		
Taxpayer Services	*2,138*	*2,103*	*2,155*		
Enforcement	*4,686*	*4,925*	*4,925*		
Operations Support	*3,545*	*3,770*	*3,770*		
Business Systems Modernization	*213*	*282*	*282*		
Health Insurance Tax Credit Administration	*15*	*15*	*15*		
Total: Department of the Treasury	**$11,625**	**$12,137**	**$12,257**		

Source: Budget authority table provided by House Appropriations Subcommittee on Financial Services and General Government.

Note: Columns may not equal the total due to rounding.

a. The negative appropriation for the Air Transportation Stabilization Program reflects a rescission.

Department of the Treasury Budget and Key Issues

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

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

With one possible exception, the bureaus can be divided into those engaged in financial management and regulation and those engaged in law enforcement. In recent decades, the Comptroller of the Currency, U.S. Mint, Bureau of Engraving and Printing, Financial Management Service (FMS), Bureau of the Public Debt, Community Development Financial Institutions Fund (CDFI), and Office of Thrift Supervision have undertaken tasks related to the management of the federal government's finances or the supervision and regulation of the U.S. financial system. By contrast, law enforcement has been the central focus of the tasks handled by the Bureau of Alcohol, Tobacco, and Firearms; U.S. Secret Service; Federal Law Enforcement Training Center; U.S. Customs Service; Financial Crimes Enforcement

Network (FinCEN); and the Treasury Forfeiture Fund. Since the advent of the Department of Homeland Security in 2002, Treasury's direct involvement in law enforcement has shrunk considerably. The possible exception to this simplified dichotomy is the Internal Revenue Service (IRS), whose main duties encompass both the collection of tax revenue and the enforcement of tax laws and regulations.

Treasury Offices and Bureaus (Excluding the IRS). Funding for many Treasury bureaus comes largely from annual appropriations. Such is the case for the IRS, FMS, Bureau of Public Debt, FinCEN, Alcohol and Tobacco Tax and Trade Bureau, Office of the Inspector General (OIG), Treasury Inspector General for Tax Administration (TIGTA), and the CDFI. But there are some exceptions to this heavy reliance on appropriated funds. The Treasury Franchise Fund, U.S. Mint, Bureau of Engraving and Printing, Office of the Comptroller of the Currency, and the Office of Thrift Supervision finance their operations largely from the fees they charge for services and products they provide.

In FY2007, Treasury is receiving $11.625 billion in appropriated funds, or 0.4% more than it received in FY2006. Most of these funds are being used to finance the operations of the IRS, which is receiving $10.597 billion in FY2007. The remaining $1.028 billion is distributed among Treasury's other bureaus and departmental offices in the following amounts: departmental offices (which include the Office of Terrorism and Financial Intelligence, or TFI, and the Office of Foreign Assets Control) are receiving $216 million; department-wide systems and capital investments, $30 million; OIG, $17 million; TIGTA, $133 million; CDFI, $55 million; FinCEN, $73 million; FMS, $235 million; Alcohol and Tobacco Tax and Trade Bureau (ATB), $91 million; and Bureau of the Public Debt, $178 million.

FY2008 Budget Proposal. For FY2008, the Bush Administration is asking Congress to approve $12.137 billion in funding for Treasury, or 4.4% more than the amount enacted for FY2007. Once again, most of the requested funding (91%) would go to the IRS, which would receive $11.095 billion in appropriated funds. The remaining $1.042 billion would be distributed among Treasury's other bureaus and departmental offices in the following amounts: departmental offices would receive $250 million; departmental systems and capital investments, $19 million; OIG, $18 million; TIGTA, $141 million; a rescission of about $4 million from the Air Transportation Stabilization program; CDFI, $29 million; no funding for the Treasury building and annex repair and restoration; FinCEN, $86 million; FMS, $235 million; ATB, $94 million; and Bureau of the Public Debt, $173 million. Except for department-wide systems and capital investments and CDFI, all the major accounts would be funded at the same level as or at higher levels than the amounts enacted for FY2007. (The Air Transportation Stabilization program represents something of an anomaly in this regard, because the Administration is asking Congress to rescind about $4 million that had already been appropriated.)

Under the Administration's budget proposal, total full-time equivalent employment at Treasury is projected to rise from 107,734 in FY2006 to 108,965 in

FY2008.[7] The projected gain of 1,231 employees would be spread unevenly among the departmental offices, TIGTA, FinCEN, and the IRS.

Treasury budget documents and recent congressional testimony by Secretary Henry Paulson indicate that the Treasury Department's proposed budget for FY2008 is intended to support five strategic objectives: (1) promote economic growth, security, and opportunity; (2) strengthen national security; (3) manage the federal government's finances; (4) strengthen financial institutions; and (5) manage Treasury's operations effectively.[8] In evaluating the Administration's budget proposal, one consideration might be the extent to which the proposed budget would likely support or promote these objectives, and whether other approaches might be more desirable.

The Administration maintains that the budget proposal would promote the first objective, in part, by channeling more resources into Treasury's contribution to international economic policy coordination and the Committee on Foreign Investment in the United States, and by eliminating funding for the Bank Enterprise Awards program, which is administered through the CDFI.[9]

The Administration claims the proposal would support the second objective largely by increasing funding for TFI and FinCEN. TFI collects and analyzes financial intelligence, formulates and implements measures to combat money laundering, enforces economic sanctions against foreign entities, and conducts criminal investigations of alleged financial crimes. The Administration is asking Congress to boost appropriated funds for TFI from $43 million in FY2007 to $56 million in FY2008. Most of the additional money would be used to expand Treasury's capacity to "identify potential national security threats and to enforce U.S. policies to counter those threats," improve the "information technology and physical infrastructure of TFI and its component bureaus and offices," and deepen the involvement of TFI in the "broader Intelligence Community."[10] FinCEN is responsible for protecting the U.S. financial system from a wide range of financial crimes, including money laundering and terrorist financing. Foremost among its main tasks is administering the Bank Secrecy Act (BSA). The Administration is asking Congress to increase funding for FinCEN from $73 million in FY2007 to $86 million in FY2008. A portion of the added funds would be used to upgrade an electronic filing system for BSA forms and FinCEN's "critical information technology system," and to enhance its project management capabilities.[11]

In the Administration's view, the budget proposal would support the third objective by boosting IRS's budget for enforcement, taxpayer service, and business

---

[7] U.S. Department of the Treasury, *FY2008 Budget in Brief* (2007), p. 10.

[8] See the written testimony of Treasury Secretary Paulson before the House Appropriations Subcommittee on Financial Services and General Government on March 28, 2007, at [http://www.ustreas.gov/press/releases].

[9] Treasury, *FY2008 Budget in Brief*, p. 3.

[10] Ibid., p. 4.

[11] Ibid., pp. 38-39.

systems modernization, and by implementing several new initiatives intended to improve taxpayer compliance. (See the next section for more details.)

As the Administration notes in the documents describing its budget proposal for Treasury, no appropriated funds directly support the fourth objective. This is because funding for the four Treasury bureaus primarily responsible for ensuring and sustaining the health and integrity of the U.S. financial institutions — the Office of the Comptroller, the Office of Thrift Supervision, the U.S. Mint, and the Bureau of Engraving and Printing — comes mostly from fees they charge for the services and products they provide.

To support the fifth objective, the Administration is asking Congress to approve funding for the following projects in the following amounts for FY2008: $6 million to launch a pilot project known as the Enterprise Content Management system, $2 million to operate and maintain the Treasury Secure Data Network, and $4 million to improve Treasury's compliance with the requirements of the Federal Information Security Management Act and the agency's "overall security posture."[12]

House-Passed Version of H.R. 2829. The House approved $12.257 billion for the operations of the Treasury Department and its operating bureaus in FY2008. This amount is $120.5 million more than the amount requested by the Administration and $632 million above FY2007 funding.

Under the measure, three Treasury accounts would receive more in appropriated funds in FY2008 than the Administration has requested. Specifically, departmental offices would receive $251 million in FY2008 (or $450,000 more than the amount requested by the Administration). Of this amount, $56.5 million would go to the Office of Terrorism and Financial Intelligence ($250,000 above the Administration's budget request) and $900,000 to the Office of Financial Education ($200,000 above the Administration's budget request). CDFI would receive $100 million (or $71 million more than the amount requested by the Administration). The House Appropriations Committee has recommended that $13.5 million of $100 million be used for administrative costs, and that no less than another $14 million be set aside for the Bank Enterprise Award program.[13] The IRS would receive $11.147 billion, or $52 million more than the amount requested by the Administration.

Two Treasury accounts would be funded at lower levels in FY2008 than the Administration wanted. Specifically, FinCEN would receive $83 million, or $2.5 million less than the amount requested by the Administration. The recommended reduction in spending reflected a concern that FinCEN would not be ready anytime soon to undertake a planned border wire transfer initiative.[14] The FMS would receive $234 million, or $768,000 less than the amount requested by the Administration.

---

[12] Ibid., p. 6.

[13] U.S. Congress, House Committee on Appropriations, *Financial Services and General Government Appropriations Bill, 2008*, report to accompany H.R. 2829, H.Rept. 110-207, 110th Cong. 1st sess. (Washington: GPO, 2007), p. 23.

[14] Ibid., p. 20.

About $9 million of this amount would be set aside for "information systems modernization initiatives" and would be available until September 30, 2010.[15]

Six Treasury accounts would receive the same amount of funding that was recommended in the Administration's budget request. They are department-wide systems and capital investments ($19 million), the Office of the Inspector General ($18 million), TIGTA ($140.5 million), the Air Transportation Stabilization program (a rescission of $4 million), ATB ($93.5 million), and the Bureau of Public Debt ($173 million).

The version of H.R. 2829 passed by the House would also require the Treasury Department to prepare an "operating plan" for FY2008 and submit it to the House Appropriations Committee within 60 days of the bill's enactment.[16] The plan would have to provide figures on funding and full-time employment for all offices and operating bureaus in FY2007 and FY2008, and detailed information on any "initiative, major procurement, and program at the Department." In addition, the plan would have to indicate the number of full-time employees at OFAC working on Cuba sanctions and the number of full-time employees working on sanctions programs targeted at foreign terrorist organizations.[17]

Internal Revenue Service (IRS). To help finance its operations and multitude of spending 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 and collecting these taxes and fees (except for customs duties) is the Internal Revenue Service. In discharging this responsibility, the IRS receives and processes tax returns, related documents, and tax payments; disburses refunds; enforces compliance through audits and other procedures; collects delinquent taxes; and provides a host of services to taxpayers with the aim of enabling them to understand their rights and responsibilities under the federal tax code and resolving problems without litigation. In FY2006, the agency collected $2.537 trillion before refunds, the largest component of which was individual income tax revenue of $1.236 trillion.

The IRS receives funding for its operations from three sources: appropriated funds, user fees, and so-called reimbursables, which are payments the IRS receives from other federal agencies and state governments for services it provides. In FY2006, appropriated funds accounted for 98% of IRS's operating budget, with user fees and reimbursables each adding another 1%.

Appropriated funds are distributed among five accounts:

[15] Ibid., p. 21.

[16] Ibid., p. 14.

[17] Ibid., pp. 15-16.

- (1) **taxpayer services**, which provides resources for pre-filing taxpayer assistance, filing and account services, administrative services for IRS employees, and senior IRS management;

- (2) **enforcement**, which covers the cost of compliance services, research and statistical analysis, and administration of the earned income tax credit;

- (3) **operations support**, which addresses the improvement and maintenance of the agency's information and management systems;

- (4) **business systems modernization (or BSM)**, which provides funds for developing new information systems for tax administration and acquiring the hardware and software needed to integrate them into IRS's operations; and

- (5) **health insurance tax credit administration**, which covers the cost of administering the refundable tax credit for health insurance established by the Trade Adjustment Assistance Reform Act of 2002.

In FY2007, the IRS is receiving $10.597 billion in appropriated funds, or 0.5% more than it received in FY2006. Of this amount, $2.138 billion is designated for taxpayer services, $4.686 billion for enforcement, $3.545 billion for operations support, $213 million for the BSM program, and $15 million for administration of the health insurance tax credit. The IRS is one of the many federal agencies being funded in FY2007 under a year-long continuing resolution (H.J.Res. 20; P.L. 110-5) enacted in February 2007. Under the resolution, the "requirements, authorities, conditions, limitations, and other provisions" that governed the use of FY2006 appropriations by all affected agencies are also to govern their use of FY2007 appropriations. As a result, certain restrictions that applied to funding for IRS operations in FY2006 also apply to the funding for IRS operations in FY2007. Specifically, the IRS may not reorganize or reduce its workforce in FY2007 without the consent of the House and Senate Appropriations Committees. In addition, during FY2007, the IRS is barred from entering the market for tax return preparation software, and from instituting reductions in taxpayer service until TIGTA completes a report on the effects of such reductions on taxpayer compliance.

The Bush Administration is asking Congress to appropriate $11.095 billion for IRS operations in FY2008, or 4.7% more than the amount enacted for FY2007. Of this amount, $2.103 billion (1.7% less than FY2006) would be used for taxpayer services, $4.925 billion (5.1% more than FY2007) for enforcement, $3.770 billion (6.3% more than FY2007) for operations support, $282 million (32.4% more than FY2007) for the BSM program, and $15 million (the same amount as FY2007) for administering the health insurance tax credit. Under the budget proposal, total full-time equivalent employment at the IRS is projected to rise from an estimated 92,404 in FY2007 to 92,814 in FY2008, a gain of 0.4%.[18]

---

[18] Ibid., p. 10.

Budget documents indicate the FY2008 budget proposal for the IRS is intended to support three strategic goals: (1) bolster taxpayer compliance without imposing additional reporting burdens on taxpayers, (2) continue the agency's recent efforts to "increase and improve the delivery of services offered to taxpayers," and (3) invest in information technology designed to "give (IRS) employees the tools they need to administer and improve both taxpayer service and enforcement programs."[19] Guiding the pursuit of these goals is a commitment to "provide quality service to taxpayers while enforcing America's tax laws in a balanced manner."

As part of its budget proposal for the IRS, the Administration is also asking Congress to pass a number of legislative proposals.[20] Most are intended to improve taxpayer compliance through actions such as expanded information reporting, mandatory electronic filing for "certain large businesses," and expanded penalties for fraudulent actions by tax preparers and for erroneous refund claims.

In assessing the Administration's budget proposal for the IRS, lawmakers may find it useful to consider the extent to which it would support these objectives and whether or not the proposed budgets for enforcement, taxpayer service, and BSM are adequate in light of the many challenges facing the agency. Foremost among those challenges are improving compliance rates among individuals and businesses without sacrificing recent gains in taxpayer service, generating more reliable estimates of the rates of non-compliance among business taxpayers, increasing the share of tax returns filed electronically, upgrading the agency's computer systems, managing the agency's private tax debt collection program in a way that meets the concerns of critics, and hiring and training sufficient numbers of enforcement agents to replace those who have retired or quit in recent years.

Review of Administration's FY2008 Budget Proposal by the IRS Oversight Board. The IRS Oversight Board came into existence through the IRS Restructuring and Reform Act of 1998. Its primary responsibilities are to oversee IRS's administration of the federal tax code and to ensure that the agency has the resources and management needed to carry out its mission and achieve its strategic objectives. Section 7802 of the Internal Revenue Code (IRC) requires the Board to review and approve the annual budget requests submitted by IRS to the Treasury Department, and to assess whether the annual budget request for the IRS submitted to Congress supports the strategic plans of the agency.

The Board released its assessment of the Administration's FY2008 budget request for the IRS in April 2007.[21] While the Board took a mostly favorable view of the Administration's proposal, it favored giving the agency a larger budget than the Administration requested. The Board commended the Administration for seeking a 4.7% increase in the IRS's budget for FY2008 "during a time when discretionary spending is under great constraints and there is stiff competition among federal

---

[19] Ibid., p. 55.

[20] Ibid., p. 64.

[21] See IRS Oversight Board, *FY2008 IRS Budget Recommendation: Special Report* (Washington: April 2007).

departments and agencies for resources."[22] It also praised the Administration for recognizing "the importance of the IRS' mission to the fiscal well-being of our nation and (for) proposing these important and much needed investments at this time." In the Board's view, both its budget proposal and the Administration's are "focused on improving the ability of the IRS to aggressively pursue its strategic goals in order to reduce the tax gap."[23] It described the Administration's budget proposal as "clearly aligned with the IRS' most recent strategic plan."

At the same time, the Board wanted more funds appropriated for enforcement and infrastructure than the Administration requested. Specifically, the Board called for spending $105 million more on a variety of enforcement initiatives than the Administration's budget request, and $205 million more on projects related to the BSM and newly installed information systems.[24] In the Board's view, these added expenditures are critical to the success of current plans to improve taxpayer compliance and shrink the tax gap.

House-Passed Version of H.R. 2829. H.R. 2829, as passed by the House, would provide $11.147 billion in appropriated funds for the IRS in FY2008. This amount is $52 million more than the amount requested by the Administration.

This entire difference lies in recommended funding for taxpayers services. H.R. 2829 would provide $2.155 billion for such services in FY2008, or $52 million more than the amount requested by the Administration. Of this amount, $8 million would be set aside for low-income taxpayer clinic grants, up to $4.1 million would be funneled into the Tax Counseling for the Elderly program, and no less than $179.6 million would be used to fund the operations of the Taxpayer Advocate Service. In addition, the bill recommends spending $71.5 million for pre-filing services management (or $6.2 million more than the Administration requested), $127.5 million for taxpayer communications and education (or $12.8 million more than the Administration requested), $70 million for media and publications (or $5.2 million more than the Administration requested), and $165.2 million for account management and assistance (or $18.3 million more than the Administration requested). In its report on H.R. 2829, the House Appropriations Committee notes that the recommended increase in spending on taxpayer services is intended to counter recent reductions in taxpayer services and give the IRS the resources it needs "to strengthen, improve, and expand taxpayer service."[25]

H.R. 2829 would also give the IRS $4.925 billion for enforcement (including $116.7 million to examine ways to improve taxpayer compliance), $3.770 billion for operations support, $282 million for the BSM program, and $15 million for the administration of the health insurance tax credit. The Administration has requested the same amounts for each account.

---

[22] Ibid., p. 3.

[23] Ibid., p. 7.

[24] Ibid., p. 14.

[25] House Appropriations Committee, report to accompany H.R. 2829, p. 25.

The version of H.R. 2829 passed by the House lacked a notable provision that was included in the version of the bill approved by the Appropriation Committee. That provision would have limited funding in FY2008 for managing IRS's private tax debt collection program to $1 million, or $254 million less than the amount requested by the Administration. Such a limitation would have effectively ended the program, which has been embroiled in controversy since the IRS gained the authority to hire private debt collectors in 2004. During the floor debate on the bill in the House, Representative Jose Serrano, the Chairman of the House Appropriations Subcommittee on Financial Services, agreed to drop the provision in the face of opposition from some Republicans. Representative Jim McCreary raised a point of order against the provision on the grounds that any measure capping funding for the private tax debt collection program fell under the jurisdiction of the Ways and Means Committee and thus should not be considered as part of an appropriations bill.[26] While conceding the point of order, Representative Serrano disagreed that eliminating the program would necessarily result in a loss of revenue.

Title II: Executive Office of the President and Funds Appropriated to the President

All but three offices in the Executive Office of the President (EOP) are funded in the Financial Services and General Government (FSGG) appropriations bill.[27] **Table 4** shows the FY2007 enacted appropriations, as requested for FY2008, and as passed by the House of Representatives for FY2008.

Table 4. Executive Office of the President and Funds Appropriated to the President, FY2007 to FY2008

(in millions of dollars)

Office	FY2007 Enacted	FY2008 Request	FY2008 House Passed	FY2008 Senate Passed	FY2008 Enacted
The White House (total)	$172,993	$187,370	$177,089		
Compensation of the President	*450*	*450*	*450*		
The White House Office (salaries and expenses)	*53,616*	*53,156*	*53,156*		
Executive Residence, White House (operating expenses)	*12,398*	*12,814*	*12,814*		
White House Repair and Restoration	*1,683*	*1,600*	*1,600*		

[26] Meg Shreve, "Private Debt Collection Survives Appropriation Process," *Tax Notes*, July 2, 2007, p. 7.

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

Council of Economic Advisers	*4,032*	*4,118*	*4,118*		
Office of Policy Development	*3,487*	*3,482*	*3,482*		
National Security Council	*8,684*	*8,640*	*8,640*		
Office of Administration	*88,643*	*103,110*	*92,829*		
Office of Management and Budget	76,714	70,866	78,394		
Federal Drug Control Programs (total)	464,447	473,368	460,436		
Office of National Drug Control Policy	*26,766*	*23,883*	*26,636*		
High Intensity Drug Trafficking Areas Program	*224,730*	*220,000*	*226,000*		
Other Federal Drug Control Programs	*192,951*	*224,485*	*197,800*		
Counterdrug Technology Assessment Center	*20,000*	*5,000*	*10,000*		
Unanticipated Needs	990	1,000	1,000		
Office of the Vice President (salaries and expenses)	4,432	4,432	4,432		
Official Residence of the Vice President (operating expenses)	322	320	320		
Total: EOP and Funds Appropriated to the President	**$719,898**	**$737,356**	**$721,671**		

Sources: Budget authority table provided by House Appropriations Subcommittee on Financial Services and General Government, President's FY2008 budget request, and U.S. Executive Office of the President, *Fiscal Year 2008 Congressional Budget Submission* (Washington: February 2007).

The Executive Office of the President Budget and Key Issues

The Administration's FY2008 budget requested an appropriation of more than $737 million for the EOP and funds appropriated to the President, a 2.4% increase from the almost $720 million appropriated for FY2007. Within the request, funding for all "White House" accounts, discussed under "Consolidation Proposal" below, would increase 8.3%, but funding for the Office of Management and Budget (OMB) (-7.6%) and the Office of National Drug Control Policy (ONDCP) (-10.8%) would decrease. The proposed OMB and ONDCP funding reductions primarily result from the transfer of monies to the Office of Administration account for the enterprise services initiative (discussed below).

Unlike the FY2006 and FY2007 budget proposals, when the President requested that the High Intensity Drug Trafficking Areas Program (HIDTAP, under federal drug control programs) funding be transferred to the Department of Justice, the FY2008 budget request continued to include the HIDTAP appropriation under the EOP, but at a level that is 2.1% less than the program's FY2007 funding. Under federal drug control as well, significant changes in funding were requested for the Other Federal Drug Control Programs (+16.3%) and the Counterdrug Technology Assessment Center (-75%). Overall, though, federal drug control program funding would increase 2.7%.

Consolidation Proposal. For the seventh consecutive fiscal year, the President's FY2008 budget proposes to consolidate and financially realign several salaries and expenses accounts that directly support the President into a single annual appropriation, called "The White House." The eight accounts included in the consolidated appropriation would be the following:

- Compensation of the President,
- White House Office (WHO),
- Executive Residence at the White House,
- White House Repair and Restoration,
- Office of Administration,
- Office of Policy Development,
- National Security Council, and
- Council of Economic Advisers.[28]

This consolidated appropriation would total more than $187 million in FY2008 for the accounts proposed to be consolidated, an increase of 8.3% from the almost $173 million appropriated in FY2007. Within "The White House Office" account, funding for the Compensation of the President would remain unchanged; funding for the Executive Residence at the White House (+3.4%), the Council of Economic Advisers (+2.1%), and the Office of Administration (+16.3%) would increase; and funding for White House salaries and expenses (-0.9%), White House repair and restoration (-4.9%), the Office of Policy Development (-0.1%), and the National Security Council (-0.5%) would decrease.

The EOP budget submission states that consolidation "presents the best means for the President to realign or reallocate the resources and staff available in response to changing and emerging needs and priorities."[29] The conference committees on the FY2002 through FY2006 appropriations acts decided to continue with separate appropriations for the EOP accounts to facilitate congressional oversight of their funding and operation. This practice continues for FY2007 under P.L. 110-5, the Revised Continuing Appropriations Resolution.[30] H.R. 2829, as passed by the House, continues with separate appropriations for the EOP accounts.

Transfer Authority Proposal. As in the FY2007 budget proposal, the FY2008 budget requests a general provision in Title VI to continue and expand the authority for the EOP to transfer 10% of the appropriated funds among several accounts under the EOP. The proposal is included under the government-wide general provisions at Section 833 and would cover the following accounts in FY2008:

---

[28] U.S. Executive Office of the President, Office of Management and Budget, *Budget of the United States Government Fiscal Year 2008, Appendix* (Washington: GPO, 2007), pp. 963-964. (Hereafter referred to as *FY2008 Budget, Appendix*.)

[29] U.S. Executive Office of the President, *Fiscal Year 2008 Congressional Budget Submission* (Washington: February 2007), p. EOP-14. (Hereafter cited as *EOP Budget Submission*.)

[30] P.L. 110-5, February 15, 2007,121 Stat. 8.

- The White House,[31]
- Office of Management and Budget,
- Office of National Drug Control Policy,
- Special Assistance to the President and the 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, and
- Office of the United States Trade Representative.[32]

The OMB Director (or such other officer as the President designates in writing) would be able to, 15 days after notifying the House and Senate Committees on Appropriations, transfer up to 10% of any such appropriation to any other such appropriation. The transferred funds would be merged with, and available for, the same time and purposes as the appropriation receiving the funds. Such transfers could not increase an appropriation by more than 50%. 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 and improve the efficiency of the EOP." The authority "is not intended to be used for new missions or programs, but to address emerging priorities, shifting demands, and administrative efficiencies within the currently funded programs."[33]

P.L. 108-447, the Consolidated Appropriations Act for FY2005 (Section 533, Title V, Division H) authorized transfers of up to 10% of FY2005 appropriated funds among the accounts for the White House Office, OMB, ONDCP, and the Special Assistance to the President and Official Residence of the Vice President. For FY2006, P.L. 109-115, the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006 (Section 725) authorized transfers of up to 10% among the accounts for the White House and the Special Assistance to the President and Official Residence of the Vice President. Section 201 of H.R. 2829, as passed by the House, continues the current practice.

Enterprise Services Proposal. The FY2008 budget request, like that for FY2007, includes an enterprise services initiative to simplify and make more efficient the administration of certain common services that are provided throughout the EOP. Services included in the initiative would be expanded to include burn bag pickup costs, employee transportation subsidies, and Flexible Spending Account administrative fees. The budgets for these services in the WHO, Executive Residence at the White House, Office of Policy Development, National Security

---

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

[32] *FY2008 Budget, Appendix*, p. 964.

[33] *EOP Budget Submission*, p. EOP-15.

Council, Council of Economic Advisers, OMB, ONDCP, Office of Science and Technology Policy, United States Trade Representative, and the Council on Environmental Quality would be moved into the Office of Administration (OA). In order to "be consistent with other EOP components," the budgets for health unit services costs, space-related rent costs, and rent-based Federal Protective Service costs in OMB and ONDCP also would be included in the OA.[34]

House-Passed Bill.[35] H.R. 2829, as passed by the House, provides appropriations for the accounts under the EOP and funds appropriated to the President at the levels requested by the President's budget except for the OA, OMB, and the various federal drug control accounts. The House Committee on Appropriations report that accompanies the bill states that the reduction of $10.3 million in the OA appropriation results from keeping the rental payments to GSA for OMB ($7.5 million) and ONDCP ($2.8 million) under the salaries and expenses accounts for these entities. The report notes that "all miscellaneous costs in the Enterprise Services Program" are provided as requested.

The restoration of the $7.5 million to OMB salaries and expenses for the rental payments to GSA accounts for the increase in the agency's appropriation. The committee report expresses continued concern about OMB using the E-Government initiative "to force its management priorities on agencies that would otherwise choose different approaches to serving the public and other government agencies that are better tailored to meet the needs of their customers and meet their statutory requirements." It notes the continuation of the government-wide general provision at Section 737 that prohibits the use of funds for E-Government without prior consultation and approval by the committee and urges OMB and the agencies "to work directly with the individual appropriations subcommittees in advance of recommending e-Government transfers so that approved worthy initiatives can move forward without disruption." The report also directs OMB to report to the committee within 180 days of the act's enactment on the implementation and effectiveness of OMB's guidance to the agencies on reducing fraud and abuse in the federal transit benefit program.

The restoration of the $2.8 million to ONDCP salaries and expenses for the rental payments to GSA accounts for the increase in the agency's appropriation. Included in the report are directives that ONDCP report to the committee within 90 days of the act's enactment on the aerial eradication program in Columbia and on the update of the November 2004 report listing illicit drug prices and purity. Section 202 of H.R. 2829, as passed by the House, requires the President to submit a financial plan to the House and Senate Committees on Appropriations within 30 days of this act's enactment and prior to the initial obligation of ONDCP funds for FY2008. The plan must be updated every six months and new projects and changes in funding for ongoing projects would be subject to prior approval by the Appropriations

---

[34] *EOP Budget Submission*, pp. EOP-16 - EOP-17.

[35] On June 26, 2007, OMB issued a *Statement of Administration Policy* on H.R. 2829 that urged the House of Representatives to adopt the President's proposals on consolidation, transfer authority, and Enterprise Services and his request for full funding for the National Youth Anti-Drug Media Campaign. (pp. 3-4.)

Committees. HIDTAP receives an appropriation which is $6 million above the President's request. The committee report specifies that the HIDTAs for FY2008 "receive funding at least equal" to their FY2007 "initial allocation level" and that not less than $2.1 million be used for auditing services and related activities.

The appropriation for the other federal drug control programs account is $26.7 million below the President's budget request. According to the committee report, increased funding cannot be justified for the National Youth Anti-Drug Media Campaign because an ONDCP study and a GAO review found that "there is no clear evidence that the campaign has resulted in a reduction in drug use among youth." The report directs ONDCP to provide recommendations to the committee within 90 days of the act's enactment "on the development of improved and meaningful measurements of the effectiveness of the media campaign, including [those] that would indicate how the campaign influences youth and parent behavior." The $197.8 million appropriation for the other federal drug control programs is allocated as follows:

Drug Free Communities — $90 million
Training and technical assistance for drug court professionals — $1 million
Model Acts — $1 million
Demonstration programs for chronic hard-drug users under community supervision — $1 million
National Youth Anti-Drug Media Campaign — $93 million
United States Anti-Doping Agency — $9.6 million
World Anti-Doping Agency Dues — $1.7 million
Performance Measures Development — $500,000

The $5 million increase in the appropriation for the CTAC results from the restoration of funding to the Technology Transfer Program which the President's budget had proposed to be terminated.[36]

The House committee report also addresses two issues under the White House Office account. First, the report notes that the "account had unobligated balances of budget authority in excess of $6,500,000, or more than 10 percent of its appropriation, remaining at the end of fiscal years 2005 and 2006" and states the expectation that the committee will "be kept fully informed of the reasons for any significant differences between actual and budgeted spending." The report expresses the committee's concern about the Administration's extensive editing of the first report to Congress by the Privacy and Civil Liberties Oversight Board and states "that the Board must have the authority and independence to thoroughly review, assess, and report accurately on privacy and civil liberties matters." The House-passed bill provides an appropriation of $1.5 million for the Board.[37]

---

[36] H.Rept. 110-207, pp. 36-40.

[37] Ibid., p. 33.

Title III: The Judiciary

As a co-equal branch of government, the judiciary presents its budget to the President, who transmits it to Congress unaltered. **Table 5** shows appropriations for the judiciary as enacted for FY2007, as requested for FY2008, and as passed by the House for FY2008.

Table 5. The Judiciary Appropriations, FY2007 to FY2008
(in millions of dollars)

Budget Groupings and Accounts	FY2007 Enacted	FY2008 Request	FY2008 House Passed	FY2008 Senate	FY2008 Enacted
Supreme Court (total)	$74.0	$78.7	$78.7		
Salaries and Expenses	*62.6*	*66.5*	*66.5*		
Building and Grounds	*11.4*	*12.2*	*12.2*		
U.S. Court of Appeals for the Federal Circuit	25.3	28.6	28.0		
U.S. Court of International Trade	15.8	16.7	16.5		
Courts of Appeals, District Courts, and Other Judicial Services (total)	5,696.4	6,202.5	5,954.0		
Salaries and Expenses	*4,476.6*	*4,854.5*	*4,660.6*		
Court Security	*378.7*	*421.8*	*396.5*		
Defender Services	*776.3*	*859.8*	*830.5*		
Fees of Jurors and Commissioners	*60.9*	*62.4*	*62.4*		
Vaccine Injury Compensation Trust Fund	*4.0*	*4.1*	*4.1*		
Administrative Office of the U.S. Courts	72.4	78.5	75.7		
Federal Judicial Center	22.9	24.8	24.0		
United States Sentencing Commission	14.6	16.2	15.5		
Judicial Retirement Funds	58.3	65.4	65.4		
Total: The Judiciary	**$5,979.7**	**$6,511.5**	**$6,257.8**		

Source: Budget authority table provided by House Appropriations Subcommittee on Financial Services and General Government. Columns may not equal total due to rounding.

Note: The Administrative Office of the U.S. Courts revised the judiciary's original FY2008 budget request estimate on March 21, 2007, from the total of $6.51 billion to $6.43 billion.

The Judiciary Budget and Key Issues

Appropriations for the judiciary — about two-tenths of 1% (0.2%) of the entire federal budget — are divided into budget groups and accounts. Two accounts that fund the Supreme Court (the salaries and expenses of the Supreme Court and the expenditures for the care of its building and grounds) together make up about 1.2% of the total judiciary budget. The structural and mechanical care of the Supreme Court building, and care of its grounds, are the responsibility of the Architect of the Capitol. The rest of the judiciary's budget provides funding for the "lower" federal courts and for related judicial services. The largest account, about 75% of the total budget — the Salaries and Expenses account for the U.S. Courts of Appeals, District Courts, and Other Judicial Services — covers the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the U.S. Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the federal judiciary not specifically provided for by other accounts; it also covers the necessary expenses of the courts. The judiciary budget does not fund three "special courts" in the U.S. court system: the U.S. Court of Appeals for the Armed Forces, the U.S. Tax Court, and the U.S. Court of Appeals for Veterans Claims. Federal courthouse construction also is not funded within the judiciary's budget.

The judiciary was one of the few entities in the federal government that was not subjected to a hard freeze in the enacted year-long budget continuing resolution for FY2007 (the Revised Continuing Appropriations Resolution, 2007, P.L. 110-5). The FY2007 appropriations for the judiciary essentially maintained on-board staffing levels and addressed the immigration-related caseload. In her March 21, 2007, testimony before the House and Senate Subcommittees on the judiciary's FY2008 budget request, Judge Julia S. Gibbons, chair of the Budget Committee of the Judicial Conference of the United States,[38] said that the judiciary recognized the Administration's and Congress's concerns about overall federal spending and budget deficits. She stated that "every item in our budget request relates to performing the functions entrusted to us under the Constitution. We have no optional programs; everything ultimately contributes to maintaining court operations and preserving the judicial system that is such a critical part of our democracy."[39]

Cost Containment Initiatives. According to Judge Gibbons, the Judicial Conference has endeavored, through cost containment policies, to reduce costs and increase productivity in the federal judiciary for many years. For example, to limit the growth of the court rental fees paid to the General Services Administration (GSA), which currently constitute about 20% of the entire judiciary budget (projected to exceed one billion dollars in FY2008), the conference approved a cap of 4.9% on the average rate of growth for courthouse rent to be paid in FY2009 through FY2016. Through a rent validation project, the judiciary identified GSA rent overcharges totaling $30 million over three years, and recently found an additional $22.5 million

---

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

[39] Statement of Honorable Julia S. Gibbons, Chair, Committee on the Budget of the Judicial Conference of the United States, before the Subcommittee on Financial Services and General Government of the Committee on Appropriations of the United States Senate, March 21, 2007, p. 2. Hereafter cited as Judge Gibbons's March 21, 2007, Statement.

in overcharges. It is also working with GSA to change the way courthouse rent is determined and calculated. Restricting the appointment of new magistrate judges and using information technology (e.g., consolidating computer servers) to increase efficiency and cost-effectiveness are among other efforts to contain costs.[40]

Judicial Security. Judicial security — the safe conduct of court proceedings and the security of judges in courtrooms and off-site — continues to be an issue of concern. The 2005 Chicago murders of family members of a federal judge; the Atlanta killings of a state judge, a court reporter, and a sheriff's deputy at a courthouse; and the 2006 sniper shooting of a state judge in the judge's office in Reno spurred efforts to enhance judicial security. Early in the 110th Congress, the chairmen of House and Senate judiciary committees introduced companion bills (H.R. 660 and S. 378, respectively), the Court Security Improvement Act of 2007, to strengthen security.[41] Legislation in the 109th Congress (P.L. 109-13) appropriated $11.9 million to the U.S. Marshals Service (USMS) to provide intrusion detection systems in the homes of federal judges who requested them. To date, 90% of the systems have been installed.[42] According to the judiciary, it has been experiencing problems with perimeter security functions that the Federal Protective Service (FPS) provides the judiciary at court facilities, and billing issues with FPS. On March 13, 2007, the Judicial Conference endorsed a recommendation to support efforts to transfer to USMS the security functions that FPS currently provides to court facilities, as well as the associated funding for these functions.[43]

In report language, the House Appropriations Committee expressed its concern with "the quality of service" FPS has provided the judiciary, and encouraged the judiciary to "explore options with other federal law enforcement agencies that might be able to provide these security services."[44]

Workload. According to Judge Gibbons, the President's FY2008 budget request for $13 billion to bolster border security and immigration enforcement will result in a dramatic increase in the judiciary's caseload. Immigration-related cases now make up 25% of the district courts' criminal caseload. Noting the President's funding for 3,000 additional border patrol agents (by the end of 2008, the goal of achieving the level of 18,000-plus agents will double the number of agents in place in 2001), Judge Gibbons stated that the judiciary "cannot absorb the additional workload generated by the homeland security initiatives within current resource levels." The workload in the judiciary's probation and pretrial services programs also continues to grow — in 2006 there were 112,697 people under supervision, with

---

[40] Ibid., pp. 3-4.

[41] For more details about legislative proposals to enhance judicial security, see CRS Report RL33464, *Judicial Security: Responsibilities and Current Issues*, by Lorraine H. Tong.

[42] U.S. Marshals Service, Office of Congressional Affairs, provided the information to the author in February 2007.

[43] Judge Gibbons's March 21, 2007, Statement.

[44] U.S. Congress, House Committee on Appropriations, *Financial Services and General Government Appropriations Bill, 2008*, report to accompany H.R. 2829, 110th Cong., 1st sess., H.Rpt.110-207 (Washington: GPO, 2007), p. 45.

a projected increase to 114,600 in 2007. Bankruptcy filings, however, have declined sharply from 2006.[45]

Judgeships. The Judicial Conference voted on March 13, 2007, to ask Congress to create 67 new federal judgeships — 15 for the courts of appeals (13 permanent, 2 temporary) and 52 for the district courts (38 permanent, 14 temporary) — to make permanent five temporary judgeships, and to extend another temporary judgeship for five years. According to the judiciary, since the 1990 omnibus judgeship bill, the number of courts of appeals judges has remained the same, while federal appellate court case filings increased by 55% over the same 17-year period. According to the judiciary, the number of district court judgeships increased by 4%, while case filings increased by 29%, over the same period of time.[46]

Judicial Pay. Another key issue being discussed is the judiciary's advocacy for a significant increase in judicial pay. John G. Roberts, Jr., Chief Justice of the United States, stated in his *2006 End-of-the-Year Report on the Federal Judiciary* that judges' pay has not kept pace with inflation over the years and has led to judges leaving the bench in increasing numbers. According to the Chief Justice, retaining and attracting the best talent to the courts is a serious concern. He stated that failure to raise judicial salaries has reached the level of a "constitutional crisis that threatens to undermine the strength and independence of the federal Judiciary."[47]

House and Senate Budget Hearings

On March 8, 2007, the House Appropriations Subcommittee on Financial Services and General Government held a hearing on the Supreme Court budget request for FY2007, and heard testimony from Supreme Court Justices Anthony M. Kennedy and Clarence Thomas. Issues raised at the hearing included the Supreme Court building modernization project, workload, technology improvements, judicial security, minority clerk hiring, and televising Supreme Court proceedings. The subcommittee held another hearing on March 21, 2007, to hear testimony on the federal judiciary budget request from Judge Julia S. Gibbons, United States Circuit Judge for the Sixth Circuit Court of Appeals and chair of the Budget Committee of the Judicial Conference of the United States, and James C. Duff, director of the Administrative Office of the U.S. Courts (AOUSC). Among issues raised at the hearing were judicial security, rent paid to GSA, and workload. The Senate Appropriations Subcommittee on Financial Services and General Government also held a hearing on the FY2008 budget request on March 21, 2007. Judge Gibbons and Director Duff gave testimony at the hearing on the same issues that were discussed at the House hearing.

---

[45] Ibid., pp. 4-5.

[46] U.S. Courts, News Release, *"Federal Judiciary Says New Judgeships Needed,"* March 13, 2007, at [http://www.uscourts.gov/Press_Releases/judconf031307.html].

[47] U.S. Supreme Court, Chief Justice's "2006 Year-End Report on the Federal Judiciary," (Washington, DC: 2007), at [http://www.supremecourtus.gov/publicinfo/year-end/2006year-endreport.pdf].

Judge Gibbons asked the House and Senate subcommittees to fund fully the judiciary's budget request. She stated that, "A funding shortfall for the federal courts could result in a significant loss of existing staff, cutbacks in the level of services provided and a diminution in the administration of justice."

FY2008 Request.[48] For FY2008, the judiciary requests $6.51 billion in total appropriations, an 8.9% increase over the $5.98 billion enacted for FY2007.[49] According to the judiciary, about 82% of the increase would provide for pay adjustments, inflation, and other adjustments necessary to maintain current services. The FY2008 request includes funding for 33,675 full-time-equivalent (FTE)[50] positions — an increase of 2.1% over the estimated 32,972 FTEs for FY2007.

The House-passed bill would provide $6.26 billion for the judiciary — a $278.1 million increase over the FY2007 enacted amount, but $253.7 million below the FY2008 request.[51]

The following are highlights of the FY2008 judiciary budget request, selected House committee report language, and the House-passed amounts for each account:

Supreme Court. For FY2008, the total request for the Supreme Court (salaries and expenses plus buildings and grounds) was $78.7 million, a 6.4 % increase over the FY2007 appropriation of $74.0 million. The total request comprises two accounts: (1) Salaries and Expenses — $66.5 million was requested, an increase of $3.9 million (6.3%) over the $62.6 million enacted for FY2007; and (2) Care of the Building and Grounds — $12.2 million was requested, an increase of $0.8 million (6.8%) over the $11.4 million enacted for FY2007. Most of the requested increase in salaries and expenses would fund increases in salary and benefit costs, and inflationary fixed costs. An additional six FTEs were requested. The House approved the full amount requested for this account.

Language in the House committee report directed the Supreme Court to include in its budget justification materials, an annual report providing information on technology carry-over balances as well as descriptions of each expenditure made in the previous fiscal year and the planned expenditures in the budget year. The committee also stated its expectation to be informed of any changes to the scope and

---

[48] Administrative Office of the U.S. Courts, *The Judiciary Fiscal Year 2008 Congressional Budget Summary* (Washington: February 2007). Hereafter cited as *Judiciary FY2008 Congressional Budget Summary*.

[49] The judiciary revised its request on March 21, 2007, reducing the original budget request from $6.51 billion to $6.43 billion, or an $80 million reduction. (The original FY2008 request had been estimated and submitted prior to the enactment of legislation, P.L. 110-5, to appropriate funds for the judiciary for FY2007.) The judiciary expects to submit a complete revised budget to the subcommittee in May 2007.

[50] AOUSC provided a revised FY2008 request for 33,225 FTEs to the author on March 17, 2007.

[51] The House-passed bill would provide $173.5 million below the revised budget request of $6.43 billion that AOUSC submitted on March 21, 2007.

projected completion date of the court's building modernization project. Funds in the Care of Buildings and Grounds account are to remain available until expended.

U.S. Court of Appeals for the Federal Circuit. This court, consisting of 12 judges, has nationwide jurisdiction and reviews, among other things, lower court rulings in patent, trademark, and copyright cases. The FY2008 request for this account was $28.5 million — a $3.2 million (12.7%) increase over the $25.3 million appropriated for FY2007. The House approved $28.0 million, a $2.7 million increase over the FY2007 enacted amount, but $0.6 million below the request for this account.

U.S. Court of International Trade. This court has exclusive jurisdiction nationwide over the civil actions against the United States, its agencies and officers, and certain civil actions brought by the United States (import transactions and enforcement of federal customs and international trade laws). The FY2008 request was $16.7 million — a $0.9 million (5.7%) increase over the FY2007 appropriation of $15.8 million that the judiciary budget submission ascribes largely to increases in pay and benefits. The House approved $16.5 million, a $0.7 million increase over the FY2007 enacted amount, but about $0.2 million below the request.

Courts of Appeals, District Courts, and Other Judicial Services. his budget group includes 12 of the 13 courts of appeals and 94 district judicial courts located in the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the territories of Guam and the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands. Totaling about 95% of the judiciary budget, the four accounts in the group — salaries and expenses, court security, defender services, and fees of jurors and commissioners — fund most of the day-to-day activities and operations of the federal circuit and district courts. For this budget group, the FY2008 request was $6,202.5 million, a $506.1 million increase over the FY2007 enacted amount of $5,696.4 million. The House approved $5,954.1 million, an increase of $257.6 million over the FY2007 enacted amount, but $248.5 million below the request.[52]

The total of this budget group[53] comprises the following accounts:

Salaries and Expenses. The FY2008 request for this account was $4,854.5 million, a $377.9 million increase over the FY2007 level of $4,476.6 million. According to the budget request, this increase was needed for inflationary and other adjustments to maintain the courts' current services. The House approved $4,660.6

---

[52] On June 27, 2007, during House floor consideration of the bill, an amendment (H.Amdt. 455) was introduced — but withdrawn by unanimous consent — to increase funding for the Court of Appeals, District Courts, and Other Judicial Services account by $10 million. The amendment also would have decreased by the same amount of funding for the District of Columbia courts (which is funded under this bill, but not under Title III, the judiciary account). The intent of the amendment was to increase funding to alleviate the strain of the workload and backlog of cases for the district courts along the U.S.-Mexican border.

[53] The total includes about $4 million for the Vaccine Injury Compensation Trust Fund.

million, a $184.0 million increase over the FY2007 enacted amount, but $193.9 million below the request.

Court Security. This account provides for protective guard services, security systems, and equipment for courthouses and other federal facilities to ensure the safety of judicial officers, employees, and visitors. Under this account, a major portion of the funding is transferred to the U.S. Marshals Service for administering the Judicial Facility Security Program to pay for court security officers. The FY2008 request was $421.8 million — a $43.1 million (11.4%) increase over the FY2007 appropriation of $378.7 million. This increase was reportedly driven by pay and benefit adjustments and other adjustments needed to maintain current services. Payment to the Federal Protective Service (FPS) is also covered under this account; $74.6 million requested would be an increase of $6.7 million (10%) over the FY2007 appropriation of $67.9 million. The House approved $396.5 million, a $17.8 million increase over the FY2007 enacted amount, but $25.3 million below the request. Up to $15 million for this account is to remain available until expended.

The House committee recommendation, as approved by the House, provided for inflationary increases, 52 additional court security officers, as well as court security officers and screening equipment at probation and pretrial service offices in leased facilities. In report language, the House committee expressed concern with "the quality of service" the FPS has provided the judiciary, and encouraged the judiciary to "continue to explore options with other Federal law enforcement agencies that might be able to provide these security services."[54]

Defender Services. This account funds the operations of the federal public defender and community defender organizations, and the compensation, reimbursement, and expenses of private practice panel attorneys appointed by the courts to serve as defense counsel to indigent individuals accused of federal crimes. The FY2008 request was $859.8 million — an $83.5 million (10.8 %) increase over the FY2007 appropriation of $776.3 million. The House approved $830.5 million, a $54.2 million increase over the FY2007 enacted amount, or $29.3 million below the request.

Fees of Jurors and Commissioners. This account funds the fees and allowances provided to grand and petit jurors, and the compensation of jury and land commissioners. The FY2008 request was $62.4 million — a $1.5 million (2.3%) increase over the FY2007 appropriation of $60.9 million. The increase in the request was due mainly to inflationary costs associated with expenses paid to jurors. The House approved the full amount requested.

Administrative Office of the U.S. Courts (AOUSC). As the central support entity for the judiciary, the AOUSC provides a wide range of administrative, management, program, and information technology services to the U.S. courts. The AOUSC also provides support to the Judicial Conference of the United States, and

---

[54] U.S. Congress, House Committee on Appropriations, *Financial Services and General Government Appropriations Bill, 2008*, report to accompany H.R. 2829, 110th Cong., 1st sess., H.Rpt.110-207 (Washington: GPO, 2007), p. 45.

implements conference policies and applicable federal statutes and regulations. The FY2008 request for this account was $78.5 million — a $6.1 million (8.5%) increase over the FY2007 level of $72.4 million. The increase was reportedly for pay increases and other inflationary adjustments and for the anticipated reduction in non-appropriated funds. The AOUSC also receives non-appropriated funds from fee collections and carryover balances to supplement its appropriations requirements. The House approved $75.7 million, a $3.3 million increase over the FY2007 enacted amount, but $2.9 million below the request.

Federal Judicial Center. As the judiciary's research and education entity, the center undertakes research and evaluation of judicial operations for the Judicial Conference committees and the courts. In addition, the center provides judges, court staff, and others with orientation and continuing education and training. The center's FY2008 request was $24.8 million — a $1.9 million (8.6 %) increase over the FY2007 appropriation of $22.9 million. The House approved $24.0 million, a $1.1 million increase over the FY2007 enacted amount, but $0.8 million below the request.

United States Sentencing Commission. The commission promulgates sentencing policies, practices, and guidelines for the federal criminal justice system. The FY2008 request was $16.2 million — a $1.6 million (10.9%) increase over the FY2007 appropriation of $14.6 million. The House approved $15.5 million, a $0.9 million increase over the FY2007 enacted amount, but $0.7 million below the request

Judiciary Retirement Funds. This mandatory account provides for three trust funds that finance payments to retired bankruptcy and magistrate judges, retired Court of Federal Claims judges, and spouses and dependent children of deceased judicial officers. The FY2008 request was $65.4 million — a $7.1 million (12.2%) increase over the FY2007 appropriation of $58.3 million. The House approved the full amount requested.

General Provision Changes. According to the budget request submission, the judiciary proposed the following new language under general provisions:

> Section 406: which gives the judiciary the same delegated authority as the executive branch to contract for space alteration projects not exceeding $100,000 (without having to go through GSA involvement).

The judiciary proposed to delete the following provisions:

> Section 402: which requires the judiciary to notify Congress of appropriations transfers and reprogramming requests (change would remove the judiciary's reporting requirement).
>
> Section 404: which requires the judiciary to provide a separate, detailed financial plan for the Judiciary Information Technology fund (change would remove the judiciary's reporting requirement).[55]

---

[55] *Judiciary FY2008 Congressional Budget Summary*, p. 7.

The House-passed bill approved the extension of a judgeship in Northern Ohio in Section 305. It also approved the following provisions (as in previous years):

> Sec. 301: which permits funding for salaries and expenses for the employment of experts and consultant services as stipulated in law (5 U.S.C. 3109).
>
> Sec. 302: which permits up to five percent of any appropriation made for FY2008 to be transferred between judiciary appropriation accounts provided that no appropriation shall be decreased by more than five percent or increased by more than 10 percent by any such transfer except in certain circumstances. It also provides that such transfers shall be treated as reprogramming of funds and shall not be available for obligation or expenditure except in compliance with procedures set forth in sections 605 and 610.
>
> Sec. 303: which authorizes not to exceed $11,000 for official reception and representation expenses incurred by the Judicial Conference of the United States.
>
> Sec. 304: which requires a financial plan for the judiciary within 90 days of enactment of the act.

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

The judiciary has stated that it will keep Congress apprised throughout the appropriations cycle on changes in the anticipated non-appropriated funds and adjust its budget request accordingly. The judiciary also has "encumbered" funds — no-year authority funds for specific purposes, used when planned expenses are delayed, from one year to the next (e.g., costs associated with space delivery, and certain technology needs and projects).[56]

Title IV: District of Columbia

The authority for congressional review and approval of the District's budget is derived from the Constitution and the District of Columbia Self-Government and Government Reorganization Act of 1973 (Home Rule Act).[57] The Constitution gives Congress the power to "exercise exclusive Legislation in all Cases whatsoever"

---

[56] Ibid., pp. 33-34.

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

pertaining to the District of Columbia. In 1973, Congress granted the city limited home rule powers and empowered citizens of the District to elect a mayor and city council, but Congress retained the power to review and approve all District laws, including the District's annual budget. As required by the Home Rule Act, the city council must approve a budget within 50 days after receiving a budget proposal from the mayor. The approved budget must then be transmitted to the President, who forwards it to Congress for its review, modification, and approval.[58] Both the President and Congress may propose financial assistance to the District in the form of special federal payments in support of specific activities or priorities. **Table 6** shows the FY2007 enacted amount, the President's FY2008 request, and the amount approved by the House of Representatives, for the District.

Table 6. District of Columbia Appropriations, FY2007 to FY2008: Special Federal Payments

(in millions of dollars)

	FY2007 Enacted	FY2008 Request	FY2008 House Passed	FY2008 Senate	FY2008 Enacted
Resident Tuition Support	32.9	35.1	35.1		
Emergency Planning and Security	8.5	3.0	3.4		
District of Columbia Courts	216.7	213.9	256.4		
Defender Services	43.5	43.5	52.5		
Court Services and Offender Supervision Agency	179.6	190.3	190.3		
Public Defender Service	31.1	32.7	32.7		
Criminal Justice Coordinating Council	1.3	1.3	1.3		
Water and Sewer Authority	6.9	12.0	12.0		
Anacostia Waterfront Initiative	3.0	—	—		
Transportation Assistance	1.0	—	—		
Foster Care Improvements	2.0	—	—		
CFO administered grants	20.0	—	6.1		
Education Improvements	39.6	40.8	40.8		
— Public Schools	*[12.8]*	*[13.0]*	*[13.0]*		
— Public Charter Schools	*[12.8]*	*[13.0]*	*[13.0]*		
— Education Vouchers	*[14.0]*	*[14.8]*	*[14.8]*		
Consolidated Laboratory facilities	5.0	10.0	10.0		

[58] 87 Stat. 801.

	FY2007 Enacted	FY2008 Request	FY2008 House Passed	FY2008 Senate	FY2008 Enacted
Public Libraries	—	10.0	10.0		
FBI Reimbursement	—	5.0	4.0		
Special Federal Payments (total)	**$591.0**	**$597.6**	**$654.6**		

Source: Budget authority table provided by House Appropriations Subcommittee on Financial Services and General Government.

The District of Columbia Budget and Key Issues

President's Request. The Administration's proposed FY2008 budget includes $597.6 million in special federal payments to the District of Columbia. Funding for the courts and criminal justice system (court operations, defender services, offender supervision, and criminal justice coordinating council) represents $481.7 million, or 80.6%, of the request. The President's budget also includes $75.9 million in special federal payments for specific education initiatives, including $35.1 million for college tuition assistance, $13 million for public school enhancements, $13 million for public charter schools, and $14.8 million for the school choice (school voucher) program, which provides grants to eligible students to attend private schools.

In addition to recommending $597.6 million in special federal payments to the District of Columbia, the President's budget also contains a number of general provisions, including a number of so-called "social riders." Consistent with provisions included in previous appropriations acts, the budget includes provisions that would prohibit the use of federal and District funds to finance or administer a needle exchange program intended to reduce the spread of AIDS and HIV among intravenous drug abusers and their partners, or provide abortion services except in instances of rape or incest, or when the health of the mother is threatened. It also includes provisions that prohibit the city from decriminalizing the use of marijuana for medical purposes, and limit the city's ability to use District funds to lobby for congressional voting representation or statehood.

District Budget. On March 23, 2007, the mayor submitted a proposed budget to the District's city council for consideration and approval. The proposed budget included $597.6 million in special federal payments, which is consistent with the amount included in the President's proposed budget for FY2008.

The District Delegate to Congress has introduced legislation, H.R. 733, that would eliminate congressional review of the District's budget, granting the city budget autonomy over locally raised revenues. For several years, District officials have complained that delays in congressional review and approval of the city's budget have hampered the city's ability to efficiently plan and manage its resources.

H.R. 2829. The House-passed FSGG bill includes $654.6 million in special federal payments for the District of Columbia. This is $63.6 million more than appropriated in FY2007 and $57 million more than requested by the Administration or the District for FY2008. Specifically, the House version of H.R. 2829, recommends substantially increased funding for District of Columbia Court operations, defender services, and offender supervision than appropriated for FY2007 or requested by the Administration (See **Table** 6). In addition, the bill includes new funds for enhancements to the public library system

The House bill would eliminate funding for the Anacostia Waterfront Initiative, transportation assistance, and foster care, which were funded in FY2007. Additionally, it would cut funding for emergency planning and security activities from $8.5 million to $3 million and reduce funding for earmarked grants administered by the CFO from $20 million to $6.1 million. The bill would continue to support education initiatives in the District including $35 million for resident tuition support and $40.8 million in support of public schools, public charter schools, and private school vouchers. These education initiatives are further discussed below.

Resident Tuition Support . The District of Columbia Tuition Access Grant (DCTAG) program provides tuition support through grants to institutions of higher education (IHEs) for eligible residents of the District of Columbia by paying the difference between in-state and out-of-state tuition (up to $10,000) at public IHEs; and up to $2,500 per year for tuition at private non-profit IHEs that are either located in the Washington, DC, metropolitan area, or are Historically Black Colleges and Universities (HBCUs). Funding has been provided for the program annually beginning with FY2000. The DCTAG program is authorized through FY2007; and legislation (H.R. 1124 and S. 343) is being considered to extend it through FY2012. Under H.R. 2829, $35.1 million would be appropriated for the DCTAG program, of which $1.2 million would be available for administrative expenses. H.R. 2829 also provides that awards made under the DCTAG program may be prioritized on the basis of a resident's academic merit, the need of eligible students, and other factors as may be authorized.

School Improvement. Under H.R. 2829, $40.8 million would be appropriated for school improvement programs in the District of Columbia. From these funds, $13.0 million would be provided to the District of Columbia Public Schools to support the improvement of public education; $13.0 million would be provided the State Education Office to expand quality public charter schools; and $14.8 million would be provided to the Secretary of the U.S. Department of Education for the operation of the D.C. Opportunity Scholarship program, of which $1.8 million would be available to administer and fund assessments. The D.C. Opportunity Scholarship program enables children from families with incomes not exceeding 185% of the poverty line to apply to receive scholarships valued at up to $7,500 to cover the costs of tuition, fees, and transportation expenses associated with attending participating private elementary and secondary schools located in the District of Columbia. Scholarship recipients remain eligible to continue to participate in the program in subsequent years, so long as their family income does not exceed 300% of the poverty level. The D.C. Opportunity Scholarship program has been funded annually beginning with FY2004, and is authorized through FY2008.

The bill includes language that would modify several general provisions included in previous appropriations acts. This includes allowing the use of District funds for a needle exchange program aimed at reducing the spread of AIDS caused by the use of tainted needles by users of illegal drugs. This is a departure from previous appropriations acts which prohibited the use of District and federal funds in support of a needle exchange program. Representative Souder unsuccessfully offered two amendments (H.Amdt. 465 and H.Amdt. 466) that would have prohibited the use of federal and District funds for a needle exchange program. The bill would leave unchanged current prohibitions on the use of federal and District funds for abortion services, except in instances where the life or health of the mother was in jeopardy, and on the use of federal and District funds to regulate or decriminalize the use of marijuana for medical purposes.

Title V: Independent Agencies

In addition to funding for the Department of the Treasury, the Executive Office of the President, the Judiciary, and the District of Columbia, a collection of 20 independent entities are slated to receive funding through this appropriations bill in FY2008. **Table 7** lists appropriations as enacted for FY2007, as requested by the President for FY2008, and as passed by the House of Representatives, for each of the agencies.

Table 7. Independent Agencies Appropriations, FY2007 to FY2008
(in millions of dollars)

Agency	FY2007 Enacted	FY2008 Request	FY2008 House Passed	FY2008 Senate Passed	FY2008 Enacted
Consumer Product Safety Commission	$63	$63	$67		
Election Assistance Commission	16	15	316		
Federal Communications Commission [a]	1	1	1		
Federal Deposit Insurance Corporation: Office of Inspector General (by transfer) [b]	(31)	(27)	(27)		
Federal Election Commission	55	59	59		
Federal Labor Relations Authority	25	24	24		
Federal Trade Commission [a]	59	82	88		
General Services Administration [c]	-38	442	179		
Merit Systems Protection Board	39	40	40		
Morris K. Udall Foundation	4	1	4		
National Archives and Records Administration	331	369	388		
National Credit Union Administration	1	1	1		
Office of Government Ethics	11	12	12		
Office of Personnel Management (total)	19,594	21,098	21,110		

Agency	FY2007 Enacted	FY2008 Request	FY2008 House Passed	FY2008 Senate Passed	FY2008 Enacted
Salaries and Expenses	*112*	*102*	*102*		
Government Payments for Annuitants, Employees Health Benefits	*8,780*	*8,884*	*8,884*		
Government Payments for Annuitants, Employee Life Insurance	*39*	*41*	*41*		
Payment to Civil Service Retirement and Disability Fund	*10,532*	*11,941*	*11,941*		
Office of Special Counsel	16	16	16		
Securities and Exchange Commission [d]	868	875	867		
Selective Service System	25	22	22		
Small Business Administration	572	464	582		
United States Postal Service	109	89	89		
United States Tax Court	48	45	45		
Total: Independent Agencies	**$21,797**	**$23,718**	**$23,911**		

Source: Budget authority table provided by House Appropriations Subcommittee on Financial Services and General Government.

Note: Columns may not equal the total due to rounding.

a. The amounts listed in Table 7 for the FCC and the FTC only represent direct appropriations and do not include fees collected by the agencies that are also used to fund agency activities.

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

c. Budget authority for GSA is calculated as the net value of appropriations, including limitations on the availability of revenues, plus the redemption of debt payments, minus anticipated revenues from rents paid into Federal Buildings Fund. In FY2007, anticipated revenues exceeded the sum of appropriations plus redemption of debt payments, resulting in negative net obligational authority.

d. The amounts listed in Table 7 for the SEC include fees collected by the agency. This is not consistent with the treatment of fees for the FCC and the FTC, but it follows the source document for Table 7.

Consumer Product Safety Commission (CPSC). The CPSC is an independent federal regulatory agency whose enabling legislation is the Consumer Product Safety Act of 1972. The Commission's primary responsibilities include protecting the public against unreasonable risks of injury associated with consumer products; developing uniform safety standards for consumer products and minimizing conflicting state and local regulations; and promoting research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries.

For FY2008, the President's budget called for providing CPSC with $63.3 million, just slightly more than the agency's current funding level of $62.7 million.

The House provided $66.8 million for CPSC, $3.5 million above the Administration's request.

Consumer groups and others continue to express concerns over the CPSC's staffing level, especially in light of recent news stories about unsafe exports (notably including toys) from China. In 1977, three years after the Commission opened its doors, it had a staff of 900. The staffing level has declined substantially over the past three decades. The budget for FY2007 culminated a two-year reduction of full-time positions (FTEs) from 471 to 420. The Commission's request for FY2008 would require a decrease of an additional 19 FTEs.

Election Assistance Commission (EAC). The EAC provides grant funding to the states to meet the requirements of the Help America Vote Act (HAVA), provides for testing and certification of voting machines, studies election issues, and promulgates voluntary guidelines for voting systems standards and issues voluntary guidance with respect to the requirements in the act. The commission was not given rule-making authority under HAVA, although the law transferred responsibilities for the National Voter Registration Act from the Federal Election Commission to the EAC, which included NVRA rule-making authority. The Department of Justice is charged with enforcement responsibility.

As passed by the House, H.R. 2829 provides $316 million for the EAC. This amount includes $300 million for election reform requirements payments, $15.5 million for salaries and expenses — with $3.25 million of that amount for the National Institute of Standards and Technology (NIST) — and $950,000 for both the Help America Vote College Program and the National Student and Parent Mock Election Program. The President requested $15.46 million for FY2008, including $3.25 million for the NIST. For FY2007, Congress appropriated $16.24 million for the EAC, of which $4.95 million was for the National Institute of Standards and Technology, $4.83 million for protection and advocacy programs, and $10.89 million for disability access.

Federal Communications Commission (FCC). The Federal Communications Commission, created in 1934, is an independent agency charged with regulating interstate and international communications by radio, television, wire, satellite, and cable. The FCC is also charged with promoting the safety of life and property through wire and radio communications. The mandate of the FCC under the Communications Act is to make available to all people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communications service. The FCC performs five major functions to fulfill this charge: spectrum allocation, creating rules to promote fair competition and protect consumers where required by market conditions, authorization of service, enhancement of public safety and homeland security, and enforcement. The FCC obtains the majority of its funding through the collection of regulatory fees pursuant to Title I, Section 9, of the Communications Act of 1934; therefore, its direct appropriation is considerably less than its overall budget.

For FY2008, the House of Representatives approved a budget of $313 million (a direct appropriation of $1 million and the remainder to be collected through regulatory fees), $21.7 million above 2007 and the same as the President's budget request.[59] Specifically, the budget allows:

- up to $4,000 for official reception and representation expenses;
- purchase of uniforms and acquisition of vehicles;
- special counsel fees;
- collection of $312 million in Section 9 fees;
- the sum appropriated to be reduced as Section 9 fees are collected.

New provisions also:

- prohibit fees collected in excess of $312 million from being available for obligation;
- prohibit remaining offsetting collections from prior years from being available for obligation;
- provides a $21 million transfer from the Universal Service Fund for additional audits and oversight activities, including a direct appropriation of $500,000;
- provides $2 million to educate the public regarding the transition to digital television.

Finally, as in previous years, the approved budget includes a provision limiting the funds available to administer the spectrum auctions program.

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

For FY2008, the President proposed, and the House approved, a budget of $26.8 million for the OIG, which is a 13% decrease from the FY2007 appropriation of $31 million.

Federal Election Commission (FEC). The FEC administers, and enforces civil compliance with, the Federal Election Campaign Act (FECA)[60] through educational outreach, rulemaking, litigation, and advisory opinions to candidates and political committees. The agency also administers the presidential public financing system.

The President's FY2008 budget request includes an appropriation of $59.2 million for the FEC, an 8.6% increase above the enacted FY2007 appropriation of $54.5 million. In its FY2008 budget justification document, the FEC emphasized efforts to contain costs by restructuring the agency's internal processes and using

---

[59] For FY2007, the FCC will receive funding at the FY2006 level, $289 million (a direct appropriation of $1 million and the remainder to be collected through regulatory fees).

[60] 2 U.S.C. §431 et seq.

technology to improve efficiency.[61] The agency did not request any additional staff despite anticipated "[i]ncreased workloads associated with [2008] Presidential elections."[62] The FEC stated that much of its FY2008 budget request would be used to cover a $1.6 million rent increase and to fund "mandated pay increases" for employees.[63] The FEC also proposed legislative language that would allow the agency to collect fees for educational conferences.[64]

The House-passed version of the FSGG bill provided $59.2 million for FY2008 — the same amount the agency requested and recommended by the House Appropriations Committee. The committee report did not contain particular instructions for the FEC. Under a unanimous consent agreement regulating floor consideration of the bill, amendments limiting presidential public campaign financing could have been offered.[65] However, the Legislative Information System and *Congressional Record* show no record of those amendments actually being offered on the floor. In fact, the FEC was the subject of limited discussion during FSGG floor consideration. The version of the bill passed by the House specified minimum and maximum levels of the appropriation to be used for FEC data automation and "reception and representation" expenses.[66]

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

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

---

[61] See, for example, Federal Election Commission, *Fiscal Year 2008 Performance Budget for the Federal Election Commission*, Congressional Submission, February 5, 2007, at [http://www.fec.gov/pages/budget/fy2008/fy2008cbj_final.pdf], pp. 2-3.

[62] Ibid., p. 3.

[63] Ibid., p. 2.

[64] Ibid., p. 4.

[65] See Honorable José Serrano. "Providing for Further Consideration of H.R. 2829, Financial Services and General Government Appropriations Act, 2008." Remarks in the House. *Congressional Record*, daily edition, vol. 153 (June 27, 2007), p. H7296.

[66] H.R. 2829 as passed by the House, Title V.

The President's FY2008 budget proposed an appropriation of $23.7 million for the FLRA, about $1.7 million below the agency's FY2007 appropriation of $25.4 million. The House recommended an appropriation of $23.6 million, which is $77,000 below the President's request.

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

In recent years, the FTC has mostly funded its operations by means of its pre-merger filing fees collections and, to a lesser extent, from Do-Not-Call fees. By way of a historical footnote, for FY2000 through FY2002, zero ($0) direct appropriations were required, because the entire program level was covered by a combination of fees and prior-year collections.

For FY2008, the Administration requested a program level for the FTC of $240 million, an increase of $29 million, or 13.7%, over the agency's present level of funding. Of the total amount requested, $139 million was to be derived from pre-merger filing fees, $19 million from Do-Not-Call fees, and the remaining amount — $82 million — was to be provided by a direct appropriation. For FY2007, the total budget authority enacted was $211 million, with $129 million to be derived from filing fees and $23 million from Do-Not-Call fees, and the remaining amount — $59 million — was to be provided by a direct appropriation. The House approved $247 million in total budget authority for FY2008. Of that amount, $139 million would be derived from pre-merger filing fees, $20 million would come from Do-Not-Call fees, and the remaining $88 million would be funded through a direct appropriation.

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. Typically, only about 1% of GSA's total budget is funded by direct appropriations.

As indicated in **Table 8**, for FY2008, the President requested $144 million for policy and operations, $47 million for the Office of Inspector General, $3 million for allowances and office staff for former Presidents, and $18 million to be deposited into the Federal Citizen Information Center Fund.

The House provided $135 million for GSA policy and operations, $53 million for the Office of Inspector General, $3 million for allowances and office staff for former Presidents, and $16 million to be deposited into the Federal Citizen Information Center Fund.

Federal Buildings Fund (FBF). Most GSA spending is financed through the Federal Buildings Fund. Rent assessments from agencies paid into the FBF provide the principal source of its funding. Congress may also provide direct funding into the FBF. Congress directs the GSA as to the allocation or limitation on spending of funds from the FBF in provisions found accompanying GSA's annual appropriations.

As indicated in **Table 8**,for FY2008, the President requested that an additional amount of $345 million be deposited in the FBF, and that the total limitation for the FBF be set at $8,091 million. The President's budget further requested that $615 million remain available until expended for new construction projects from the FBF, and $804 million remain available until expended for repairs and alterations.

The House provided that an additional amount of $88 million be deposited in the FBF, and that the total limitation for the FBF be set at $7,835 million. The House further provided that $525 million remain available until expended for new construction projects from the FBF, and $733 million remain available until expended for repairs and alterations.

Table 8. General Services Administration Appropriations, FY2007 to FY2008

(in millions of dollars)

Fund/Office	FY2007 Enacted	FY2008 Request	FY2008 House Passed	FY2008 Senate Passed	FY2008 Enacted
Federal Buildings Fund (FBF)					
Total Limitations on Availability of Revenues (new obligational authority)	$7,555	$8,091	$7,835		
Limitations on Obligation: New Construction Projects	*701*	*615*	*525*		
Limitations on Obligation: Repairs and Alterations	*618*	*804*	*733*		
Limitation on Obligation: Installment Acquisition Payments	*164*	*156*	*156*		
Limitation on Obligations: Rental of Space	*4,068*	*4,383*	*4,316*		
Limitation on Obligations: Building Operations	*2,004*	*2,132*	*2,105*		
Direct Appropriations					
Federal Buildings Fund	$94	$344	$88		
Electronic Govt (E-Gov) Fund	3	5	3		
General Activities (total)	206	212	207		
Policy and Operations	*0*	*144*	*135*		
Government-wide Policy	*52*	*0*	*0*		

Fund/Office	FY2007 Enacted	FY2008 Request	FY2008 House Passed	FY2008 Senate Passed	FY2008 Enacted
Operating Expenses	*83*	*0*	*0*		
Office of Inspector General	*53*	*47*	*53*		
Allowances and Office Staff for Former Presidents	*3*	*3*	*3*		
Federal Citizen Information Center Fund	*15*	*18*	*16*		
Direct Appropriations Total	**$303**	**$561**	**$298**		

Source: Budget authority table provided by House Appropriations Subcommittee on Financial Services and General Government.

Electronic Government Fund (E-Gov Fund). Originally unveiled in advance of the President's proposed budget for FY2002, the E-Gov Fund and its appropriation have been a somewhat contentious matter between the President and Congress. The President's initial $20 million request was cut to $5 million, which was the amount provided for FY2003, as well. Funding thereafter was held at $3 million for FY2004, FY2005, FY2006, and FY2007. Created to support interagency e-gov initiatives approved by the Director of OMB, the fund and the projects it funds have been subject to close scrutiny by, and accountability to, congressional appropriators. The President requested $5 million for FY2008, but the House approved $3 million, as recommended by the House Appropriations Committee.

Independent Agencies Related to Personnel Management. The FY2008 budget includes information on the portfolios of each of the agencies involved in personnel management functions: the Federal Labor Relations Authority (FLRA), the Merit Systems Protection Board (MSPB), the Office of Personnel Management (OPM), and the Office of Special Counsel (OSC). **Table 9** shows appropriations as enacted for FY2007, as requested for FY2008, and as passed by the House of Representatives for FY2008, for each of these agencies.

Table 9. Independent Agencies Related to Personnel Management Appropriations, FY2007 to FY2008

(in millions of dollars)

Agency	FY2007 Enacted	FY2008 Request	FY2008 House Passed	FY2008 Senate Passed	FY2008 Enacted
Federal Labor Relations Authority	$25.4	$23.7	$23.6		
Merit Systems Protection Board (total)	38.7	40.1	40.1		
Salaries and expenses	*36.1*	*37.5*	*37.5*		
Limitation on administrative expenses	*2.6*	*2.6*	*2.6*		
Office of Personnel Management (total)	19,593.8	21,097.7	21,109.7		
Salaries and Expenses	*111.6*	*101.8*	*101.8*		
Limitation on administrative expenses	*112.5*	*111.9*	*123.4*		
Office of Inspector General (salaries and expenses)	*2.1*	*1.5*	*1.5*		
Office of Inspector General (limitation on administrative expenses)	*16.3*	*16.5*	*17.0*		
*Government Payments for Annuitants, Employees Health Benefits**	*8,780.3*	*8,884.0*	*8,884.0*		
Government Payments for Annuitants, Employee Life Insurance[a]	*39.0*	*41.0*	*41.0*		
Payment to Civil Service Retirement and Disability Fund[a]	*10,532.0*	*11,941.0*	*11,941.0*		
Office of Special Counsel	15.5	16.4	16.4		

Sources: Budget authority table provided by House Appropriations Subcommittee on Financial Services and General Government and President's FY2008 budget request.

a. The annual appropriations act provides "such sums as may be necessary" for the health benefits, life insurance, and retirement accounts. The Office of Personnel Management's *Congressional Budget Justification* for FY2008 states the FY2008 amounts for these accounts as $9,138 million (health benefits), $41 million (life insurance), and $10,523 million (retirement) at pp. 87-89. These are the same amounts that are stated in the *FY2008 Budget Appendix* at pp. 1003-1004.

Federal Labor Relations Authority (FLRA). The President's budget requested an FY2008 appropriation of $23.7 million for the FLRA. In its budget submission, the agency reported a decline of 32% in the workload at its seven regional offices between 2001 and 2004, and anticipated that the trend may increase. H.R. 2829, as passed by the House, provides an appropriation of $23.6 million. The House Committee on Appropriations report that accompanies the bill states that the appropriation for the FLRA is $77,000 less than the President's budget request, but provides no explanation for the reduction.

Merit Systems Protection Board (MSPB). The President's budget requested, and H.R. 2829, as passed by the House, provides an FY2008 appropriation of just over $40 million for the MSPB. The authorization for the agency expires on September 30, 2007. In its budget submission, MSPB projected a 2.4% increase in decisions issued for cases related to retirement, adverse action appeals, and reduction-in-force appeals in FY2008. The House committee report states that the funding provided to the agency covers "mandatory pay raises, training, information technology improvements, and increased rent payments."

Office of Personnel Management (OPM). The President's budget requested, and H.R. 2829, as passed by the House, provides an FY2008 appropriation of almost 102 million for salaries and expenses for OPM. This amount includes funding of almost $6 million dollars for the Enterprise Human Resources Integration project, more than $1.3 million for the Human Resources Line of Business project, $340,000 for the E-payroll project, and $170,000 for the E-training program. Among the initiatives that OPM stated that it will undertake for FY2008 are these: demonstration projects on pay-for-performance "to replace the current General Schedule ... with a modern classification, pay, and performance management system that is both results-driven and market-based"; continued development of the "prescription drug audit program, which includes audits of pharmacy benefit managers" by the OPM Inspector General; and legislation to make technical changes in the retirement annuities of individuals with part-time service under the Civil Service Retirement System (CSRS) and to transition employees working in non-foreign areas (e.g., Alaska and Hawaii) from non-foreign cost of living allowances to locality pay.[67]

The House committee report notes that an increased amount ($1 million) is authorized to be transferred from trust funds, $26.5 million of which is for retirement systems modernization. The committee directs OPM to provide the committee with quarterly reports on the program's implementation beginning on January 31, 2008. With regard to the Federal Human Capital Survey, the committee report directs OPM to "continue to make agencies' survey data publicly available in a consistent and consolidated format, and in a timely manner."

The committee report also urges OPM to work with the authorizing committees "to consider changes in law to bring Federal prevailing rate [blue collar] employees currently working in the Narragansett Bay, Rhode Island Wage Area within the coverage of the Boston, Massachusetts Wage Area" and to report progress made on this issue to Congress within 90 days of the act's enactment. The report notes that white-collar federal employees in Southeastern Massachusetts and Rhode Island are included in the Boston Wage Area and that "[t]here is no reason for different treatment between the two categories of employees." According to the committee report, the additional funding ($500,000) provided to the Office of Inspector General

---

[67] *FY2008 Budget Appendix*, pp. 1080 (FLRA), 1091 (MSPB), 1115 (OSC), and 999, 1002, and 1007 (OPM).

(OIG) at OPM through trust fund transfer is intended "to maintain audit and investigative staff at the current level and avoid deterioration of the OIG's audit capabilities."

Office of Special Counsel (OSC). The President's budget requested, and H.R. 2829, as passed by the House, provides an FY2008 appropriation of $16.4 million for the OSC. The authorization for the agency expires on September 30, 2007. OSC projected a continued increase in the number of prohibited personnel practice cases and disclosure cases received in its budget submission. Noting the investigations recently undertaken by the OSC, the House committee report urges the agency "to carefully evaluate the need for additional appropriations" and formally request from OMB any additional funds necessary through a budget amendment.[68]

National Archives and Records Administration (NARA). The custodian of the historically valuable records of the federal government since NARA's 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.

As indicated in **Table 7**, the President's FY2008 request for NARA was almost $369 million, which was about $37 million more than was appropriated for FY2007. Of this requested amount, almost $313 million was sought for operating expenses, an increase of $34 million over the FY2007 appropriation for this account. For the electronic records archive, $58 million was sought, a $13 million increase over the previous fiscal year allocation; for repairs and restoration, a little less than $9 million was sought, which was slightly below the FY2007 appropriation; and for the NHPRC, no appropriation was requested, which was the President's request for FY2007, although Congress allocated $7 million. NARA's FY2007 budget justification indicates that no funding for the NHPRC grants program was sought in order to focus funding on operations that directly affect management, access, and the preservation of federal records.

The House approved the amounts recommended by appropriators for NARA, totaling a little more than $388 million, which was almost $20 million more than the President's request. Of this amount, $315 million was provided for operating expenses, an increase of a little more than $2 over the requested amount; $58 million was allocated for the electronic records archive, which was the same as the requested amount; and $16 million was appropriated for repairs and restoration, which was almost twice the amount requested. While no funds had been requested for the NHPRC grants program, the House approved $10 million as recommended by appropriators, allocating $8 million for grants and $2 for NHPRC operating expenses.

---

[68] H.Rept. 110-207, pp. 59, 71, 76-77, 79.

National Credit Union Administration (NCUA). The NCUA is an independent federal agency funded entirely by the credit unions that the agency charters, insures, and regulates. Two entities managed by the NCUA are addressed by the Financial Services and General Government bill. One of these, the Community Development Revolving Loan Fund (CDRLF), makes low-interest loans and technical assistance grants to low-income credit unions. In FY2007, the CDRLF received an appropriation of $941,000, and the President requested $950,000 for FY2008. The House approved $1 million for the fund in H.R. 2829.

The other entity managed by NCUA, the Central Liquidity Facility (CLF), provides a source of seasonal and emergency liquidity for credit unions. The CLF can finance loans using its assets, and it can also borrow from the Federal Financing Bank. Provisions in the appropriations bill set a borrowing limit for the CLF each fiscal year. Congress also determines the level of CLF operating expenses, which are not funded through appropriations, but by earned income. For FY2007, Congress approved a $1.5 billion limitation on direct loans from the CLF, and the President requested the same amount for FY2008. The House provided a $1.5 billion limitation in H.R. 2829.

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

For FY2008, the Administration requested $905.3 million, an increase of 1.4% over FY2007. Of that amount, $875 million would come from current-year offsetting fee collections, and the remaining $30.3 million from prior-year unobligated balances. No appropriation from the general fund would be required.[69] In FY2007, the enacted budget authority was $892.6 million, of which $25.0 million was prior-year unobligated balances. There would be no direct appropriation from the general fund.

The House Appropriations Committee recommended, and the House approved, $908.4 million, $15.9 million (1.8%) above the FY2007 budget, and $3.1 million (0.3%) above the Administration's FY2008 request. Of that amount, $867.0 million would come from current-year fee collections and $41.4 from prior year balances. There would be no direct appropriation from the general fund.

Selective Service System (SSS). The SSS is an independent federal agency operating with permanent authorization under the Military Selective Service Act (50 U.S.C. App.§451 et seq.). It is not part of the Department of Defense, but

---

[69] SEC fees are treated as direct appropriations in H.R. 2829, and not as off-setting collections. This report follows the convention established in H.R. 2829 for SEC fees.

its mission is to serve the emergency manpower needs of the military by conscripting personnel when directed by Congress and the President.[70] All males ages 18 through 25 and living in the United States are required to register with the SSS. The induction of men into the military via Selective Service (i.e., the draft) terminated in 1972. In January 1980, President Carter asked Congress to authorize standby *draft registration* of both men and women. Congress approved funds for male-only registration in June 1980.

Since 1972, Congress has not renewed any President's authority to begin inducting (i.e., drafting) anyone into the armed services. Recent efforts to provide the President with induction authority have been rejected.[71]

Funding of Selective Service has remained relatively stable over the last decade. For FY2008, the President requested, and the House approved, $22 million, which is $3 million less than the FY2007 appropriation.

Small Business Administration (SBA). The SBA is an independent federal agency created by the Small Business Act of 1953[72]. Although the agency administers a number of programs intended to assist small firms, arguably its three most important functions are: (1) to guarantee — principally through the agency's Section 7(a) general business loan program — business loans made by banks and other financial institutions; (2) to make long-term, low-interest disaster loans to small businesses, nonprofits, and households that are victims of hurricanes, earthquakes, other physical disasters, and acts of terrorism; and, (3) to serve as an advocate for small business within the federal government.

The House provided the SBA with new budget authority of $582 million for FY2008, an increase of $119 million over the Administration's request of $464 million. The recommendation is $11 million more than FY2007's enacted $572 million. The House-passed bill includes $82 million in business loan subsidies (the Administration requested no funds for subsidies), and $36 million more for salaries and expenses than the Administration's request.

The House recommended no new budget authority for the disaster loan program in FY2008. The Administration requested no new budget authority; in FY2007 the disaster loan program received $113 million. Up to $156 million in unused budget authority carried over from previous years could be used to operate the disaster loan program in FY2007. Lending authority would stay the same for all loan programs.

United States Postal Service (USPS).[73] The U.S. Postal Service generates nearly all of its funding — about $73 billion annually — by charging users of the

---

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

[71] See H.R. 163, October 5, 2004, failed by Yeas and Nays: (2/3 required): 2 - 402 (Roll no. 494).

[72] P.L. 83-163, as amended. 62 Stat. 262.

[73] Also see CRS Report RS21025, *The Postal Revenue Forgone Appropriation: Overview and Current Issues*, by Kevin Kosar.

mail for the costs of the services it provides.[74] Congress does provide an annual appropriation, however, to compensate USPS for revenue it forgoes in providing, at congressional direction, free mailing privileges to the blind[75] and overseas voters.[76] Appropriations for these purposes are authorized by the Revenue Forgone Reform Act of 1993 (RFRA).[77] This act also authorizes Congress to reimburse USPS $29 million each year until 2035, for postal services provided at below-cost rates to not-for-profit organizations — at congressional direction — in the early 1990s.

In its FY2008 budget, the Administration proposed a total appropriation of $88.9 million,[78] $20 million less than was enacted for FY2007. Of this, $64.5 million would be for revenue forgone in FY2008, and $24.4 million would be for a reconciliation adjustment for underestimated revenue forgone in FY2005.

In its FY2008 budget submission, USPS requested a $153.4 million appropriation.[79] Of this amount, $29 million would be for the annual reimbursement under RFRA; $83.5 million would be for revenue forgone; and $40.9 million would be for reconciliation adjustments for underestimated revenue forgone in FY2005 and FY2006.

The Administration's FY2008 budget not only proposed less revenue forgone funding than USPS has requested, but also eliminated the $29 million annual reimbursement authorized by RFRA. (The Administration also proposed termination of the annual reimbursement in FY2005, FY2006, and FY2007, but Congress chose to provide the funding, as it has each year since FY1994.) Additionally, the Administration's budget proposed that none of the $88.9 million appropriation to USPS would be available for obligation until October 1, 2008, which is in FY2009. Since FY1994, appropriations to USPS have delayed until the following fiscal year only the revenue forgone portion of the appropriation; the remainder of the appropriation was made available for obligation in the upcoming fiscal year.

On June 11, 2007, the House Appropriations Committee approved a bill that would provide USPS with $117.9 million. Of this amount, $29 million would be for

---

[74] *United States Postal Service Annual Report 2006* (Washington: USPS, 2006), p. 3.

[75] 84 Stat. 757; 39 U.S.C. §3403. See also USPS, *Mailing Free Matter for Blind and Visually Handicapped Persons: Questions and Answers*, Publication 347 (Washington: USPS, May 2005), at [http://www.usps.com/cpim/ftp/pubs/pub347.pdf].

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

[77] 107 Stat. 1267, 39 U.S.C. §2401(c)-(d). See also CRS Report RS21025, *The Postal Revenue Forgone Appropriation: Overview and Current Issues*, by Kevin R. Kosar.

[78] Office of Management and Budget, *President's Budget FY2008 — Appendix* (Washington: GPO, 2007), p. 1116.

[79] USPS, "Fiscal Year 2008 Appropriation Request," December 6, 2006, at [http://www.usps.com/financials/_pdf/Appropriations-2008_Public.pdf].

the RFRA reimbursement and $88.9 million would be for revenue forgone. As in the past, the Committee would have the RFRA reimbursement paid to USPS in the current fiscal year (FY2008) and the revenue foregone payment would become available to USPS in the following fiscal year (FY2009). On June 21, the Committee removed the $29 million RFRA reimbursement payment. The House approved an appropriation of $88.9 million under H.R. 2829, which is equal to the amount proposed in the President's FY2008 budget and $20.1 million less than was enacted in FY2007.

In its report on the bill, the Committee did not state why it had not approved the $29 RFRA reimbursement.[80] The Committee did express its concerns over USPS's possible closure of postal facilities in the Bronx borough of New York City, Pasadena, California, and elsewhere. The Committee also expressed its concerns over the quality of mail delivery service in Chicago, Illinois, and directed USPS to report to Congress on USPS efforts to "take into consideration the views of local postal management in the development of appropriate staffing levels to ensure that postal customers receive the quality mail service that they expect and deserve."

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

The President requested $45.3 million for FY2008, about $2.3 million below the USTC's FY2007 appropriation. The House approved $45.1 million for the USTC for FY2008.

General Provisions Government-Wide

The Financial Services and General Government Appropriations bill includes general provisions which apply either government-wide or to specific agencies or programs. There may also be general provisions at the end of an individual title within the appropriations act which relate only to agencies and accounts within that specific title. The Administration's proposed language for government-wide general provisions is included in the FY2008 Budget, Appendix.[81] Most of the provisions continue language that has appeared under the General Provisions title for several years. For various reasons, Congress has determined that reiterating the language is preferable to making the provisions permanent. Presented below are some of the government-wide general provisions that were included in P.L. 109-115, the Transportation, Treasury, Housing and Urban Development, the Judiciary, the

---

[80] U.S. Congress, House Committee on Appropriations, *Financial Services and General Government Appropriation Bill,* 2008, 110th Cong., 1st sess., H.Rept. 110-207 (Washington: GPO, 2007), pp. 84-86.

[81] *FY2008 Budget, Appendix*, pp. 9-12.

District of Columbia, and Independent Agencies Appropriations Bill for FY2006,[82] but that are not included in the FY2008 budget proposal. (The section numbers refer to the provisions as they appeared in P.L. 109-115. H.R. 5576, the FY2007 Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Bill, as passed by the House and reported in the Senate, was not enacted.) Inclusion of the provisions in H.R. 2829, as passed by the House, is noted.

- Section 809, which prohibits payment to political appointees who are filling positions for which they have been nominated, but not confirmed. Included as Section 709 of the House bill as passed and made permanent.

- Section 819, which prohibits the obligation or expenditure of appropriated funds for employee training that (1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties; (2) contains elements likely to induce high levels of emotional response or psychological stress in some participants; (3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation; (4) contains any methods or content associated with religious or quasi-religious belief systems or "new age" belief systems; or (5) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace. Included as Section 718 of the House bill as passed.

- Section 820, which prohibits the use of appropriated funds to implement or enforce employee non-disclosure agreements if they do not contain whistleblower protection clauses. Included as Section 719 of the House bill as passed.

- Section 823, which requires that the Committees on Appropriations approve the release of any "non-public" information, such as mailing or telephone lists, to any person or any organization outside the federal government. Included as Section 722 of the House bill as passed.

- Section 834, which states that Congress recognizes the United States Anti-Doping Agency as the official anti-doping agency for Olympic, Pan American, and Paralympic sports in the United States. Included as Section 733 of the House bill as passed.

- Section 836, which prohibits the use of appropriated funds to implement or enforce restrictions or limitations on the Coast Guard Congressional Fellowship Program or to implement OPM's proposed regulations limiting the detail of executive branch

[82] P.L. 109-115, November 30, 2005, 119 Stat. 2495-2507.

employees to the legislative branch. Included as Section 735 of the House bill as passed.

- Section 837, which requires agencies to report to Congress on the amount of the acquisitions made from entities that manufacture the articles, materials, or supplies outside the United States. This provision is not included in the House bill as passed.

- Section 839, which requires appropriate executive department and agency heads either to transfer funds to, or reimburse, the Federal Aviation Administration to ensure the uninterrupted, continuous operation of the Midway Atoll airfield. This provision is not included in the House bill as passed.

- Section 840, which provides certain requirements for conducting a public-private competition for the performance of an activity that is not inherently governmental for executive agencies with less than 100 full-time employees. This provision is not included in the House bill as passed.

- Section 842, which prohibits the use of funds to convert an activity or function of an executive agency to contractor performance if more than 10 federal employees perform the activity, unless the analysis reveals that savings would exceed 10 percent of the most efficient organization's personnel-related costs for performance of the activity or function by federal employees, or $10 million, whichever is lesser. Included as Section 738 of the House bill as passed.

- Section 845, which precludes contravention of the Privacy Act. Included as Section 741 of the House bill as passed.

The FY2008 budget proposed a new Section 834 to provide a 3.0% pay (annual and locality pay combined) adjustment for federal civilian employees. Section 739 of H.R. 2829, as passed, provides a 3.5% pay adjustment for federal civilian employees, including employees in the Department of Homeland Security and employees in the Department of Defense (DOD) who are represented by a labor organization. DOD employees who are eligible to be represented by a labor organization, but are not so represented, will receive the pay adjustment unless pay for their positions is adjusted under 5 U.S.C. §9902.[83] A new provision is included in the House bill as passed at Section 743 that requires the Office of Management and Budget to submit a report on budget information relating to the activities to restore the health of the Great Lakes ecosystem.

---

[83] *The Statement of Administration Policy* on H.R. 2829 issued by OMB on June 27, 2007, expressed strong opposition to the 3.5% pay adjustment, stating that it "would cost agencies over $600 million in FY2008 and would not target any specific recruitment or retention challenges." The statement also urged that the provision related to a pay adjustment for DHS and DOD employees be deleted, saying that it "backs away from the concept of pay-for-performance and is ambiguous as to how the increase would be applied." (p. 4.)

Section 901 of the House-passed bill also prohibits the use of funds to implement Executive Order 13422 related to the authority of the President over executive agency rulemaking.[84]

Competitive Sourcing

Although the term "competitive sourcing" was coined by the Bush Administration in 2001, public-private competition began in 1966, with the publication of Office of Management and Budget (OMB) Circular A-76. Circular A-76 provides policy and guidance for conducting competitions involving government employees and contractors. For many years, OMB continued to be the exclusive source of guidance on public-private competitions. The late 1990s witnessed a notable change, with the advent of competitive sourcing legislation, and, in particular, the passage of bills containing competitive sourcing provisions.[85]

Section 738(a) of H.R. 2829 prohibits the use of funds for converting an agency activity involving 11 or more federal employees to contractor performance unless certain conditions are met. Public-private competitions that meet this size criterion would have to include a most efficient organization (MEO); would show that the cost of contractor performance would result in a savings of at least $10 million or 10% of the MEO's personnel costs, whichever amount is lesser; and would not provide a contractor with an advantage by permitting the company to provide health and retirement benefits to the employees performing the government activity that are less than what federal employees receive.[86] The first two conditions appear designed to address two distinctions between standard competitions and streamlined competitions. Under Circular A-76, agencies are required to develop an MEO and apply the conversion differential (that is, $10 million or 10% of the MEO's personnel costs) for standard competitions. (An agency is required to use a standard competition when a public-private competition involves more than 65 full-time equivalents (FTEs).[87]) In streamlined competitions, an agency may develop an MEO but is not required to do so, and the conversion differential is not calculated.[88] (An agency may use a streamlined or a standard competition when a public-private competition involves 65 or fewer FTEs.) The third condition may be seen as an effort to ensure that a contractor does not gain a cost advantage in competitions by

---

[84] *Congressional Record*, daily edition, vol. 153, June 27, 2007, pp. H7322-H7323. For an analysis of the Executive Order, see CRS Report RL33862, *Changes to the OMB Regulatory Review Process by Executive Order 13422*, by Curtis W. Copeland.

[85] See CRS Report RL32833, *Competitive Sourcing Statutes and Statutory Provisions*, by L. Elaine Halchin.

[86] A most efficient organization is the staffing plan of the agency tender, which is the government's response to a solicitation.

[87] A full-time equivalent (FTE) is "[t]he staffing of Federal civilian employee positions, expressed in terms of annual productive work hours (1,776 [hours]) rather than annual available hours that includes non-productive hours (2,080 hours)." (U.S. Office of Management and Budget, *Circular No. A-76 (Revised)*, May 29, 2003, p. D-5.)

[88] Ibid., pp. B-4 and C-2.

paying less for benefits than the government does, thus lowering the cost of his or proposal. Alternatively, others may see this condition as a restriction on the ability of a contractor to prepare a competitive proposal. Certain organizations and procurement activities, such as the Department of Defense and depot maintenance contracts, would be exempt from this section of H.R. 2829.

Although Circular A-76 does not appear to prohibit conducting a public-private competition for work that is being performed by a contractor, some of the language in the circular seems to emphasize holding competitions for work being performed by federal employees. For example, the circular's policy statement says, in part: "The longstanding policy of the federal government has been to rely on the private sector for needed commercial services.... Identify all activities performed by government personnel as either commercial or inherently governmental.... Perform inherently governmental activities with government personnel.... Use a streamlined or standard competition to determine if government personnel should perform a commercial activity."[89] Section 738(b) of H.R. 2829 notes that the circular does not prevent holding competitions for working being performed by contractors, and it also requires that Circular A-76 include procedures and policies for these types of competitions.

Currently, only the agency tender official (ATO) is permitted to file a protest on behalf of government employees, and protests may be filed only for standard competitions.[90] Section 738(b) would allow a protest to be filed for any competition (that is, streamlined as well as standard) conducted under Circular A-76, and for any decision made without benefit of an A-76 competition to convert an agency function from employee performance to contractor performance. This section also would permit an individual selected by a majority of the affected employees to represent the employees in a protest involving an A-76 competition or a decision to outsource work without a competition. The ATO would retain the authority to file a protest on behalf of the employees under Section 738(b). Currently, an ATO is not required to file a protest: he or she "shall file a protest in connection with ... [a] public-private competition unless the [agency tender] official determines that there is no reasonable basis for the protest."[91] Some have been concerned that agency employees' interests may not be adequately represented since an ATO determines unilaterally whether there is a basis for a protest. Hence, supporters of this view might argue that another individual, such as a union representative, would be a better choice for representing the affected employees. In response, the private sector might argue that allowing the ATO to file a protest is sufficient protection for agency employees. Additionally, contractors might note that their employees cannot band together and select someone to represent them in a protest.

If enacted, Section 738 of H.R. 2829 would broaden employees' protest rights in other ways as well. Specifically, Section 738(c)(2) would permit the individual

---

[89] Ibid., p. 1.

[90] The agency tender official is an "agency official with decision-making authority who is responsible for the agency tender and represents the agency tender during source selection." (Ibid., p. D-2.)

[91] 31 U.S.C. §3351(2); Sec. 326(b)(1) of P.L. 108-375.

representing employees affected by a public-private competition to intervene in any civil action brought by an interested party from the private sector. Additionally, this section would permit protests and civil actions that challenge the selection of a provider (that is, government employees or a contractor) at the conclusion of a competition.

The final substantive provision in this section would prohibit the use of funds made available by this act for certain purposes. That is, none of the funds appropriated by this act could be used by OMB for directing or requiring an agency to take any action related to a public-private competition, or a direction conversion of a government activity from one sector to another. Similarly, none of the funds could be used by another agency take an action that was directed or required by OMB.

Section 738 would apply to FY2008 and succeeding fiscal years.

Cuba Sanctions[92]

Since the early 1960s, U.S. policy toward Communist Cuba has consisted largely of efforts to isolate the island nation through comprehensive economic sanctions, including prohibitions on U.S. financial transactions — the Cuban Assets Control Regulations (CACR) — that are administered by the Treasury Department's Office of Foreign Assets Control (OFAC). Some U.S. commercial agricultural exports to Cuba have been allowed since 2001 under the terms of the Trade Sanctions Reform and Export Enhancement Act of 2000 or TSRA, 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.

In February 2005, the Administration tightened sanctions against Cuba by further restricting how U.S. agricultural exporters may be paid for their sales. OFAC amended the CACR to clarify that the term "payment of cash in advance" for U.S. agricultural sales to Cuba means that the payment is to be received prior to the shipment of the goods. This differs from the practice of being paid before the actual delivery of the goods, a practice that had been utilized by most U.S. agricultural exporters to Cuba since such sales were legalized in late 2001. U.S. agricultural exporters and some Members of Congress strongly objected on the grounds that the action constituted a new sanction that violated the intent of TSRA, and could jeopardize millions of dollars in U.S. agricultural sales to Cuba. OFAC Director Robert Werner maintained that the clarification "conforms to the common understanding of the term in international trade."[93] Since late 2001, Cuba has purchased about $1.6 billion in agricultural products from the United States, although the annual amount began to decline in 2005. Overall U.S. exports to Cuba amounted to about $7 million in 2001, $146 million in 2002, $259 million in 2003, $404

---

[92] For additional information, see CRS Report RL33819, Cuba, Issues for the 110th Congress, by Mark P. Sullivan.

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

million in 2004, $369 million in 2005, $340 million in 2006, and $116 million in the first four months of 2007, the majority in agricultural products.[94]

Since 2000, either one or both houses have approved provisions in the annual Treasury Department appropriations bill that would ease U.S. economic sanctions on Cuba (especially on travel and on U.S. agricultural exports) but none of these provisions have ever been enacted. The Administration regularly threatened to veto legislation if it included provision weakening sanctions on Cuba.

This year, the House-passed version of the FY2008 Financial Services and General Government appropriations bill, H.R. 2829, contains a provision in section 903 that would prevent Treasury Department funds from being used to implement the February 2005 regulation that requires the payment of cash in advance prior to the shipment of U.S. agricultural goods to Cuba. The House adopted the provision during June 28, 2007 floor consideration when it approved H.Amdt. 467 (Moran, Kansas) by voice vote. The Administration's statement of policy on the bill maintained that the President would veto the measure if it contained a provision weakening current restrictions against Cuba.[95]

---

[94] World Trade Atlas. Department of Commerce Statistics.

[95] Executive Office of the President, Office of Management and Budget, "Statement of Administration Policy, H.R. 2829 — Financial Series and General Government Appropriations Act, 2008," p. 1.