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DHS Appropriations FY2016: Security, Enforcement and Investigations

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Summary

This report is part of a suite of reports that discuss appropriations for the Department of Homeland Security (DHS) for FY2016. It specifically discusses appropriations for the components of DHS included in the second title of the homeland security appropriations bill—Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), the Transportation Security Administration (TSA), U.S. Coast Guard (USCG), and the U.S. Secret Service (USSS). Collectively, Congress has labeled these components in recent years as "Security, Enforcement, and Investigations."

The report provides an overview of the Administration's FY2016 request for Security, Enforcement, and Investigations, the appropriations proposed by the House and Senate appropriations committees in response, and those enacted thus far. Rather than limiting the scope of its review to the second title, the report includes information on provisions throughout the bills and report that directly affect these functions.

Security, Enforcement, and Investigations is the largest of the four titles that carry the bulk of the funding in the bill. The Administration requested $32,481 million for these components in FY2016, $807 million more than was provided for FY2015. The amount requested for these components is 78.5% of the Administration's $41.4 billion request for DHS in net discretionary budget authority. The proposed increase in discretionary funding for the components is 46.7% of the total net increase requested for the department. The largest budget increase proposed in the request for these five agencies was $806 million (7.4%) for CBP, while the largest budget decrease proposed was $227 million (2.8%) for the USCG.

Senate-reported S. 1619 would have provided the components included in this title $32,484 million in net discretionary budget authority. This would have been $3 million (0.01%) more than requested, and $810 million (2.6%) more than was provided in FY2015.

House-reported H.R. 3128 would have provided the components included in this title $32,182 million in net discretionary budget authority. This would have been $299 million (0.9%) less than requested, and $508 million (1.6%) more than was provided in FY2015.

On December 18, 2015, the President signed into law P.L. 114-113, the Consolidated Appropriations Act, 2016, Division F of which was the Department of Homeland Security Appropriations Act, 2016. The act included $33,062 million for these components in FY2016, $1,388 million (4.4%) more that was provided for FY2015, and $581 million (1.8%) more than was requested.

Additional information on the broader subject of FY2016 funding for the department can be found in CRS Report R44053, *Department of Homeland Security Appropriations: FY2016,* as well as links to analytical overviews and details regarding appropriations for other components.

This report will be updated if supplemental appropriations are provided for any of these components through the FY2016 appropriations process.

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The report provides an overview of the Administration's FY2016 request for Security, Enforcement, and Investigations, the appropriations proposed by Congress in response, and those enacted thus far. Rather than limiting the scope of its review to the second title, the report includes information on provisions throughout the proposed bill and report that directly affect these functions.

The suite of CRS reports on homeland security appropriations tracks legislative action and congressional issues related to DHS appropriations, with particular attention paid to discretionary funding amounts. The reports do not provide in-depth analysis of specific issues related to mandatory funding—such as retirement pay—nor do they systematically follow other legislation related to the authorization or amending of DHS programs, activities, or fee revenues.

Discussion of appropriations legislation involves a variety of specialized budgetary concepts. The Appendix to CRS Report R44053, *Department of Homeland Security Appropriations: FY2016* explains several of these concepts, including budget authority, obligations, outlays, discretionary and mandatory spending, offsetting collections, allocations, and adjustments to the discretionary spending caps under the Budget Control Act (P.L. 112-25). A more complete discussion of those terms and the appropriations process in general can be found in CRS Report R42388, *The Congressional Appropriations Process: An Introduction*, by Jessica Tollestrup, and the Government Accountability Office's *A Glossary of Terms Used in the Federal Budget Process*.[1]

Note on Data and Citations

Except in summary discussions and when discussing total amounts for the bill as a whole, all amounts contained in the suite of CRS reports on homeland security appropriations represent budget authority and are rounded to the nearest million. However, for precision in percentages and totals, all calculations were performed using unrounded data.

Data used in this report for FY2015 amounts are derived from the Department of Homeland Security Appropriations Act, 2015 (P.L. 114-4) and the explanatory statement that accompanied H.R. 240 as printed in the *Congressional Record* of January 13, 2015, pp. H275-H322. Contextual information on the FY2016 request is generally from the *Budget of the United States Government, Fiscal Year 2016*, the FY2016 DHS congressional budget justifications, and the FY2016 DHS *Budget in Brief*.[2] However, most data used in CRS analyses in reports on DHS appropriations is drawn from congressional documentation to ensure consistent scoring whenever possible. Information on the FY2016 budget request and Senate-reported recommended funding levels is from S. 1619 and S.Rept. 114-68. Information on the House-reported recommended funding levels is from H.R. 3128 and H.Rept. 114-215. Data for FY2016 are derived from P.L. 114-113, the Omnibus Appropriations Act, 2016—Division F of which is the Homeland Security

[1] U.S. Government Accountability Office, *A Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP, September 1, 2005, http://www.gao.gov/products/GAO-05-734SP.

[2] On April 14, 2016, the Administration submitted technical amendments to its budget request, but it presented no adjustments to its totals for the department. Therefore, modifications to authorization for Customs and Border Protection to use certain fee revenues are not reflected in this report.

Appropriations Act, 2016—and the accompanying explanatory statement published in Books II and III of the *Congressional Record* for December 17, 2015.

Summary of DHS Appropriations

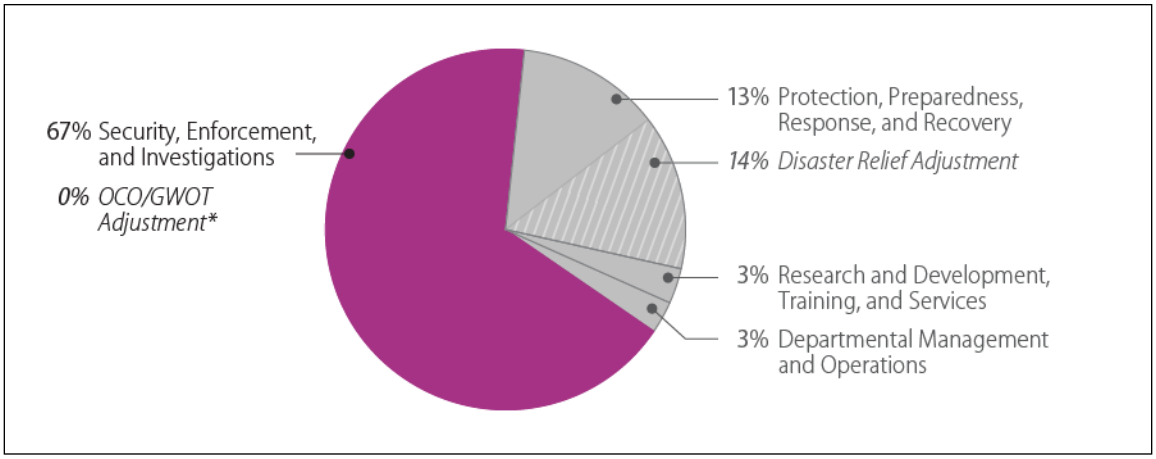
Generally, the homeland security appropriations bill includes all annual appropriations provided for DHS, allocating resources to every departmental component. Discretionary appropriations[3] provide roughly two-thirds to three-fourths of the annual funding for DHS operations, depending how one accounts for disaster relief spending and funding for overseas contingency operations. The remainder of the budget is a mix of fee revenues, trust funds, and mandatory spending.[4]

Appropriations measures for DHS typically have been organized into five titles.[5] The first four are thematic groupings of components: Departmental Management and Operations; Security, Enforcement, and Investigations; Protection, Preparedness, Response, and Recovery; and Research and Development, Training, and Services. A fifth title contains general provisions, the impact of which may reach across the entire department, impact multiple components, or focus on a single activity.

The following pie chart presents a visual comparison of the share of annual appropriations requested for the components funded in each of the first four titles, highlighting the components discussed in this report.

Figure 1. Proportion of Requested DHS Discretionary Budget Authority by Title

(funding in general provisions distributed to recipient components)



Source: CRS analysis of data from U.S. Department of Homeland Security, *FY2016 Budget in Brief.*

Notes: *—The Administration requested $160 million to be transferred to DHS under the Overseas Contingency Operations/Global War on Terror (OCO/GWOT) allowable adjustment under the Budget Control Act. This amount rounds to zero for this calculation, and thus does not appear in the chart. Titles in italics and

[3] Generally speaking, those provided through annual legislation.

[4] A detailed analysis of this breakdown between discretionary appropriations and other funding is available in CRS Report R44052, *DHS Budget v. DHS Appropriations: Fact Sheet*, by William L. Painter.

[5] Although the House and Senate generally produce symmetrically structured bills, this is not always the case. Additional titles are sometimes added by one of the chambers to address special issues. For example, the FY2012 House full committee markup added a sixth title to carry a $1 billion emergency appropriation for the Disaster Relief Fund (DRF). The Senate version carried no additional titles beyond the five described above. For FY2015, the House- and Senate-reported versions of the DHS appropriations bill were generally symmetrical.

patterned wedges represent funding covered under adjustments to discretionary spending limits under the Budget Control Act.

Security, Enforcement, and Investigations

As noted above, the Security, Enforcement, and Investigations title (Title II) of the DHS appropriations bill includes over three-quarters of the net discretionary budget authority provided in the legislation, and provides funding for many of DHS's largest operational components: CBP, ICE, TSA, USCG, and USSS. Some provisions in Title V, General Provisions, may affect the total funding provided for some of these components.

The Administration requested $32,481 million in FY2016 net discretionary budget authority for components included in this title, as part of a total budget for these components of $39,431 million for FY2016.[6] The appropriations request was $807 million (2.5%) more than was provided for FY2015. Senate-reported S. 1619 would have provided the components included in this title $32,484 million in net discretionary budget authority, $3 million (0.01%) more than requested, and $810 million (2.6%) more than was provided in FY2015. House-reported H.R. 3128 would have provided the components included in this title $32,182 million in net discretionary budget authority, $299 million (0.9%) less than requested, and $508 million (1.6%) more than was provided in FY2015.

Senate-reported S. 1619 also included $160 million in overseas contingency operations funding for the Coast Guard. This amount, originally requested by the Administration through the Department of Defense, is covered by an adjustment under the Budget Control Act (BCA), and does not add to the total adjusted net discretionary budget authority in the bill. House-reported H.R. 3128 did not include that funding, although House-passed H.R. 2685, the Department of Defense Appropriations Act, 2016, did, as well as language to authorize transfer of that funding to the Coast Guard.

On December 18, 2015, the President signed into law P.L. 114-113, the Consolidated Appropriations Act, 2016, Division F of which was the Department of Homeland Security Appropriations Act, 2016. The act included $33,062 million for these components in FY2016, $1,388 million (4.4%) more that was provided for FY2015, and $581 million (1.8%) more than was requested. The act included the $160 million in overseas contingency funding for the Coast Guard as part of an appropriation to DHS, rather than as a transfer from the Department of Defense.

[6] In addition to the appropriations provided in Title II, under the request, U.S. Customs and Border Protection would receive $180 million in budget authority from a general provision that grants them the authority to expend fees raised under the Colombia Free Trade Act. Other resources that contribute to the budget for these components include mandatory spending, fee revenues, and trust funds.

Not in the Bill, but Still on the Tab

Both CBP and the USCG receive a small fraction of their budget authority through a mechanism known as permanent indefinite discretionary spending, through which the components receive funding through permanent budget authority in other laws. However, this spending is considered discretionary rather than mandatory, and counts against any procedural and statutory limits on discretionary spending—including the 302(b) suballocation to the Homeland Security Subcommittee. Because of this budgetary treatment, this permanent indefinite discretionary spending is reflected in the Appropriations Committee reports and scored with the rest of the department's discretionary budget, even though it does not actually appear in the appropriations measures themselves. Most discussion in the public forum of the funding provided through annual DHS appropriations measures does not make a distinction between permanent indefinite discretionary spending and the spending that is actually included in the bill. For the sake of clarity of discussion in this report, all discretionary budget authority scored against the bill is considered as being included in the bill.

Table 1 lists the enacted funding level for the individual components funded under Security, Enforcement, and Investigations for FY2015, as well as the amounts requested for these accounts for FY2016 by the Administration, proposed by the Senate and House appropriations committees, and provided by the enacted annual appropriation for FY2016. The table includes information on funding under Title II as well as other provisions in the bill.

Table 1. Budgetary Resources for Security, Enforcement, and Investigations, FY2015 and FY2016

(budget authority in millions of dollars)

	FY2015	FY2016			
Component/Appropriation	**Enacted**	**Request**	**Senate-reported S. 1619**	**House-reported H.R. 3128**	**Div. F, P.L. 114-113**
Customs and Border Protection					
Salaries and Expenses	8,460	9,124	8,779	8,695	8,629
Small Airport User Fee[a]	9	9	9	9	9
Automation Modernization	808	867	854	846	829
Border Security Fencing, Infrastructure, and Technology	382	373	373	439	447
Air and Marine Operations	750	747	755	785	802
Facilities Management	289	342	314	341	340
COBRA FTA funding (Title V)[b]	[138]	[180]	[220]	[180]	[220]
Title II Appropriation	**10,699**	**11,463**	**11,084**	**11,116**	**11,057**
Total Appropriation	**10,837**	**11,643**	**11,304**	**11,296**	**11,277**
Fees, Mandatory Spending, and Trust Funds	1,884	1,977	1,977	1,977	1,977
Total Budgetary Resources (including Title V)	12,721	13,620	13,281	13,273	13,254
Immigration and Customs Enforcement					
Salaries and Expenses	5,933	5,887	5,762	5,736	5,779

Component/Appropriation	FY2015 Enacted	FY2016 Request	FY2016 Senate-reported S. 1619	FY2016 House-reported H.R. 3128	FY2016 Div. F, P.L. 114-113
Automation and Infrastructure Modernization	26	74	53	74	53
Construction	0	5	0	5	0
Appropriation	**5,959**	**5,965**	**5,815**	**5,815**	**5,832**
Fees, Mandatory Spending, and Trust Funds	345	322	322	322	322
Total Budgetary Resources	6,304	6,287	6,137	6,137	6,154
Transportation Security Administration					
Aviation Security (net funding)	3,574	3,500	3,453	3,429	3,589
Surface Transportation Security	124	124	123	107	111
Intelligence and Vetting[c] (net funding)	219	228	225	216	237
Transportation Security Support	917	931	919	901	924
Appropriation	**4,834**	**4,783**	**4,719**	**4,653**	**4,861**
Fees, Mandatory Spending, and Trust Funds	2,395	2,564	2,579	2,579	2,579
Total Budgetary Resources	7,229	7,347	7,299	7,233	7,440
U.S. Coast Guard					
Operating Expenses[d]	7,043	6,823	6,996	6,899	7,061
Overseas Contingency Operations Adjustment (included in Operating Expenses)[d]	[213]	0	[160]	0	[160]
Environmental Compliance and Restoration	13	13	13	13	13
Reserve Training	115	111	111	111	111
Acquisition, Construction, and Improvements	1,225	1,017	1,573	1,301	1,945
Research, Development, Testing, and Evaluation	18	18	18	18	18
Health Care Fund Contribution[a]	177	169	169	169	169
Discretionary Appropriation	**8,378**	**8,151**	**8,721**	**8,512**	**9,158**
Fees, Mandatory Spending, and Trust Funds	1,664	1,822	1,822	1,822	1,822
Total Budgetary Resources	10,255	9,973	10,703	10,334	10,980
U.S. Secret Service					
Salaries and Expenses	1,616	1,867	1,837	1,833	1,855
Acquisition, Construction, and Improvements	50	72	87	73	79
Appropriation	**1,666**	**1,939**	**1,924**	**1,906**	**1,934**

Component/Appropriation	FY2015 Enacted	FY2016 Request	FY2016 Senate-reported S. 1619	FY2016 House-reported H.R. 3128	FY2016 Div. F, P.L. 114-113
Fees, Mandatory Spending, and Trust Funds	260	265	265	265	265
Total Budgetary Resources	1,926	2,204	2,189	2,171	2,199
Net Discretionary Budget Authority: Title II	**31,536**	**32,301**	**32,264**	**32,002**	**32,842**
Net Discretionary Budget Authority: Total for Security, Enforcement, and Investigations Components	**31,674**	**32,481**	**32,484**	**32,182**	**33,062**
Total Gross Budgetary Resources for Security, Enforcement, and Investigations Components	**38,434**	**39,431**	**39,609**	**39,147**	**40,187**

Source: CRS analysis of P.L. 114-4 and its explanatory statement as printed in the *Congressional Record* of January 13, 2015, pp. H275-H322, the FY2016 DHS *Budget-in-Brief,* S. 1619, S.Rept. 114-68, H.R. 3128, H.Rept. 114-215, and Division F of P.L. 114-113 and its explanatory statement as printed in the *Congressional Record* of December 17, 2015, pp. H10161-H10210.

Notes: Table displays rounded numbers, but all operations were performed with unrounded data. Amounts, therefore, may not sum to totals. Fee revenues included in the "Fees, Mandatory Spending, and Trust Funds" lines are projections, and do not include budget authority provided through general provisions. Bracketed amounts do not add to discretionary appropriations totals for Title II due to their location in the bill or their structure.

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

b. Sec. 556 of the Senate-reported bill, Sec. 551 of the House reported bill, and Sec. 556 of Division F of P.L. 114-113 authorize CBP to expend certain fee revenues collected pursuant to the Colombia Free Trade Act. These provisions score as discretionary budget authority, and so are reflected separately from other fees.

c. Formerly entitled "Transportation Threat Assessment and Credentialing."

d. Overseas contingency operations funding is included in the Operating Expenses appropriation, but is not added to the appropriations total in accordance with the appropriations committees' practices for subtotaling this account. This funding is reflected in the total gross budgetary resources for the Coast Guard, not the total net discretionary budget authority.

Customs and Border Protection (CBP)[7]

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

CBP's major programs include Border Security Inspections and Trade Facilitation, which encompasses risk-based targeting and the inspection of travelers and goods at POEs; Border

[7] Prepared by Carla Argueta, Analyst in Immigration Policy, Domestic Social Policy Division.

Security and Control between Ports of Entry, which includes the Border Patrol; Air and Marine Interdiction; Automation Modernization, which includes customs and immigration information technology systems; Border Security Fencing, Infrastructure, and Technology (BSFIT); Facilities Management; and a number of immigration and customs user fee accounts.[8] See **Table 1** for account-level detail for all of the agencies in Title II, and **Table 2** for subaccount-level detail for CBP appropriations and funding for FY2015-FY2016.

FY2016 Request

For FY2016, the Administration requested an appropriation of $13,620 million in gross budget authority for CBP, including $11,643 million in net discretionary budget authority through appropriations legislation.[9]

The bullets below highlight select program changes from the FY2015 enacted level.

- An increase of $267 million for ports of entry (POE) operations.
- An increase of almost $15 million to fund training for new and incumbent CBP officers, Agriculture Specialists, Import Specialists, and Entry Specialists assigned to the ports of entry.
- An increase of more than $86 million to fund the refreshment and refurbishment of Non-Intrusive Inspection (NII) technology equipment.[10]
- An increase of more than $153 million for border security and control between ports of entry.
- A decrease of $9.0 million in infrastructure and technology along the borders. The decrease is in the Development and Deployment account, which funds activities associated with procuring new technology, among other things.
- An increase of almost $53 million for the construction and sustainment of CBP facilities. The increased funding was requested for a backlog of unmet maintenance and repair requirements of CBP facilities.
- A decrease of $3 million for Air and Marine Operations.

The Administration also requested additional appropriations for an unaccompanied alien children (UAC) Contingency Fund, to be provided in the event that the number of UAC crossing the border in FY2016 exceeds the number that crossed in FY2015 (see "Unaccompanied Alien Children" below for further discussion).

[8] For more information see CRS Report R42138, *Border Security: Immigration Enforcement Between Ports of Entry*, by Lisa Seghetti, and CRS Report R43356, *Border Security: Immigration Inspections at Ports of Entry*, by Lisa Seghetti.

[9] In addition to the appropriations traditionally carried in Title II for CBP, authorization to use fees collected under Section 601(b) of the United States-Colombia Trade Promotion Agreement Implementation Act (P.L. 112-42) was also requested, which CBO estimated would provide $180 million in additional budget authority.

[10] NII equipment includes x-ray and gamma ray imaging systems and related technologies. NII scanning produces a high-resolution image of container contents that is reviewed by law enforcement officers to detect hidden cargo and other anomalies that suggest container contents do not match reported manifest data. If an officer detects an abnormality, containers may be "cracked open" for a physical examination. For a fuller discussion, see CRS Report R43014, *U.S. Customs and Border Protection: Trade Facilitation, Enforcement, and Security*, by Vivian C. Jones and Lisa Seghetti.

Senate-Reported S. 1619

The Senate Appropriations Committee recommended $13,281 million in gross budget authority for CBP, $339 million (2.5%) below the Administration's request and $560 million (4.4%) above the FY2015 enacted level. Senate-reported S. 1619 included $11,304 million in net discretionary budget authority for CBP.[11]

The Senate-reported bill recommended a decrease of $137 million (3.4%) below the Administration's request for POE operations (i.e., Inspections, Trade, and Travel Facilitation at Ports of Entry). The committee, however, did not recommend funding the Administration's request for additional CBP officers. The committee noted that the number of CBP officers is below the committee recommended funding level of 23,775 and is unlikely to reach such level until late FY2016.

The Senate-reported bill recommended funding to support 21,370 Border Patrol agents, which is the same number that was funded in the FY2015 bill. The committee noted that as with CBP officers, the number of Border Patrol agents is below the committee recommended funding level and is unlikely to reach such level until late FY2016. The committee noted the challenges CBP has faced in hiring and retaining Border Patrol agents. The Senate report recommended increased funding for one of the issues the Administration cited for the delay in hiring new Border Patrol agents, a lack of polygraph examiners. Polygraph examiners are necessary to complete the background investigation of applicants. The committee recommended an increase of more than $1 million for additional examiners.[12]

House-Reported H.R. 3128

The House Appropriations Committee recommended $13,273 million in gross budget authority for CBP, $347 million (2.5%) below the Administration's request, $553 million (4.3%) over the FY2015 enacted level, and $8 million less than what the Senate Appropriations Committee approved. House-reported H.R. 3128 included $11,296 million in net discretionary budget authority for CBP.[13]

The House-reported bill included a 50% decrease below the Administration's request for the CBP Commissioner's office.[14] The committee noted that CBP failed to provide a timely response to requests for information about hiring, attrition, and funding for full time equivalent (FTE) positions.

For POE operations (i.e., Border Security Inspections and Trade Facilitation), the House-reported bill included a decrease of $183 million below the Administration's request, an increase of $191 million over the FY2015 enacted level, and $34 million below the recommended amount in the

[11] In addition to the appropriations traditionally carried in Title II for CBP, this total includes authorization provided in Title V to use fees collected under Section 601(b) of the United States-Colombia Trade Promotion Agreement Implementation Act (P.L. 112-42), which, as formulated in the Senate-reported bill, would have provided $220 million in additional budget authority for CBP, according to CBO.

[12] S.Rept. 114-68, p. 33.

[13] In addition to the appropriations traditionally carried in Title II for CBP, this total includes authorization provided in Title V to use fees collected under Section 601(b) of the United States-Colombia Trade Promotion Agreement Implementation Act (P.L. 112-42), which, as formulated in the House-reported bill, would have provided $180 million in additional budget authority for CBP, according to CBO.

[14] This subaccount is located in the Headquarters, Management and Administration account and is not reflected in **Table 2**.

Senate-reported bill. The relatively lower amount recommended by the House committee includes a "projected underexecution of funds for personnel."[15]

For operations along the border (i.e., Border Security and Control Between Ports of Entry), the House-reported bill included a decrease of $199 million (4.9%) below the Administration's request, a decrease of $45 million (1.2%) below the FY2015 enacted level, and $61 million (1.2%) below the Senate Appropriations Committee proposal. The majority of the committee's recommended reduction from the Administration's request is due to the denial of the requested unaccompanied alien children (UAC) contingency fund (see "Unaccompanied Alien Children" below). Another portion of the reduction was due to the pay raise that was assumed in the President's budget.[16] The committee also recommended reducing the level of funding for the recommended 21,370 Border Patrol agents because, according to the committee, it is probable that CBP will not reach that number until the end of the fiscal year.[17]

The House-reported bill recommended $439 million for the Border Security Fencing, Infrastructure, and Technology account. This amount was an increase of $66 million (17.7%) more than the Administration's request, an increase of $57 million (14.9%) over the FY2015 enacted level, and an increase of $66 million (15.3%) over the Senate-reported bill. The committee noted the Administration's practice of carrying over unobligated amounts from prior years while requesting "significant amounts of new funding." Thus, the committee's recommendation included a decrease of the amount that was carried over in the Administration's request for FY2016 but recommended a portion of the committee's amount be carried over into FY2017 and FY2018.[18]

While the total appropriation included for BSFIT was higher than requested, the House-reported bill reduced the amount of multi-year funding provided for BSFIT by $150 million from the budget request. In a change from FY2015, the House Appropriations Committee provided only a portion of the BSFIT appropriation as three-year funding, thus reducing the amount that could be carried over into future fiscal years. In prior years, the entire BSFIT appropriation was provided as a three-year appropriation. Title V of the bill also included rescissions totaling almost $99 million from appropriations provided in prior years for BSFIT, which would reduce the existing level of carryover.

The House-reported bill included $785 million for CBP's Office of Air and Marine Operations (AMO), an increase of $38 million (5%) over the Administration's request, an increase of $34 million (4.6%) over the FY2015 enacted level, and $30 million (4.6%) more than what was recommended by the Senate Appropriations Committee.

Division F of P.L. 114-113

Division F of P.L. 114-113 (the Consolidated Appropriations Act of 2016) projected a budget of $13,254 million in gross budget authority for CBP. This projection was $533 million (4.2%) more than the FY2015 enacted level, $366 million (2.7%) below the amount requested by the Administration, $27 million (0.2%) less than in Senate-reported S. 1619, and $19 million (0.1%)

[15] H.Rept. 114-215, p. 28.

[16] Further discussion of pay issues is included in CRS Report R44053, *Department of Homeland Security Appropriations: FY2016*, coordinated by William L. Painter.

[17] H.Rept. 114-215, p. 29.

[18] H.Rept. 114-215, p. 31.

less than in House-reported H.R. 3128. Division F of P.L. 114-113 included $11,277 million in net discretionary budget authority for CBP.[19]

Border security operations at ports of entry (i.e., Border Security Inspections and Trade Facilitation) was provided $3,436 million in funding,[20] which was approximately $249 million (7.8%) more than the FY2015 enacted level, $124 million (3.5%) less than the amount requested by the Administration, $24 million (0.7%) more than in Senate-reported S. 1619, and $58 million (1.7%) more than in House-reported H.R. 3128. Furthermore, P.L. 114-113's explanatory statement recommended $86 million for the recapitalization of Non-Intrusive Inspection equipment (NII).[21]

P.L. 114-113's explanatory statement also recommended $3,751 million to Border Security and Control Between POEs.[22] This level of funding was $153 million (3.9%) less than the FY2015 enacted level, $307 million (7.6%) less than what was requested by the Administration, $170 million (4.3%) less than in Senate-reported S. 1619, and $108 million (2.8%) less than in House-reported H.R. 3128. As you can see in **Table 2**, below, P.L. 114-113 appropriated funding for BSFIT and AMO at a level higher than the amount enacted in FY2015 or what was requested by the Administration or recommended in the House-reported and Senate-reported bills for FY2016.[23]

Table 2. U.S. Customs and Border Protection Account Detail, FY2015-FY2016

(budget authority in rounded millions of dollars)

	FY2015	FY2016			
Appropriation / Sub-Appropriation	**Enacted**	**Request**	**Senate-Reported S. 1619**	**House-Reported H.R. 3128**	**Div. F, P.L. 114-113**
Salaries and Expenses	8,460	9,124	8,779	8,695	8,629
Headquarters Management and Administration	*1,368*	*1,506*	*1,447*	*1,458*	*1,442*
Border Security Inspections and Trade Facilitation	*3,187*	*3,560*	*3,412*	*3,378*	*3,436*
Border Security and Control Between POE	*3,904*	*4,058*	*3,921*	*3,859*	*3,751*
Small Airport User Fee[a]	9	9	9	9	9

[19] In addition to the appropriations traditionally carried in Title II for CBP, this total includes authorization provided in Title V to use fees collected under Section 601(b) of the United States-Colombia Trade Promotion Agreement Implementation Act (P.L. 112-42), which provided $220 million in additional budget authority.

[20] Rep. Harold Rogers, "Explanatory Statement Submitted by Mr. Rogers of Kentucky, Chairman of the House Committee on Appropriations Regarding House Amendment No. 1 to the Senate Amendment on H.R. 2029—Continued Consolidated Appropriations Act, 2016," House Debate, *Congressional Record*, daily edition, vol. 161, part 184 (December 17, 2015), p. H10166.

[21] Ibid.

[22] Ibid.

[23] See P.L. 114-113, Division F, Title II.

Appropriation / Sub-Appropriation	FY2015 Enacted	FY2016 Request	FY2016 Senate-Reported S. 1619	FY2016 House-Reported H.R. 3128	FY2016 Div. F, P.L. 114-113
Automation Modernization	808	867	854	846	829
Border Security Fencing, Infrastructure, and Technology	382	373	373	439	447
Air and Marine Operations	750	747	755	785	802
Facilities Management	289	342	314	341	340
Total Net Appropriation, CBP, Title II	**10,699**	**11,463**	**11,084**	**11,116**	**11,057**
COBRA FTA funding (Title V)[b]	[138]	[180]	[220]	[180]	[220]
Total Net Appropriation CBP	10,837	11,643	11,304	11,296	11,277
Estimated Fees, Mandatory Spending and Trust Funds	1,884	1,977	1,977	1,977	1,977
Total CBP Budget Authority	**12,721**	**13,620**	**13,281**	**13,273**	**13,254**

Source: CRS analysis of P.L. 114-4 and its explanatory statement as printed in the *Congressional Record* of January 13, 2015, pp. H275-H322, the FY2016 DHS *Budget-in-Brief,* S. 1619, S.Rept. 114-68, H.R. 3128, H.Rept. 114-215, and Division F of P.L. 114-113 and its explanatory statement as printed in the *Congressional Record* of December 17, 2015, pp. H10161-H10210.

Notes: Table displays rounded numbers, but all operations were performed with unrounded data: therefore, amounts may not sum to totals.

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

b. Sec. 556 of the Senate-reported bill, Sec. 551 of the House reported bill, and Sec. 556 of Division F of P.L. 114-113 authorize CBP to expend certain fee revenues collected pursuant to the Colombia Free Trade Act. These provisions score as discretionary budget authority, and so are reflected separately from other fees.

Issues for Congress

This section does not discuss the full range of CBP-related policy issues; rather it focuses on selected issues relevant to CBP's appropriations.

Unaccompanied Alien Children

Over the past several years, the number of unaccompanied alien children (UAC, unaccompanied minors) that were apprehended by the Border Patrol for illegally crossing the Southwest border substantially increased. In FY2014, that number reached a peak, with the Border Patrol apprehending over 68,000 unaccompanied minors along the Southwest border. In the FY2015 budget cycle, appropriators grappled with the increased number of unaccompanied children who came across the border illegally and its impact on CBP's operations and resources. While the

current number of unaccompanied children coming across the border has dropped compared to this time last year, the Administration also requested contingent appropriations in the event the number rose unexpectedly in FY2016. The amount provided would ultimately depend on the number of apprehended UAC transferred to the Department of Health and Human Services, ranging from no additional funding for CBP if the number of UAC transferred did not exceed the number transferred in FY2015, to $117 million if it did, to $134 million if the number of UAC transferred exceeded 160% of FY2015's total.[24]

The budget appendix indicates that the trigger for the contingent appropriation is a determination that the number of UAC transferred to HHS is higher than the previous fiscal year. However, not all UACs detained and cared for by DHS are transferred to HHS. For example, of the 15,600 UACs from Mexico that were apprehended in FY2014, only 1,150 were transferred to HHS.

Neither the Senate-reported nor the House-reported bills recommended funding the UAC Contingency Fund. P.L. 114-113 also did not appropriate funds to the UAC Contingency Fund. However, P.L. 114-113's explanatory statement stated that base resources dedicated for the care and transport of UACs had been increased to meet the needs anticipated in FY2016. Additionally, in the case of a surge in UACs beyond the numbers assumed in FY2016, CBP was directed to notify Congress to seek reprogramming or a transfer of funds.[25]

Border Enforcement Personnel

CBP's front-line enforcement personnel include CBP officers at ports of entry, agriculture specialists, U.S. Border Patrol agents, air interdiction agents, and marine interdiction agents. Taken together, these personnel numbers grew from 31,695 in FY2005 to 46,666 in FY2013, an increase of 14,971 (47%). Border Patrol agents accounted for the greatest share of this growth, with an increase of 10,106 agents during this period.[26]

Proportionally among all CBP personnel, the number of CBP officers grew the least during this period, increasing from 17,881 in FY2005 to 21,775 in FY2013, a 22% increase. However, in the Homeland Security Appropriations Act, 2014 (P.L. 113-76), Congress appropriated $256 million to increase the number of CBP officers at ports of entry by no fewer than 2,000 by the end of FY2015.

For FY2016, the Administration proposed, through legislation,[27] to hire 2,700 additional CBP officers, including 1,400 officers through revenues generated by user fee increases. The user fee increases proposed by the Administration include a $2.00 increase in the Immigration User Fees

[24] For budgetary purposes, OMB scored this provision as costing $24 million, while CBO scored it using a different methodology at $79 million.

[25] Rep. Harold Rogers, "Explanatory Statement Submitted by Mr. Rogers of Kentucky, Chairman of the House Committee on Appropriations Regarding House Amendment No. 1 to the Senate Amendment on H.R. 2029—Continued Consolidated Appropriations Act, 2016," House Debate, *Congressional Record*, daily edition, vol. 161, part 184 (December 17, 2015), p. H10166.

[26] The number of Border Patrol agents grew from 11,264 in FY2005 to 21,408 in FY2011, before falling back to 21,388 in FY2012 and 21,370 in FY2013.

[27] The Administration will seek the appropriate authorizing congressional committees to advance its legislative proposals.

(IUF).[28] Additionally, the Administration proposed to begin charging the IUF fee to every sea passenger, including individuals whose trip originated from an exempt region.[29]

With respect to commercial traffic, the Administration, through legislation,[30] proposed increasing the fees associated with the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA fees)[31] and the Express Consignment Clearance Facility (ECCF) fees.[32]

As previously mentioned, Senate-reported S. 1619 and House-reported H.R. 3128 did not recommend funding to support the Administration's request for additional CBP officers. P.L. 114-113 did not appropriate funding for additional CBP officers.

Public-Private Partnerships at POEs

The FY2013 DHS appropriations act (Division D of P.L. 113-6) established a pilot program to permit CBP to enter into up to five public-private partnerships (PPPs) to support customs and immigration services at certain ports of entry (e.g., air ports of entry). In general, PPPs may provide low-cost alternatives to increase POE personnel and/or to add or improve port of entry infrastructure. The provision authorizing CBP to enter into these PPPs was extended in FY2014 and FY2015, although modified to permit CBP to accept donations of real and personal property (including monetary donations) from private parties and state and local government entities for the purpose of constructing or expanding POE facilities.

Both Senate-reported S. 1619 and House-reported H.R. 3128 recommended increasing the number of air POE pilots from 5 to 10.[33] P.L. 114-113 adopted the Senate-reported and House-reported recommendation.[34]

Preclearance Facilities

In April 2013, DHS reached an agreement with the government of the United Arab Emirates (UAE) to set up a preclearance facility in the Abu Dhabi International Airport. Some Members of Congress raised objections to the proposed Abu Dhabi program because no U.S. air carriers fly directly from Abu Dhabi to the United States, arguably giving the UAE-owned Etihad Airlines a competitive advantage over U.S.-owned carriers, and because UAE is not a signatory to the United Nations Refugee Convention.[35] Since FY2014, appropriators have prohibited funding for

[28] IUF collects fees from arriving individuals for the costs of inspections activities at airports and sea ports. 8 U.S.C. 1356(h)

[29] Exempt regions include the United States and its territories.

[30] The Administration will seek the appropriate authorizing congressional committees to advance its legislative proposals.

[31] CBP collects several different types of customs-related user fees, including fees paid by passengers and by cargo carriers and importers for the provision of customs services. These fees are often referred to as COBRA fees because they were passed as part of the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA, P.L. 99-272). Under 19 U.S.C. 58c(f)(1)-(3), a portion of these fees directly reimburses CBP for certain customs functions, including overtime compensation and certain benefits and premium pay for CBP officers, certain preclearance services, foreign language proficiency awards, and—to the extent funds remain available—certain officer salaries. Another portion of COBRA fees—merchandise processing fees—is deposited in CBP's Customs User Fee Account to pay for additional customs revenue functions but is only available to the extent provided for in appropriations acts.

[32] ECCF fees reimburses CBP for the costs associated with express clearance of goods.

[33] See S.Rept. 114-68, Section 547 and H.R. 3128, Section 559.

[34] See P.L. 114-113, Division F, Title V, Section 550.

[35] See for example, Letter from Hon. Michael McCaul, Hon. Bennie Thompson, Hon. Bill Shuster, et al. to Janet Napolitano, Secretary of Homeland Security, April 18, 2013; and U.S. Congress, House Committee on Foreign Affairs,

preclearance operations in new locations unless an economic impact analysis of the new location on U.S. air carriers has been conducted and provided to the committee, among other conditions.[36] Both the Senate- and House-reported bills for the FY2016 DHS appropriations recommended a similar prohibition.[37] P.L. 114-113 similarly prohibited funding for new preclearance facilities unless certain conditions are met.[38]

Immigration and Customs Enforcement (ICE)[39]

ICE focuses on enforcement of immigration and customs laws within the United States. ICE has two main components: Homeland Security Investigations (HSI) and Enforcement and Removal Operations (ERO). HSI is responsible for disrupting and dismantling criminal organizations (many of which are transnational) engaged in activities including terrorist financing and money laundering, intellectual property theft, human trafficking, cybercrime, child exploitation, and drug trafficking. HSI enforces export laws and enforces trade agreement noncompliance, and is responsible for investigating and enforcing violations of the immigration laws (e.g., alien smuggling, hiring unauthorized alien workers). ERO is the government agency responsible for locating, detaining if appropriate, and removing foreign nationals who have overstayed their visas, entered illegally, or have become deportable.

FY2016 Request

For FY2016, the Administration requested $5,965 million in net budget authority, a 0.1% increase from the FY2015 enacted amount. The Administration requested $6,287 million in gross budget authority for ICE, which represented a decrease of 0.3% from the FY2015 enacted amount.

Senate-Reported S. 1619

For FY2016, Senate-reported S. 1619 provided $5,815 million in net budget authority for ICE, which would have resulted in $6,137 million in gross budget authority for the component. The Senate-reported bill included 2.5% less than the President's request in net budget authority, which would have resulted in the component receiving 2.4% less in gross budget authority.

House-Reported H.R. 3128

House-reported H.R. 3128 also included $5,815 million in net budget authority, which likewise would have resulted in $6,137 million in gross budget authority for the component—although the House appropriations committee did recommend a different distribution of resources.

Division F of P.L. 114-113

Division F of P.L. 114-113 appropriated $5,832 million in net budget authority, which resulted in $6,154 gross budget authority for ICE. Division F of P.L. 114-113 included 2.2% less than the

Subcommittee on Terrorism, Nonproliferation, and Trade, *The Abu Dhabi Pre-Clearance Facility: Implications for U.S. Business and National Security*, 113th Cong., 1st sess., July 10, 2013.

[36] See Section 555 of P.L. 114-4 and Section 564 of P.L. 113-76.

[37] See Section 551 of S. 1619 and Section 548 of H.R. 3128.

[38] See P.L. 114-113, Division F, Title V, Section 553.

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

President's request in net budget authority, which resulted in the component receiving 2.1% less in gross budget authority.

Table 3. Immigration and Customs Enforcement (ICE) Sub-Account Detail, FY2015-FY2016

(budget authority in rounded millions of dollars)

Appropriation / Sub-Appropriation	FY2015 Enacted	FY2016 Request	FY2016 Senate-reported S. 1619	FY2016 House-reported H.R. 3128	FY2016 Div. F, P.L. 114-113
Salaries and Expenses	**5,933**	**5,887**	**5,762**	**5,736**	**5,779**
HQ Management and Administration	347	342	340	295	340
Office of Principal Legal Advisor	217	248	243	231	240
Investigations	1,860	1,905	1,898	1,864	1,902
Investigations—Domestic	*1,700*	*1,767*	*1,760*	*1,728*	*1,762*
Investigations—International	*160*	*139*	*138*	*136*	*140*
International Operations	*111*	*108*	*107*	*104*	*107*
Visa Security Program	*50*	*31*	*31*	*33*	*33*
Intelligence	76	80	79	80	80
Enforcement and Removal Operations	3,431	3,311	3,202	3,267	3,218
Custody Operations	*2,533*	*2,407*	*2,296*	*2,389*	*2,317*
Fugitive Operations	*143*	*129*	*143*	*128*	*157*
Criminal Alien Program	*327*	*320*	*317*	*317*	*317*
Alternatives to Detention	*110*	*122*	*122*	*110*	*114*
Transportation and Removal Program	*319*	*324*	*324*	*323*	*313*
Unaccompanied Alien Children Contingency Funding	—	*8*[a]	—	—	—
Automation and Infrastructure Modernization	**26**	**74**	**53**	**74**	**53**
Construction	**0**	**5**	**0**	**5**	**0**
ICE Appropriations	**5,959**	**5,965**	**5,815**	**5,815**	**5,832**
Fee Accounts	345	322	322	322	322
ICE Gross Budget Authority	6,304	6,287	6,137	6,137	6,154

Source: CRS analysis of P.L. 114-4 and its explanatory statement as printed in the *Congressional Record* of January 13, 2015, pp. H275-H322, the FY2016 DHS *Budget-in-Brief,* S. 1619, S.Rept. 114-68, H.R. 3128, H.Rept. 114-215, and Division F of P.L. 114-113 and its explanatory statement as printed in the *Congressional Record* of December 17, 2015, pp. H10161-H10210.

Notes: Table displays rounded numbers, but all operations were performed with unrounded data: therefore, amounts may not sum to totals.

a. This is the CBO score of a requested appropriation, the final value of which is contingent on factors beyond the control of Congress. See "Unaccompanied Alien Children (UAC)" below for more details.

Issues for Congress

ICE is responsible for many different activities due to the breadth of the civil and criminal violations of law that fall under its jurisdiction. As a result, how ICE resources can be allocated so as best to achieve its mission is continuously debated. Nonetheless, most of the discussion regarding ICE appropriations focuses on Enforcement and Removal Operations (ERO) and issues regarding identifying and removing foreign nationals who have violated U.S. immigration law rather than on HSI and its activities.

Custody Management

ICE's Office of Enforcement and Removal Operations provides custody management of the aliens who are in removal proceedings or who have been ordered removed from the United States. ERO also is responsible for ensuring that aliens ordered removed actually depart from the United States.

The number of foreign nationals detained by ICE has been an area of congressional attention. Since FY2007, the appropriations committees have included direction either in report language or legislative language describing or directing the average number of detention beds to be maintained by ICE in a given fiscal year. The amount of detention beds set by Congress is seen by some as a "detention mandate," that is, ICE must, on average, detain daily the same number of aliens as the bed space specified by Congress.

The Administration requested funding for 34,040 beds, 31,280 adult beds and 2,760 family beds.[40] Both S. 1619 and H.R. 3128 would have provided funding to maintain a total of 34,000 beds. P.L. 114-113 included "funding necessary to maintain the requested number of detention beds."[41]

Due to the cost of detaining aliens, and the fact that many non-detained aliens with final orders of removal do not leave the country, there has been interest in developing alternatives to detention for certain types of aliens who do not require a secure detention setting. ICE's Alternatives to Detention (ATD) program provides less restrictive alternatives to detention, using such tools as electronic monitoring devices (e.g., ankle bracelets), home visits, work visits, and reporting by telephone, to monitor aliens who are out on bond while awaiting hearings during removal proceedings or the appeals process. The Administration requested $122 million for the ATD program, an increase of $12 million from the FY2015 enacted amount. While the House-reported bill would have funded the ATD program at the FY2015 level, the Senate-reported bill would

[40] The average daily rate for an adult bed is $123.54, while the average daily rate for a family bed is $342.73. FY2016 *DHS Congressional Budget Justifications*.

[41] Explanatory Statement Division F—Department of Homeland Security Appropriations Act of 2016, *Congressional Record*, vol. 161 (December 17, 2015), p. H10168.

have fully funded the President's request. The explanatory statement accompanying P.L. 114-113 recommended funding the ATD program at $114 million.

Office of the Principal Legal Advisor (OPLA)

Among other duties, lawyers in ICE's Office of the Principal Legal Advisor (OPLA) represent the government's position in removal proceedings before the Department of Justice, Executive Office for Immigration Review (EOIR). In FY2015, Congress appropriated additional funds to EOIR to hire 35 immigration judges and support staff to reduce the backlog of pending removal cases.[42] The President's budget requested $248 million for OPLA, an increase of $31 million over the FY2015 appropriated amount to increase the number of attorneys. Both the House and Senate bills would have increased funding for OPLA over the FY2015 appropriated amount; the Senate Appropriations Committee recommended $243 million for OPLA while the House Appropriations Committee recommended $231 million.[43] The explanatory statement accompanying P.L. 114-113 recommended $240 million for OPLA.

Unaccompanied Alien Children (UAC)

ICE is responsible for the transportation of undocumented and unaccompanied alien children (UAC) arriving in the United States and representing the government's position in removal proceedings before the Department of Justice, Executive Office for Immigration Review (EOIR). ICE is also responsible for the physical removal of all foreign nationals, including UAC, who have final orders of removal or who have elected voluntary departure while in removal proceedings. In FY2014, there was a large increase in the number of UAC apprehensions, which caused a strain on agency resources. However, UAC apprehensions decreased significantly in FY2015.[44]

While the number of unaccompanied children coming across the border dropped, the Administration requested contingent appropriations for costs associated with transporting UAC in the event the number rose unexpectedly in FY2016. The amount provided would ultimately depend on the number of apprehended UAC transferred to the Department of Health and Human Services, ranging from no additional funding for ICE if the number of UAC transferred did not exceed the number transferred in FY2015, to almost $7 million if it did, to over $27 million if the number of UAC transferred exceeds 160% of FY2015's total.[45]

Like the House-reported and Senate-reported bills, Division F of P.L. 114-113 did not contain contingency funding for this purpose.

[42] See Explanatory Statement Submitted By Mr. Rogers of Kentucky, Chairman of the House Committee on Appropriations Regarding the House Amendment to the Senate Amendment on H.R. 83, *Congressional Record*, daily edition, vol. 160, part 151 (December 11, 2014), p. H9345.

[43] S.Rept. 114-68 reported that the funding increases the number of attorneys by 150, while H.Rept. 114-215 stated that the amount "funds the agency's request to hire 311 additional attorneys.... "

[44] For a discussion of the issue of unaccompanied alien children, see CRS Report R43599, *Unaccompanied Alien Children: An Overview*, by William A. Kandel and Lisa Seghetti.

[45] For budgetary purposes, OMB scored this provision as costing $3 million, while CBO scored it using a different methodology at $8 million.

ICE Public Advocate

In 2012, ICE created the Public Advocate Office "to assist individuals and representatives who have concerns about ICE operations and policies in the field."[46] The office was created in response to critiques that the agency was unresponsive to the complaints of those who were detained or investigated. However, some contend that the program is not productive and is not a proper use of ICE resources.[47] The FY2015 DHS Appropriations Act (P.L. 114-4) specified that no funds under the act could be used to fund the position of Public Advocate within ICE. H.R. 3128, S. 1619, and Division F of P.L. 114-113 contained the same limitation. Nonetheless, some argue that the position of Public Advocate was simply renamed Deputy Assistant Director of Custody Programs and Community Outreach, and that the functions of the disbanded Public Advocate Office are currently being performed under the umbrella of "community outreach."[48]

Transportation Security Administration[49]

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

The TSA budget is one of the most complex components of the DHS Appropriations bill. Net direct discretionary appropriations represent only a portion of the budgetary resources it has available. An airline security fee collection offsets a portion of aviation security costs, including $250 million dedicated to capital investments in screening technology. Other fees offset the costs of transportation threat assessment and credentialing. **Table 4** presents a breakdown of TSA's total additional budgetary resources requested from all non-appropriated sources and those provided through direct appropriations, as accounted for in the DHS budget justifications. Due to differences between OMB and CBO methodologies and issues related to authorization of fee increases, these amounts are not completely congruent with other amounts presented in committee documents or this report.

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

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

[48] See U.S. Congress, House Committee on the Judiciary, *Enforcing the President's Constitutional Duty to Faithfully Execute the Laws*, Testimony Of Representative Diane Black, 113th Cong., 2nd sess., February 26, 2014.

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

Table 4. TSA Requested Budgetary Resources, FY2016

(budget authority in millions of dollars)

Funding Source	FY2016 Request
Total Offsetting Fees	2,581
Aviation Passenger Security Fee	*2,132*
Aviation Security Capital Fund (Mandatory)	*250*
Credentialing Fees (including Mandatory Alien Flight Student Program)	*199*
Discretionary appropriations	4,766
Total Budgetary Resources	**7,347**

Sources: CRS analysis of the FY2016 DHS congressional justifications.

Note: These are OMB-developed numbers; due to differences between OMB and CBO methodologies and issues related to authorization of fee increases, these numbers are not congruent with other CBO-based numbers presented in this report.

FY2016 Request

The FY2016 President's request specified a gross total of $7,347 million for TSA, $118 million above the FY2015 enacted amount (see **Table 5**). The Administration anticipates that roughly $2,581[50] million will be offset through fee collections, including the aviation passenger security fee charged on airline ticket purchases and various credentialing fees. The aviation passenger security fee is set at $5.60 per one way trip. TSA anticipates total aviation passenger security fee collections of $3,382 million in FY2016, but language in the Bipartisan Budget Act of 2013 (P.L. 113-67) requires that $1,250 million of that be deposited in the Treasury general fund for deficit reduction, while additional amounts are to be treated as offsetting collections for TSA expenditures.

The request included $5,615 million for Aviation Security, including the Federal Air Marshals Service, $24 million less than the FY2015 enacted amount. The request identified more than $110 million in savings, and a decrease of 1,666 screener positions as a result of efficiencies from risk-based screening practices, as well as a decrease of $14 million for equipment maintenance savings. These savings more than offset pay inflation and increases to retirement contribution costs for TSA screeners and air marshals as well as increases in funding for checkpoint technologies and for airport management, information technology, and support activities. TSA indicated that a focus of FY2016 activities will be on extending the life of existing screening technologies through various software patches and upgrades.

The request for Intelligence and Vetting activities ($427 million) includes an increase of $128 million reflecting anticipated increases in the utilization of credentialing programs including the Transportation Worker Identification Credential (TWIC), the Hazardous Materials (HAZMAT) driver threat assessment program, and the TSA Pre-Check program. These costs are recovered through fees set to recoup the cost of administering background checks, conducting threat assessments, and issuing appropriate credentials. In the case of the TWIC and HAZMAT threat assessments, the anticipated revenue increases reflect projected increases in enrollment numbers

[50] CBO estimated offsetting fee collections for TSA as $2,564 million—CBO numbers are used in most other places throughout the report.

as well as the additional recovery of fees previously retained by vendors. For Pre-Check, TSA anticipates more than 900,000 applications in FY2016 resulting in fee collections of $80 million.

The amount requested for Surface Transportation Security activities ($124 million) is in line with the FY2015 enacted amount, while the request for Transportation Security Support ($931 million) included a $14 million increase, including $3 million for internal cybersecurity remediation.

Senate-Reported S. 1619

The Senate-reported bill and report specified a gross total of $7,299 million for TSA, $70 million more than the FY2015 enacted level but $48 million less than requested. The Senate Appropriations Committee recommended $5,583 million for aviation security, $32 million less than requested. The committee report specified $2,843 million for screener compensation and benefits, $29 million less than requested, and $593 million for airport management, information technology, and support, $3 million less than requested. The report also specified $112 million for checkpoint support, $15 million more than requested, to provide for procurement and field testing of carry-on screening technologies, checkpoint reconfiguration, and checkpoint surveillance technologies. The bill included a cap of 43,000 full-time equivalent screeners.

The committee report specified $23 million for the Federal Flight Deck Officer (FFDO) program and crew training, $3 million more than requested. However, it included $790 million for the Federal Air Marshals Service (FAMS), $27 million less than requested.

The Senate-reported bill specified $123 million for surface transportation security, $1 million less than requested, and $225 million for intelligence and vetting, $2 million less than requested. The bill included $919 million for transportation security support, $12 million less than requested.

House-Reported H.R. 3128

The House-reported bill and report specified a gross total of $7,233 million for TSA, $115 million less than requested. In addition to targeted reductions from the requested amount, the House bill reduced personnel compensation amounts TSA-wide, undoing the pay raise adjustment assumed in the request. The House-reported bill retains the existing cap of 45,000 full-time equivalent screeners.

The House-reported bill recommended $5,559 million for aviation security, $55 million less than requested. The House Appropriations Committee report specified $29 million less than requested for screening personnel, $7 million less than requested for airport management and support, and $12 million less than requested for FAMS. It also recommended $21 million for the FFDO program and crew training, $1 million more than requested.

The bill specified $107 million for surface transportation security, $17 million less than requested, based on projected under-execution of funds for surface inspectors and visible intermodal prevention and response (VIPR) teams, despite a paring down of the VIPR program in FY2015. Additionally, the bill recommended $415 million for intelligence and vetting, $11 million less than requested, and $901 million for transportation security support, $30 million less than requested.

Division F of P.L. 114-113

P.L. 114-113 and the accompanying explanatory outlined a total budget of $7,440 million for TSA, $93 million more than the requested amount.

The act specified $5,719 million for aviation security, $104 million more than the request. This included an appropriation of $2,974 million for screener personnel compensation and benefits, $102 million more than requested and $131 million above both the House and Senate reported amounts. The act, however, retained language capping screener staffing at 45,000 full-time equivalents. The act also provided $12 million more than requested for screener training. The act specified $111 million for checkpoint support, $14 million more than requested. The appropriation for the FFDO program and crew training was set at $21 million, $1 million more than requested, while the act specified $805 million for FAMS, $12 million less than requested. The bill also specified $337 million for aviation regulation and other enforcement, which was also $12 million less than the requested amount.

The act specified $436 million for intelligence and vetting, $9 million more than requested. The appropriation for surface transportation security totaled $111 million, $13 million less than requested and $13 million less than the FY2015 enacted amount. Also, the act appropriated $924 million for transportation security support, $7 million less than requested.

Table 5. TSA Gross Budget Authority by Budget Activity, FY2015-FY2016

(gross budget authority in rounded millions of dollars)

	FY2015	FY2016			
Appropriation / Sub-Appropriation	**Enacted**	**Request**	**Senate-reported S. 1619**	**House-reported H.R. 3128**	**Div. F, P.L. 114-113**
Aviation Security	5,639	5,615	5,583	5,559	5,719
Screening Partnership Program (SPP)	*167*	*167*	*167*	*167*	*167*
Screener Personnel Compensation and Benefits	*2,924*	*2,872*	*2,843*	*2,843*	*2,974*
Screener Training and Other	*225*	*227*	*239*	*223*	*239*
Checkpoint Support	*88*	*97*	*112*	*96*	*111*
EDS/ETD Purchase/Installation	*84*	*83*	*83*	*83*	*82*
Screening Technology Maintenance and Utilities	*295*	*281*	*281*	*281*	*281*
Aviation Regulation and Other Enforcement	*350*	*349*	*347*	*345*	*337*
Airport Management, IT, and Support	*588*	*596*	*593*	*589*	*598*
FFDO and Flight Crew Training	*22*	*20*	*23*	*21*	*21*
Air Cargo	*106*	*106*	*105*	*105*	*105*
Federal Air Marshals	*790*	*817*	*790*	*805*	*805*
Intelligence and Vetting (formerly Threat Assessment and Credentialing (TTAC))	299	427	424	415	436
Intelligence	*52*	*52*	*52*	*48*	*52*
Secure Flight	*100*	*106*	*105*	*101*	*106*
Other Vetting / Screening Administration and Operations	*68*	*70*	*68*	*67*	*79*

Appropriation / Sub-Appropriation	FY2015 Enacted	FY2016 Request	FY2016 Senate-reported S. 1619	FY2016 House-reported H.R. 3128	FY2016 Div. F, P.L. 114-113
Credentialing Fees	*80*	*199*	*199*	*199*	*199*
Surface Transportation Security	124	124	123	107	111
Operations and Staffing	*29*	*29*	*28*	*27*	*28*
Security Inspectors	*95*	*95*	*94*	*79*	*83*
Transportation Security Support	917	931	919	901	924
HQ Administration	*269*	*277*	*273*	*257*	*273*
Information Technology	*449*	*452*	*447*	*447*	*449*
Human Capital Services	*199*	*202*	*199*	*198*	*202*
Aviation Security Capital Fund (ASCF) (mandatory)	250	250	250	250	250
TSA Gross Total	**7,229**	**7,347**	**7,299**	**7,233**	**7,440**

Sources: CRS analysis of P.L. 114-4 and its explanatory statement as printed in the *Congressional Record* of January 13, 2015, pp. H275-H322, the FY2016 DHS *Budget-in-Brief,* S. 1619 and S.Rept. 114-68, and H.R. 3128, H.Rept. 114-215, and Division F of P.L. 114-113 and its explanatory statement as printed in the *Congressional Record* of December 17, 2015, pp. H10161-H10210.

Notes: Table displays rounded numbers, but all operations were performed with unrounded data: therefore, amounts may not sum to totals.

Issues for Congress

Balancing Risk-Based Screening Efficiencies with Screening Effectiveness

TSA had previously been directed by Congress to develop a strategy to increase the number of airline passengers eligible for expedited screening to 50% by the end of CY2014.[51] As noted above, these risk-based initiatives to expand expedited screening have resulted in annual savings of more than $110 million largely from the reduced labor costs of conducting expedited screening as opposed to standard screening.

However, various reports have raised concerns whether this push for increased efficiency at airport passenger checkpoints has impacted screening effectiveness. Although the primary means for being granted expedited screening is by voluntarily submitting detailed biographical information to TSA to be vetted for acceptance into its Pre-Check program, other passengers may receive expedited screening based on threat assessments performed by the Secure Flight system, or based on an initiative known as managed inclusion, which integrates random selection with behavioral observation and sometimes the use of explosives detection canine teams. Potential vulnerabilities have been identified in each of these approaches, although generally, policymakers have pushed for restricting expedited screening to only those passengers vetted under the voluntary Pre-Check program and refining that program as needed.

[51] See P.L. 113-76.

A January 2015 DHS Office of the Inspector General (OIG) report had recommended various undisclosed steps for TSA to improve its process for vetting TSA Pre-Check program applicants and members, as well as program effectiveness, communications, and coordination.[52] Additionally, a March 2015 DHS OIG report[53] identified potential vulnerabilities in Secure Flight vetting used as the basis for granting passengers access to Pre-Check expedited screening lanes and concluded that Secure Flight vetting should not be used as a basis for expedited screening. The report detailed a case in which a convicted felon linked to a domestic terrorist group was granted expedited screening, even though a TSA document checker recognized the notorious individual from media coverage and notified a supervisor that the traveler's past crimes were disqualifying for Pre-Check expedited screening.

As a result of its investigation, the DHS OIG recommended TSA limit expedited screening to passengers that it determines are members of trusted populations. TSA did not concur, and continues to use Secure Flight risk assessments to select passengers. In addition TSA continues to use managed inclusion, in which passengers without a Pre-Check indicator on their boarding pass may be randomly selected for expedited screening if assessed to be low risk by a behavior detection officer, and/or an explosives detection canine team.

While TSA continues to use these alternative techniques to increase the proportion of passengers processed through expedited screening, the Senate Appropriations Committee report cautioned that "[a]s the process expands and TSA seeks to cast a wider net, it's not clear that additional populations granted expedited screening meet comparable levels of security."[54] Similarly the House Appropriations Committee report noted that "TSA's reliance on Managed Inclusion and other methods to attain its expedited screening goals introduces a partially-vetted population into a process intended for travelers who have voluntarily submitted to prior in-depth vetting."[55] It, however, remained supportive of the Pre-Check program, and urged TSA to seek out partnerships with airports and private entities to expand Pre-Check enrollment, evaluate the impact of membership costs on enrollments, and examine other opportunities to strengthen and expand Pre-Check. Similarly, the Senate committee expressed its support of TSA efforts to partner with third party providers to draw upon private industry expertise to increase program awareness and ease of enrollment.

Appropriations committees have also expressed concern about the effectiveness of TSA's behavioral detection techniques. The House committee noted that it remained skeptical of their value, indicating that $25 million in FY2015 appropriations has been withheld until TSA completes and reports on ongoing operational tests to provide evidence that behavioral indicators can be successful utilized in operational settings to identify passengers that may pose a threat to aviation security.

Moreover, the House committee asserted that recently leaked results of covert testing of screening effectiveness have renewed serious concerns regarding screening technologies and techniques, noting that these results raise fundamental questions about TSA's overall risk mitigation strategy and layered approach to security. House report language directed TSA to brief the committee on its aviation security risk mitigation strategy and provide semiannual updates on covert testing activities, results, and corrective actions to address identified deficiencies. Similarly, the Senate

[52] Department of Homeland Security, Office of Inspector General, *Security Enhancements Needed to the Pre-Check Initative (Unclassified Summary)*, January 28, 2015.

[53] Department of Homeland Security, Office of Inspector General, *Allegation of Granting Expedited ScreeningThrough TSA Pre-Check Improperly (OSC File No. DI-14-3679) (Redacted)*, March 16, 2015.

[54] S.Rept. 114-68, p. 65.

[55] H.Rept. 114-215, p. 49.

committee requested quarterly briefings on covert testing activities, detailing metrics and mitigation actions taken in response.

In addition, H.Rept. 114-215 highlighted TSA's ongoing difficulties in acquiring and deploying checkpoint screening technologies. It noted that, in FY2015, Congress withheld $25 million in response to GAO findings regarding TSA's acquisition and deployment of advanced imaging technology (AIT) whole-body scanners. The committee reported that it continues to await a statutorily mandated report from TSA addressing GAO's findings.

P.L. 114-113 directed TSA to submit a detailed report to the appropriations committees describing efforts to develop more advanced passenger screening technologies; how it is deploying screeners in the most cost-effective manner; labor savings realized from improved screening technologies; and how realized savings are being used to offset security costs or reinvest in additional measures to address security vulnerabilities.

The joint explanatory statement accompanying P.L. 114-113 expressed concern over TSA's reduction of screening staff and its leveraging of expedited screening programs. It provided direction that additional funding amounts should be used to address security gaps identified by covert testing results and other assessments, including the retention of 602 full time equivalent positions for checkpoint staffing, centralized and consistent screener training, expansion of PreCheck application processing, and the exploration of new screening technologies and procedures to address vulnerabilities uncovered by covert testing. The explanatory language also directed TSA to provide quarterly updates of its Tiger Team self-evaluation and actions to address identified security gaps.

Airport Worker Vetting and Screening

In addition to concerns over the effectiveness of passenger screening, oversight bodies have focused some attention on lapses in airport worker vetting and screening. In June 2015, DHS OIG reported that, while TSA vetting processes were generally effective, TSA records for vetting airport workers with unescorted access to secured areas of airports and aircraft were often inaccurate or incomplete, and TSA lacked assurance that all credentialed airport workers had been properly vetted.[56] The report noted that TSA failed to identify 73 airport workers with links to terrorism because policies restricted TSA access to certain categories of watchlist data. It also concluded that TSA relies on airports to perform criminal history and work authorization checks. The report noted that TSA has limited oversight of airports and thus lacks the ability to assure that submitted data is complete and accurate and that all credentialed workers are properly vetted. It recommended that TSA take corrective actions and work with other federal agencies and airports to improve initial and recurrent vetting of airport workers.

Additionally, the Aviation Security Advisory Committee (ASAC), an industry body that advises TSA on policies and regulatory matters, recommended that TSA and airports improve security audits and internal controls regarding airport-issued identification; consider biometric standards for identification; expand the use of closed circuit television and other surveillance technologies; and tighten access controls and reduce access points at airports.[57] The group also recommended that TSA and airports do more to promote employee engagement in security, report concerns through anonymous tip lines, and adopt other airport security best practices. The group

[56] Department of Homeland Security, Office of Inspector General, *TSA Can Improve Aviation Worker Vetting (Redacted)*, June 4, 2015.

[57] Aviation Security Advisory Committee, *Final Report of the Aviation Security Advisory Committee's Working Group on Airport Access Control*, April 8, 2015, https://www.tsa.gov/sites/default/files/assets/pdf/Intermodal/asac_employee_screening_wg_final_report_8apr15.pdf.

recommended examination of risk-based screening techniques for certain employee groups serve as a means to enhance security along with other risk-based measures. The Senate Appropriations Committee report included language directing TSA to brief the committee on its progress in implementing these recommendations.

Although the joint explanatory statement accompanying P.L. 114-113 identified "workforce vetting" as a specific issue of concern called into question by various oversight reports, the consolidated appropriations act did not include specific provisions addressing this issue.

Deployment and Installation of Checked Baggage Explosives Detection Systems

The Aviation and Transportation Security Act (ATSA, P.L. 107-71) mandated 100% screening of checked baggage. To meet this mandate, TSA has deployed about 1,800 explosives detection systems and 2,600 explosives trace detections units to about 450 commercial passenger airports. Most airports are now equipped and designed to utilize the most efficient technologies and resources to screen baggage. However, as many of the units deployed to meet the 100% screening mandate are reaching the end of their useful service life, TSA has shifted its priorities to replacing aging equipment with new, more capable next generation units and has requested additional flexibility in appropriations language allowing it to use Aviation Security Capital Fund (ASCF) monies for this purpose. Prior to FY2012, the ASCF was restricted to funding airport security improvement projects such as modifications to accommodate screening equipment installations. The Senate- and House-reported bills both included language that would permit TSA to use ASCF funds to procure and install explosives detection screening equipment as well. The Senate-reported bill also included language requiring TSA to include anticipated labor savings from deploying next generation high speed explosives detection systems in its report on savings from various efficiencies. The House committee report encouraged TSA to expeditiously pursue the development, testing, and deployment of more effective and efficient baggage screening systems.

With regard to ASCF funds, the Senate committee report noted that TSA has not established a process or program to reimburse certain airports that incurred eligible costs for modifying baggage handling systems to accommodate in-line baggage screening without having entered into formal reimbursable agreements with TSA. Senate report language directs TSA to develop a process to validate the eligibility of submitted claims and establish a plan for reimbursing valid claims.[58] Similarly, the House committee report noted that at least 16 reimbursement claims from airports for systems installed prior to 2008 are currently unresolved and directed TSA to develop a plan to resolve these claims and provide Congress with a reimbursement plan within 60 days of enactment. The House committee report also noted that several growing airports have requested ASCF funding for new in-line baggage screening projects and instructed TSA to find an appropriate funding balance for these new projects and for replacement in-line projects at established airports in a manner that will not deter airport growth.[59]

P.L. 114-113 authorized use of the Aviation Security Capital Fund for both procurement and installation of explosives detection equipment as well as for the issuance of other transactional agreements with airports for grant projects funding in-line baggage screening systems, airport modifications to accommodate explosives detection systems, or for other airport security capital improvement projects as authorized under 49 U.S.C. Sec. 44923(a). Also, like the House and Senate report language, the joint explanatory statement accompanying P.L. 114-113 directed TSA

[58] S.Rept. 114-66 and S.Rept. 114-67.

[59] H.Rept. 114-215.

to develop a process to review and validate claims submitted by airports for in-line baggage screening systems installed prior to 2008 and establish a plan for reimbursing validated claims.

Budgetary Diversions and Oversight

The House committee expressed concern over what it described as historic under-execution of funds appropriated for staffing across the agency. It noted that TSA's past inability to maintain staffing at appropriated levels has resulted in diverting these funds for other purposes, including unplanned and unbudgeted activities, without congressional oversight. For this reason, the House report recommended various reductions below the requested amount. In addition, based on projected under-execution of funds for personnel, the House bill included the following rescissions of FY2015 appropriated funds: $30 million from aviation security; $22 million from surface transportation security; $8 million from intelligence and vetting; and $26 million from transportation security support.

The Senate bill would have rescinded $28 million from FY2015 aviation security funding and $5 million from unobligated prior year balances for surface transportation. Section 567 of Division F of P.L. 114-113 rescinded $158 million appropriated for aviation security and $14 million appropriated for surface transportation security in FY2015.

Division F of P.L. 114-113 continued long-standing DHS-wide language in Section 503 that placed restrictions and conditions on the reprogramming of all funds appropriated to DHS.[60] In the accompanying explanatory statement, all DHS components were directed to submit obligation plans within 45 days of enactment and quarterly updates detailing reprogrammed funds, transfers, and allocations of undistributed appropriations and carryover funds. The plans must include actual employee levels compared to those provided for under-enacted funding levels. Other mandatory elements include hiring and payroll projections for the fiscal year as well as program schedules and milestones for all major expenditures.

Consolidation of Vetting Functions and Databases

The budget request specified almost $43 million for funding of Technology Infrastructure Modernization (TIM), an ongoing multiyear major acquisition project to consolidate the various vetting systems. TSA reported that TIM achieved initial operating capability in FY2014, initially integrating almost 2 million TWIC records. Additional integration is planned through FY2018, resulting in all vetting activities being integrated into TIM, creating a repository of more than 14 million records. The system proposes to incorporate a new standardized vetting, adjudication, and redress rule that is currently being reviewed by the Administration and will interact with other DHS and Department of Justice databases to improve access to identification information, criminal records, and terrorist threat data. While TIM endeavors to improve vetting across a broad array of transportation credentialing and threat assessment programs, its size and complexity makes it a challenging and costly undertaking. While TIM development has progressed over the past four years, it is roughly three years behind schedule based on stated objectives in the FY2012 request to have the system fully functional by FY2015, a milestone that TSA now projects will be met in FY2018.

The House committee report expressed concern that unanticipated schedule delays and cost escalation have resulted in TSA scaling back the functionality and capabilities originally envisioned for TIM. The report asked for a briefing from TSA detailing its revised plans, an

[60] See H.R. 3128, Section 503 and S. 1619, Section 503.

updated schedule, lifecycle cost estimates, and a description of the functionality of the end-state system envisioned under the TIM program.

The joint explanatory statement accompanying P.L. 114-113 noted that, due to continued delays in TIM, funding under Other Vetting Programs was reduced by $500,000 dollars. Additionally, statement language directed TSA to brief the appropriations committees within 15 days after the DHS acquisition review board completes its review of TIM.

U.S. Coast Guard[61]

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

FY2016 Request

The President requested $8,151 million in discretionary appropriations for the Coast Guard, $227 million (2.7%) less than enacted for FY2015. The request included $6,823 million for operating expenses ($221 million, or 3.1%, below FY2015)[62] and $1,017 million for acquisition, construction, and improvements ($208 million, or 17.0%, below FY2015).

Senate-Reported S. 1619

The Senate Appropriations Committee recommended $8,721 million for the Coast Guard, $570 million (7%) more than the President requested. The Senate reported bill includes $6,996 million for operating expenses ($174 million, or 2.5% above the request)—including $160 million in overseas contingency operations funding. It also included $1,573 million for acquisition, construction, and improvements ($556 million, or 54.7%, above the request). This additional funding is driven by a $640 million recommendation to fund acquiring a ninth national security cutter.

House-Reported H.R. 3128

The House Appropriations Committee recommended $8,512 million for the Coast Guard, $361 million (4.4%) more than the President requested. The House-reported bill includes $6,899 million for operating expenses, $77 million (1.1%) more than the President requested.[63] It also included $1,301 million for acquisition, construction, and improvements ($284 million, or 27.9%, more than the request)—including $95 million above the request to acquire an additional long-range surveillance aircraft, $71 million above the request to accelerate acquisition of an offshore patrol cutter, and $83 million above the request—nearly triple the President's proposal—to improve certain Coast Guard facilities, including housing and aids to navigation.

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

[62] The Administration did not include overseas contingency operations funding for the Coast Guard in the DHS appropriations request, instead seeking $160 million by transfer from the Navy, which is not included in this total.

[63] Like the request, the House-passed FY2016 appropriations bill for the Department of Defense includes a $160 million transfer of overseas contingency operations funding from the Navy to the Coast Guard.

Division F of P.L. 114-113

The omnibus provided $9,158 million in discretionary appropriations for the Coast Guard, $780 million more than enacted for FY2015 and about $1 billion more than the President requested. This included $7,061 million for operating expenses and $1,945 million for acquisition, construction, and improvements. As the table below indicates, most of the additional funding that Congress provided compared to the request is in the acquisition, construction, and improvements appropriation.

Table 6. Coast Guard Operating (OE) and Acquisition (ACI) Sub-Account Detail, FY2015-FY2016

(budget authority in rounded millions of dollars)

	FY2015	FY2016			
Appropriation / Sub-Appropriation	**Enacted**	**Request**	**Senate-reported S. 1619**	**House-reported H.R. 3128**	**Div. F, P.L. 114-113**
Operating Expenses	**7,043**	**6,823**	**6,996**	**6,899**	**7,061**
Military pay and allowances	3,450	3,466	3,480	3,487	3,489
Civilian pay and benefits	782	800	792	792	792
Training and recruiting	198	206	206	206	206
Operating funds and unit level maintenance	1,009	1,010	1,013	1,019	1,028
Centrally managed accounts	336	330	330	330	330
Intermediate and depot level maintenance	1,057	1,010	1,015	1,065	1,056
OCO / GWOT	213	—[a]	160	—	160
Tricare (Legislative Proposal)	—	1	—	—	—
Acquisition, Construction, and Improvements	**1,225**	**1,017**	**1,573**	**1,301**	**1,945**
Vessels	824	534	1,070	616	1,264
Aircraft	180	200	200	295	295
Other Acquisition Programs	59	65	65	68	65
Shore Facilities and Aids to Navigation	41	101	121	184	182
Military Housing	6	—	—	21	21

Appropriation / Sub-Appropriation	FY2015 Enacted	FY2016 Request	FY2016 Senate-reported S. 1619	FY2016 House-reported H.R. 3128	FY2016 Div. F, P.L. 114-113
Personnel and Related Support	115	117	117	117	118

Source: CRS analysis of P.L. 114-4 and its explanatory statement as printed in the *Congressional Record* of January 13, 2015, pp. H275-H322, the FY2016 DHS *Budget-in-Brief,* S. 1619, S.Rept. 114-68, H.R. 3128, H.Rept. 114-215, and Division F of P.L. 114-113 and its explanatory statement as printed in the *Congressional Record* of December 17, 2015, pp. H10161-H10210.

Notes: Table displays rounded numbers, but all operations were performed with unrounded data: therefore, amounts may not sum to totals.

a. The Administration requested a transfer of $160 million from Navy Operations and Maintenance for USCG support of Operation Enduring Freedom.

Issues for Congress

Vessels and Aircraft

As was the case in recent years, there were significant differences among proposed budgets in the number of new vessels and aircraft that the Coast Guard would procure during the 2016 fiscal year. The Senate Appropriations Committee recommended that the Coast Guard procure a ninth national security cutter (NSC) and thus recommended several hundred million dollars more than the President requested for the NSC acquisition program. The original plan was to acquire eight national security cutters and the House report states that "funding for additional NSCs beyond the program of record would be neither operationally necessary nor warranted, would create potentially unsustainable operational funding requirements in the future, and could potentially threaten funding for other Coast Guard acquisition priorities."[64] There were also significant differences in recommended funding levels for the Offshore Patrol Cutter and Fast Response Cutters. For further funding details on the Coast Guard's cutter acquisition program, see CRS Report R42567, *Coast Guard Cutter Procurement: Background and Issues for Congress*, by Ronald O'Rourke.

The House Appropriations Committee recommended $95 million more than requested to procure a thirteenth HC-130J long range surveillance aircraft. While the Senate Appropriations Committee agreed with the President's requested amount, the omnibus appropriated the additional $95 million.

Also under the acquisition, construction, and improvements account, the House Appropriations Committee recommended $83 million more than requested for certain Coast Guard shore facilities, including construction of a new ship-lift facility, Coast Guard housing, training centers, and boat piers. The omnibus provided this additional funding.

Oil Spill Prevention

As the Commandant noted in his testimony on the FY2016 budget request,[65] the production of shale oil in North Dakota and Texas has significantly changed where and how crude oil is

[64] H.Rept. 114-215, p. 59.

[65] Testimony of Paul F. Zukunft, Commandant U.S. Coast Guard, House Coast Guard and Maritime Transportation Subcommittee, Coast Guard FY2016 Budget Request, February 25, 2015, p. 2.

transported on U.S. waterways. This change could have implications for the risk of oil spills. Generally, much less crude oil is now being imported by tanker ships while much more is being transported domestically by barge. For instance, from 2011 to 2014, tons of petroleum transported on the nation's inland waterways increased 26%, and for the first five months of 2015, it increased another 3% compared to the first five months of 2014.[66] Petroleum has now surpassed coal as the leading commodity (measured in tons) transported on U.S. inland waterways. According to oil spill data compiled by the Coast Guard,[67] from 1995 to 2011 (latest year available), barges spilled about 2.7 times more oil in U.S. waters than did tanker ships. (Over this timeframe, the number of oil spill incidents and the amount of oil spilled annually have declined significantly for both barges and tankers.)[68]

In view of the significant increase in the movement of crude oil by barge, the Coast Guard is in the process of finalizing a new safety inspection regime for barges that Congress called for in 2004 (the Coast Guard and Maritime Transportation Act of 2004, P.L. 108-293, Section 415). This includes establishing structural standards for vessels as well as standards for the number and qualifications of crew members. Section 409 of the 2004 act also authorized the Coast Guard to evaluate an hours-of-service limit for crews on tugs that push barge tows. Congress has been concerned with the pace at which the Coast Guard is carrying out the directive on towing vessels. In the Coast Guard authorization Act of 2010 (P.L. 111-281, Section 701), Congress requested that all rulemakings related to oil pollution prevention, including towing vessel inspection, be finalized within 18 months of enactment (April 2012), but this deadline was not met and some final rules have yet to be issued as of February 2016. According to a barge industry newsletter, the Coast Guard submitted its proposed final rule to DHS for review in April 2015 and the final rule is expected to be published in the spring of 2016.[69]

In previous appropriations, the Administration has requested and Congress has appropriated additional funds for personnel in the Coast Guard's Marine Safety Office for the purpose of reducing a backlog of rulemakings and strengthening the Coast Guard's safety inspection function.

Emission Control Areas (ECAs)

The United States has established a 200-mile perimeter from its coastlines within which vessels must reduce their emissions. To meet a stricter requirement that was triggered on January 1, 2015, ships are switching to cleaner-burning (lower-sulfur) fuel when they reach this zone. The Coast Guard is responsible for enforcing correct fuel use in this zone.

The House Committee Report requested that the Coast Guard provide information on ECA enforcement actions taken since January 1, 2015, as well as the number of reports by vessels that cleaner burning fuel was not available and hence the number of waivers or exemptions granted to vessels.

In addition to this information, Congress may also seek information on the number of vessels that have experienced engine stall-outs when switching to cleaner fuels. Reportedly, ships have

[66] Army Corps of Engineers, Navigation Data Center, Internal U.S. Waterway Monthly Indicators; http://www.navigationdatacenter.us/wcsc/wcsc.htm.

[67] U.S. Coast Guard, Polluting Incidents In and Around U.S. Waters, A Spill/Release Compendium: 1969-2011 (Washington, DC: January 2013); http://homeport.uscg.mil/.

[68] For further information, see CRS Report R43653, *Shipping U.S. Crude Oil by Water: Vessel Flag Requirements and Safety Issues*, by John Frittelli.

[69] See *AWO Letter*, June 12, 2015, http://www.americanwaterways.com/media.

experienced loss of propulsion during the switchover as well as subsequently while operating with the cleaner fuel. This is said to be due to "thermal shock"—the cleaner fuel is more viscous than bunker fuel and does not need to be heated before entering the engine.[70] The temperature difference is believed to cause fuel pump seizures and leaks. In September 2014, the Coast Guard issued a safety alert to vessels off California waters concerning the potential for loss of propulsion (California regulations for ship emissions predate national requirements).[71] The safety alert states that from June 2013 to June 2014, there were 15 loss of propulsion incidents in California waters related to fuel switching, potentially creating serious safety and environmental protection concerns.

The need to reduce emissions in ECAs has also generated interest in using liquefied natural gas (LNG) as a ship fuel. Some cargo ships serving U.S. non-contiguous trades have converted to LNG. Ferries, cruise ships, and other vessels that sail entirely or mostly in ECA waters also are interested in LNG as fuel. For safety and security reasons, LNG-fueled ships present budget issues for the Coast Guard. The Coast Guard has provided guidance on the placement of LNG fuel tanks on vessels, the protocol for LNG refueling operations in ports, and spill response requirements.[72]

Electronic Navigation

A primary and resource-intensive function of the Coast Guard is installing and maintaining aids to navigation (ATON). This includes buoys, beacons, and other visual aids that mark and guide vessels through waterway channels. There are about 50,000 federally owned visual aids, according to the Coast Guard, and an equal number of non-federal visual aids. Because storms or ice can move buoys out of place and channels can move due to shoaling, the Coast Guard services about 134 buoys and fixed aids to navigation on an average day.[73] Part of the Coast Guard's fleet includes 68 "buoy tenders," which are vessels designed for the proper positioning of channel markers. Mariners continue to rely on these physical visual aids even though their vessels are typically equipped with virtual or electronic aids, such as GPS, AIS (automatic identification system), and electronic charts. These technologies, in essence, allow channel markings to be made known to a vessel operator by electronic transmission (e-navigation), either enhancing or potentially replacing a physical aid to navigation. The increase in size of the largest ships transiting U.S. harbors, as well as a general increase in the number of vessels on many waterways, places a premium on the accuracy of aids to navigation. The Coast Guard has begun testing electronic aids to navigation on the West Coast and the Mississippi River.[74]

ATON activities consume about 20% of the Coast Guard's discretionary budget. While e-navigation offers the potential of significant savings in maintaining physical aids to navigation, key questions have yet to be answered. How reliable and resilient is e-navigation? Should e-navigation replace physical aids or merely supplement them? Are they as accessible to

[70] Ship and Bunker, "Fuel Switching-Related Power Losses Persist in ECAs," March 30, 2015; Bunkerworld, "Surge In Engine Blackouts Feared at ECA Borders in 2015," September 22, 2014.

[71] U.S. Coast Guard, *Marine Safety Information Bulletin 14-01*, September 9, 2014; http://www.mxsocal.org/pdffiles/D11-MSIB-14-01_LossOfPropulsion-FuelSwitchingSafety_9SEP14%20(3).pdf.

[72] In February 2015, the Coast Guard issued interim guidelines for LNG bunkering operations; http://www.regulations.gov/#!documentDetail;D=USCG-2013-1084-0031.

[73] Coast Guard 2016 Budget in Brief; http://www.uscg.mil/budget/docs/2016_Budget_in_Brief.pdf.

[74] *Professional Mariner*, "U.S. Coast Guard Begins Testing Synthetic Aids, Virtual Buoys," August 2014.

recreational craft? Are there cybersecurity concerns associated with e-navigation? The Coast Guard's ATON budgetary needs in coming years will depend on the answers to these questions.[75]

The Senate committee report requests a Coast Guard report on the feasibility and advisability of using e-navigation in U.S. areas of the Arctic Ocean.[76] The explanatory statement accompanying the omnibus did not block that request.

Use of Unmanned Aircraft Systems (UAS)

The Coast Guard's FY2016 budget justification indicated that the agency was testing the use of small unmanned aircraft for search and rescue, patrols, and general maritime surveillance. The Coast Guard has tested both smaller, hand-held UAS and larger UAS to extend the surveillance range of its patrol vessels. In April 2015, the Coast Guard announced that it would be testing UAS in the Arctic for missions such as surveying ice conditions, marine environmental monitoring, marine safety, and search and rescue.[77] The test unmanned aircraft could be launched from land or a Coast Guard cutter.

The House committee report recommended an additional $12 million above the President's request for the use of UAS aboard national security cutters.[78] The omnibus incorporated this recommendation. Like e-navigation, greater use of UAS potentially offers significant efficiencies in the vessels, aircraft, and crews needed to perform various Coast Guard missions.

U.S. Secret Service

The U.S. Secret Service (USSS) has two concurrent missions—criminal investigations and protection of certain people, places, and events. Criminal investigation activities encompass financial crimes, identity theft, counterfeiting, computer fraud, and computer-based attacks on the nation's financial, banking, and telecommunications infrastructure, among other areas. The protection mission entails protecting current and former Presidents, Vice Presidents, their spouses and minor children, as well as distinguished foreign visitors to the United States, and certain other individuals.[79] The USSS also secures the White House, Vice President's residence, and foreign missions in the District of Columbia, and coordinates security for National Special Security Events.[80]

FY2016 Request

The FY2016 appropriations request for the Secret Service was $1,939 million, a net increase of $273 million (16.4%) above the FY2015 enacted level. This increase was largely driven by a $300 million increase in funding designated for the USSS protection mission, including $117 million more for protection of persons and facilities, and $178 million more to ramp up operations in preparation for protection of presidential candidates and nominees.

[75] For further information on developments in navigation technology, see *Coast Guard Proceedings*, Summer 2015 issue; http://www.uscg.mil/proceedings/archive/2015/Vol72_No2_Sum2015.pdf.

[76] S.Rept. 114-68, p. 76.

[77] 80 *Federal Register* 18431, April 6, 2015.

[78] H.Rept. 114-215, p. 59.

[79] The scope of Secret Service protectees is defined in 18 U.S.C. 3056.

[80] For more information, see CRS Report RL34603, *The U.S. Secret Service: History and Missions*, by Shawn Reese.

Part of the basis for this increase was the report of the USSS Protective Mission Panel, which was established in October 2014 to review the security of the White House complex after several high-profile incidents. The response to that report's findings through appropriations legislation is discussed below.

Senate-Reported S. 1619

Senate-reported S. 1619 included $1,924 million for the USSS, $15 million (0.8%) below the requested level, but $258 million (15.5%) above the amount appropriated in FY2015. The Senate Appropriations Committee recommended $37 million (3.6%) less than requested for protection of persons and facilities, but still proposed funding that was $80 million (8.9%) higher than FY2015. The Senate Appropriations Committee recommended fully funding the request for protection of presidential candidates and nominees.

House-Reported H.R. 3128

House-reported H.R. 3128 included $1,906 million for the USSS, $33 million (1.7%) below the requested level, but $240 million (14.4%) above the amount appropriated in FY2015. The House Appropriations Committee recommended $33 million (3.2%) less than requested for protection of persons and facilities, slightly more than the Senate Appropriations Committee, and $84 million (9.4%) higher than FY2015. Like the Senate Appropriations Committee, the House Appropriations Committee recommended fully funding the request for protection of presidential candidates and nominees.

Division F of P.L. 114-113

The omnibus included almost $1,934 million for the USSS, almost $6 million (0.3%) below the requested level and $268 million (16.1%) above the FY2015 enacted level. The explanatory statement notes that as a result of a history of hiring delays and new information provided by USSS, a $49 million reduction is made in the Salaries and Expanses appropriation "to fund a realistic and achievable number of FTE."[81]

[81] *Congressional Record*, vol. 161, part 184 (December 17, 2015), p. H10172.

Table 7. Budget Authority for the U.S. Secret Service, FY2015-FY2016

(budget authority in rounded millions of dollars)

Appropriation / Sub-Appropriation	FY2015 Enacted	FY2016 Request	FY2016 Senate-reported S. 1619	FY2016 House-reported H.R. 3128	FY2016 Div. F, P.L. 114-113
Salaries and Expenses	**1,616**	**1,867**	**1,837**	**1,833**	**1,855**
Protection	990	1,290	1,252	1,248	1,191
Protection of persons and facilities	*893*	*1,009*	*972*	*977*	*911*
Protective intelligence activities	*68*	*73*	*72*	*64*	*71*
National Special Security Events	*5*	*5*	*5*	*5*	*5*
Presidential candidate nominee protection	*26*	*204*	*204*	*204*	*204*
Investigations	381	325	337	336	377
Domestic field operations	*338*	*291*	*295*	*295*	*337*
International Field Office Administration, Operations and Training	*34*	*34*	*34*	*33*	*31*
Forensic Support to the National Center for Missing and Exploited Children	*8*	—	*8*	*8*	*8*
Headquarters, Management and Administration	188	195	192	193	232
Information Integration and Technology Transformation	1	1	1	1	1
James J. Rowley Training Center	55	56	55	54	54
Acquisition, Construction, and Improvements	**50**	**72**	**86**	**73**	**79**
Facilities	5	26	26	29	24
Next Generation Limo	—	—	—	9	11
Information Integration and Technology Transformation	45	45	61	35	44
Total	**1,666**	**1,939**	**1,924**	**1,906**	**1,934**

Sources: CRS analysis of P.L. 114-4 and its explanatory statement as printed in the *Congressional Record* of January 13, 2015, pp. H275-H322, the FY2016 DHS *Budget-in-Brief,* S. 1619, S.Rept. 114-68, H.R. 3128, H.Rept.

114-215, and Division F of P.L. 114-113 and its explanatory statement as printed in the *Congressional Record* of December 17, 2015, pp. H10161-H10210.

Note: Table displays rounded numbers, but all operations were performed with unrounded data: therefore, amounts may not sum to totals.

Issues for Congress

Protective Mission Panel Recommendations

The USSS Protective Mission Panel was established in October 2014 to make recommendations on upgrading security at the White House complex. The executive summary to the report, released in December 2014, included a series of recommendations that fell within three general areas: training and personnel; perimeter security, technology, and operations; and leadership. However, not all of the panel's recommendations were released publicly—several in the "perimeter security, technology and operations" category were classified.[82] An additional $25 million, representing initial funding for some of the panel's recommendations, was included in the FY2015 DHS Appropriations Act (P.L. 114-4), including funding to upgrade security infrastructure at the White House complex and Vice President's Residence.[83]

$87 million in additional investments were proposed by the Administration for FY2016, including $66 million in salaries and expenses and $21 million in acquisition funding to support the training facility of the USSS—the James J. Rowley Training Center. The request for acquisition funds included $8 million for a scale mock-up of the White House grounds, $8 million to renovate or replace the existing canine training facility, and $5 million to renovate shooting ranges and tactical training areas.

While the Senate Appropriations Committee also recommended providing the funding level requested for Rowley Training Center improvements, in its report it described the cost estimates for the canine training facility and White House mock-up as "inaccurate," and recommended $13 million for construction of a new canine training facility, and less than $1 million for a feasibility study and design plan for the White House mock-up. Full funding was recommended for the range and tactical area renovations, and the remainder of the funding provided—slightly more than $2 million—was to be applied to deferred maintenance needs at the training center.[84]

The House Appropriations Committee recommended $29 million in facilities funding, $3 million more than requested. Like the Senate Appropriations Committee, it proposed a different allocation of the budget authority between projects than had been requested. Like the Senate Appropriations Committee, the House Appropriations Committee recommended $13 million for the new canine facility construction, full funding for ranges and tactical training area upgrades, and funding to address backlogged maintenance. Almost $3 million was recommended for the White House mock-up, but the House-reported bill withholds over $2 million of those funds from obligation until a feasibility study and design plan are completed and approved by the National

[82] Joseph Hagin, Thomas Perrelli, and Danielle Gray, et al., Executive Summary to Report from the from the United States Secret Service Protective Mission Panel to the Secretary of Homeland Security, Unites States Secret Service Protective Mission Panel, Washington, DC, December 15, 2014, p. 7, http://www.dhs.gov/publication/executive-summary-report-usss-protective-mission-panel.

[83] "Explanatory Statement Submitted by Mr. Rogers of Kentucky, Chairman of the House Committee on Appropriations, Regarding H.R. 240," *Congressional Record*, January 13, 2015, p. H284.

[84] S.Rept. 114-68, pp. 89-90.

Capital Planning Commission. The House committee also required a detailed obligation plan for the facilities funding before it could be used.[85]

The explanatory statement of the managers accompanying the omnibus noted that the bill included almost $85 million for enhancements associated with the findings of the Protective Mission Panel. It included over $24 million for facilities, and $11 million for the next generation of Presidential limousine. The explanatory statement also noted that $750,000 was provided "to complete a feasibility study and design plan for the proposed White House Training Facility," and indicate that further funding would only be considered after the full cost estimate for the project was completed by the USSS and reviewed by a third party. No specific direction was provided on canine training facilities or firing ranges in the explanatory statement.[86]

Author Information

William L. Painter, Coordinator
Analyst in Emergency Management and Homeland Security Policy

Bart Elias
Specialist in Aviation Policy

Lisa Seghetti
Section Research Manager

John Frittelli
Specialist in Transportation Policy

Alison Siskin
Specialist in Immigration Policy

Carla N. Argueta
Analyst in Immigration Policy

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[85] H.Rept. 114-215, pp. 66-67.

[86] *Congressional Record*, vol. 161, part 184 (December 17, 2015), p. H10172.