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DHS Appropriations FY2017: Security, Enforcement, and Investigations

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Committees of Congress

Summary

This report is part of a suite of reports that discuss appropriations for the Department of Homeland Security (DHS) for FY2017. It specifically discusses appropriations for the components of DHS included in the second title of the homeland security appropriations bill—Customs and Border Protection, Immigration and Customs Enforcement, the Transportation Security Administration, the U.S. Coast Guard, and the U.S. Secret Service. Collectively, Congress has labeled these components in recent years as "Security, Enforcement, and Investigations."

The report provides an overview of the Administration's FY2017 request for these components, and the appropriations proposed by the Senate and House appropriations committees in response. Rather than limiting the scope of its review to the first titles of the bills, the report includes information on provisions throughout the bills and reports that directly affect these components.

Security, Enforcement, and Investigations is the largest of the four titles that carry the bulk of the funding in the bill. The Administration requested $32.27 billion for these components in FY2017, $797 million less than was provided for FY2016. The amount requested for these components is 68% of the Administration's $47.7 billion request in net discretionary budget authority and disaster relief funding for DHS. The largest budget increase proposed in the request for these components was a $625 million (5.7%) increase for U.S. Customs and Border Protection, while the largest budget decrease proposed was a $745 million (15.3%) reduction in the budget for the Transportation Security Administration, which was proposed to be replaced with an $880 million increase in fee collections.

Senate Appropriations Committee-reported S. 3001 would provide the components included in this title $32.92 billion in net discretionary budget authority. This would be $652 million (2.0%) more than requested, but $145 million (0.4%) less than was provided in FY2016.

House Appropriations Committee-reported H.R. 5634 would provide the components included in this title $32.85 billion in net discretionary budget authority. This would be $592 million (1.8%) more than requested, but $206 million (0.6%) less than was provided in FY2016.

Additional information on the broader subject of FY2017 funding for the department can be found in CRS Report R44621, *Department of Homeland Security Appropriations: FY2017*, as well as links to analytical overviews and details regarding appropriations for other components.

On September 29, 2016, the President signed into law P.L. 114-223, which contained a continuing resolution that funds the government at the same rate of operations as FY2016, minus 0.496% through December 9, 2017. A second continuing resolution was signed into law on December 10, 2016 (P.L. 114-254), funding the government at the same rate of operations as FY2016, minus 0.1901%, through April 28, 2017. For details on the continuing resolution and its impact on DHS, see CRS Report R44621, *Department of Homeland Security Appropriations: FY2017*, which also includes additional information on the broader subject of FY2017 funding for DHS as well as links to analytical overviews and details regarding components in other titles.

This report will be updated once the annual appropriations process for DHS for FY2017 is concluded.

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This report is part of a suite of reports that discuss appropriations for the Department of Homeland Security (DHS) for FY2017. 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), the 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 FY2017 request for these components, and the appropriations proposed by the Senate and House appropriations committees in response. Rather than limiting the scope of its review to the first titles of the bills, the report includes information on provisions throughout the bills and reports that directly affect these components.

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 R44621, *Department of Homeland Security Appropriations: FY2017*, 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 James V. Saturno, 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 FY2016 amounts are derived from two sources. Normally, this report would rely on P.L. 114-113, the Omnibus Appropriations Act, 2016—Division F of which is the Homeland Security Appropriations Act, 2016—and the accompanying explanatory statement published in Books II and III of the *Congressional Record* for December 17, 2015. However, due to the implementation of the Common Appropriations Structure for DHS (see below), additional information is drawn from H.Rept. 114-668, which presents the FY2016 enacted funding in the new structure. H.Rept. 114-668 also serves as the primary source for the FY2016 enacted funding levels, the FY2017 Administration-requested funding levels, and the House Appropriations Committee recommendation in the new structure. S.Rept. 114-264 serves as the primary source for the FY2016 enacted funding levels, the FY2017 Administration-requested funding levels, and Senate Appropriations Committee recommendation in the "legacy structure"—the overall structure of appropriations enacted for FY2016.

[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.

There are several differences of interpretation between the two committee reports in accounting for both the FY2016 enacted and FY2017 requested levels. These include differences in resources available for CBP through the Small Airport User Fee, how reimbursements for preclearance operations are accounted for, the size of the request for Immigration and Customs Enforcement salaries and expenses, and accounting for some TSA fees. To facilitate comparisons with the enacted and requested numbers, unless otherwise specified, this report relies on the data in S.Rept. 114-264 when the two reports are in conflict, as its interpretation of FY2016 enacted levels could be verified against the FY2016 explanatory statement.

The "Common Appropriations Structure"[2]

Section 563 of Division F of P.L. 114-113 (the FY2016 Department of Homeland Security Appropriations Act) provided authority for DHS to submit its FY2017 appropriations request under the new common appropriations structure (CAS), and implement it in FY2017. Under the act, the new structure was to have four categories of appropriations:

- Operations and Support;
- Procurement, Construction, and Improvement;
- Research and Development; and
- Federal Assistance.[3]

Most of the FY2017 DHS appropriations request categorized its appropriations in this fashion. The exception was the Coast Guard, which was in the process of migrating its financial information to a new system. DHS has also proposed realigning its Programs, Project, and Activities (PPA) structure—the next level of funding detail below the appropriation level—possibly trying to align PPAs into a mission-based hierarchy.

The House Appropriations Committee made its funding recommendation using the CAS (although it chose to implement it slightly differently than the Administration had envisioned in Title I), but the Senate Appropriations Committee did not, instead drafting its annual DHS appropriations bill and report using the same structure as was used in FY2016. It remains to be seen how differences between the House and Senate structures will be worked out in the legislation which finalizes FY2017 appropriations levels for DHS. Some individual programmatic comparisons are possible between the two bills, and the Coast Guard's appropriations are comparable as its FY2017 funding was not proposed in the CAS structure. However, no authoritative crosswalk between the House Appropriations Committee proposal in the CAS structure and Senate Appropriations Committee proposal in the legacy structure is publicly available.

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[4] provide roughly two-thirds to three-fourths of the annual funding for DHS operations, depending

[2] A more complete analysis of the history and impact of the Common Appropriations Structure proposal is available in CRS Report R44621, *Department of Homeland Security Appropriations: FY2017*, coordinated by William L. Painter.

[3] §563, Division F, P.L. 114-113.

[4] Generally speaking, those provided through annual appropriations legislation.

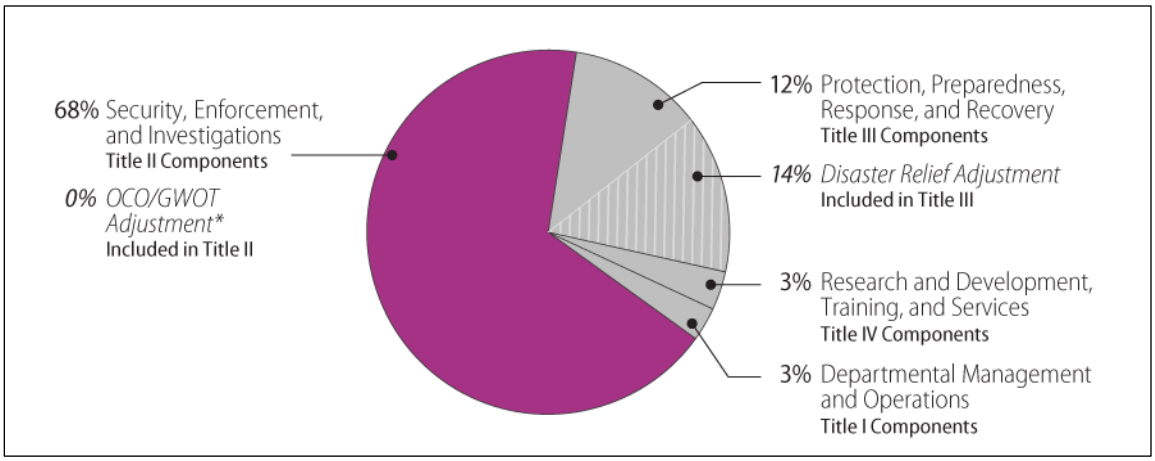
how one accounts for disaster relief spending and funding for overseas contingency operations. The remainder of the budget is a mix of fee revenues, trust fund resources, and mandatory spending.[5]

Appropriations measures for DHS typically have been organized into five titles.[6] 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 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, FY2017

(including budget authority designated for disaster relief or OCO/GWOT under the Budget Control Act)



Source: CRS analysis of data from U.S. Department of Homeland Security, *FY2017 Budget in Brief*.

Notes: Labels in italics and the patterned wedge represent funding covered under adjustments to discretionary spending limits under the Budget Control Act.

* The Administration requested $163 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 (0.3%) is too small to be visible in the chart.

Security, Enforcement, and Investigations

As noted above, the Security, Enforcement, and Investigations title (Title II) of the DHS appropriations bill is the largest of the four main titles, providing funding for CBP, ICE, TSA,

[5] 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.

[6] 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 FY2016, the House- and Senate Appropriations Committee-reported versions of the DHS appropriations bill were generally symmetrical.

USCG, and USSS. Some provisions in Title V, General Provisions, may affect the total funding provided for some of these components.

The Administration requested $32.27 billion in FY2017 net discretionary budget authority for components included in this title, as part of a total budget for these components of $40.27 billion for FY2017.[7] The appropriations request was $797 million (2.4%) less than was provided for FY2016. In addition, in the budget request for the Department of Defense, the Administration requested a transfer of $163 million of Overseas Contingency Operations/Global War on Terror designated funding (OCO) from the Navy to the USCG.

Senate Appropriations Committee-reported S. 3001 would have provided the components included in this title $32.92 billion in net discretionary budget authority, $652 million (2.0%) more than requested, but $145 million (0.4%) more than was provided in FY2016. In addition, the Senate Appropriations Committee recommended $163 million in OCO-designated funding for USCG be appropriated directly to the USCG, rather than be provided as a transfer.

House Appropriations Committee-reported H.R. 5634 would provide the components included in this title $32.85 billion in net discretionary budget authority. This would have been $592 million (1.8%) more than requested, but $206 million (0.6%) less than was provided in FY2016. The House Appropriations Committee sought to provide $163 million in OCO-designated funding as a transfer from the Navy in the Department of Defense appropriations bill, as requested.[8]

These bills were not voted on in either body, and no annual appropriations bill for DHS was enacted prior to the end of FY2016. On September 29, 2016, the President signed into law P.L. 114-223, which contained a continuing resolution that funds the government at the same rate of operations as FY2016, minus 0.496% through December 9, 2017. A second continuing resolution was signed into law on December 10, 2016 (P.L. 114-254), funding the government at the same rate of operations as FY2016, minus 0.1901%, through April 28, 2017. The second continuing resolution contained a new provision, Section 163, which provided certain budgetary flexibility to CBP, ICE, TSA, and the Coast Guard. The Administration requested flexibility not only to maintain staffing levels of CBP and ICE, but also flexibility for them to maintain border security and fulfil immigration enforcement priorities. In their request, they specifically noted this flexibility was for both salaries and non-pay expenses, and was needed to "respond to unpredictable surges in migration."[9] Congress chose to broaden the requested flexibility, extending it to the TSA and U.S. Secret Service, "to ensure border security, fulfill immigration enforcement priorities, maintain aviation security activities, and carry out the mission associated with the protection of the President-elect."[10] For more details on the continuing resolutions and their specific provisions affecting DHS, see CRS Report R44621, *Department of Homeland Security Appropriations: FY2017*.

Table 1 lists the enacted funding level for the individual components funded under the Security, Enforcement, and Investigations title for FY2016, as well as the amounts requested for these accounts for FY2017 by the Administration, and proposed by the Senate and House

[7] In addition to the appropriations provided in Title II, under the request, $220 million would be made available to CBP from fees. Other resources that contribute to the budget for these components include mandatory spending, fee revenues, and trust funds.

[8] See H.R. 5293 (pcs), p. 124, line 20.

[9] Office of Management and Budget, "FY 2017 Continuing Resolution (CR) Appropriations Issues (anomalies required for a CR through March)," p. 8.

[10] P.L. 114-254, §163.

appropriations committees. 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

(budget authority in millions of dollars)

Component	FY2016 Enacted	FY2017 Request	FY2017 Senate Committee Reported S. 3001	FY2017 House Committee Reported H.R. 5634
Customs and Border Protection				
Title II Appropriation	11,057[a]	11,682[bc]	11,182	11,206
Total Appropriation (includes the impact of any General Provisions)	11,277	11,902[c]	11,413	11,426
Fees, Mandatory Spending, and Trust Funds	1,977	2,055	2,055	2,094
Total Budgetary Resources	13,254	13,957[c]	13,468	13,520
Immigration and Customs Enforcement				
Title II Appropriation	5,832	5,912	5,964	5,904
Total Appropriation (includes the impact of any General Provisions)	5,832	5,912	5,964	5,904
Fees, Mandatory Spending, and Trust Funds	322	322	348	322
Total Budgetary Resources	6,154	6,234	6,312	6,226
Transportation Security Administration				
Title II Appropriation	4,861	4,116	5,075	5,018
Total Appropriation (includes the impact of any General Provisions)	4,861	4,116	5,075	5,018
Fees, Mandatory Spending, and Trust Funds	2,579	3,473[d]	2,593	2,585
Total Budgetary Resources	7,440	7,589	7,669	7,603
U.S. Coast Guard[e]				
Title II Appropriation	9,158	8,444	8,573	8,555
Total Appropriation (includes the impact of any General Provisions)	9,158	8,444	8,573	8,555

Component	FY2016 Enacted	FY2017 Request	FY2017 Senate Committee Reported S. 3001	FY2017 House Committee Reported H.R. 5634
Fees, Mandatory Spending, and Trust Funds	1,604	1,667	1,667	1,667
Total Budgetary Resources	10,922	10,110	10,402	10,222
U.S. Secret Service				
Title II Appropriation	1,934	1,891	1,891	1,932
Total Appropriation (includes the impact of any General Provisions)	1,934	1,891	1,891	1,932
Fees, Mandatory Spending, and Trust Funds	265	265	265	265
Total Budgetary Resources	2,199	2,156	2,156	2,197

Source: CRS analysis of Division F of P.L. 114-113 and its explanatory statement as printed in the *Congressional Record* of December 17, 2015, pp. H10161-H10210; S. 3001 and S.Rept. 114-264; and H.R. 5634 and H.Rept. 114-668.

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.

a. As shown in S.Rept. 114-264. The detail table in H.Rept. 114-668 shows $11,048 million. This discrepancy is due to the Senate including the Small Airport User Fee in its calculations of discretionary budget authority (the House does not).

b. As shown in S.Rept. 114-264. The detail table in H.Rept. 114-668 shows $11,664 million. This discrepancy is due in part to the treatment of the Small Airport User Fee noted in note a and in part to the House accounting for the costs of preclearance and reimbursements in Title V rather than within the CBP appropriations in Title II.

c. The Administration proposed shifting $306 million for the Office of Biometric Identity Management (OBIM) from the National Protection and Programs Directorate to CBP. Neither House nor Senate Appropriations Committee accepted this proposal.

d. S.Rept. 114-264 shows the request including $8 million more for the fee-funded TWIC program than H.Rept. 114-668 does.

e. Overseas contingency operations funding is not included in the appropriations totals in accordance with the appropriations committees' practices for subtotaling this account. This funding is reflected in the total budgetary resources for the Coast Guard.

Customs and Border Protection (CBP)[11]

CBP is responsible for security at and between ports of entry (POE) along the border. It has 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. Within CBP there is the Office of Field Operations (OFO), which operates at POEs; U.S. Border Patrol, which operates between POEs; and Air and Marine Operations (AMO), which operates in border air space and

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

waterways. OFO agents, referred to as CBP officers (CBPOs), inspect people (immigration enforcement) and goods (customs enforcement) at POEs to determine if they are authorized to enter the United States; while U.S. Border Patrol (USBP) agents secure the border and interdict migrants and illicit actors and materials between POEs. CBP officers and USBP agents enforce more than 400 laws and regulations at the border to prevent illegal entries.

CBP's major accounts in the legacy appropriations structure include Border Security Inspections and Trade Facilitation, which encompasses risk-based targeting and the inspection of travelers and goods at POEs; Border Security and Control between Ports of Entry, which includes the Border Patrol; Air and Marine Interdiction; Automation Modernization, which includes customs and immigration information technology systems; Border Security Fencing, Infrastructure, and Technology (BSFIT); Facilities Management; and a number of immigration and customs user fee accounts.[12]

Summary of Appropriations

For FY2017, the Administration requested $11.9 billion in discretionary budget authority for CBP. This is $625 million (5.5%) more than was provided in FY2016. This included a $306 million increase connected to a proposed transfer of the Office of Biometric Identity Management (OBIM) from the National Protection and Programs Directorate (NPPD) to CBP.

Senate Appropriations Committee-reported S. 3001 included $11.4 billion in discretionary budget authority for CBP. This is $489 million (4.1%) less than the Senate Appropriations Committee's accounting of the Administration's request and $136 million (1.2%) more than their accounting of what was appropriated in FY2016. The Senate committee-reported bill did not include the transfer of OBIM to CBP.

House Appropriations Committee-reported H.R. 5634 included $11.4 billion in discretionary budget authority for CBP. This is $458 million (3.9%) less than the House Appropriations Committee's accounting of the Administration's request and $158 million (1.4%) more than their accounting of what was provided in FY2016. Like the Senate committee-reported bill, the House committee-reported bill did not include the transfer of OBIM to CBP. Due to different accounting methods between the House and Senate, CRS is not able to make authoritative direct comparisons below the component level between the two appropriations bills for FY2017.

Select Issues in CBP Appropriations

Border Enforcement Personnel

CBP's front-line enforcement personnel include CBPOs at ports of entry, agriculture specialists, USBP agents, and the Air and Marine Office's (AMO's) interdiction agents. CBP has had issues surrounding its ability to recruit, hire, and retain personnel. For example, the Homeland Security Appropriations Act, 2014 (P.L. 113-76) 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; CBP has yet to fill all these positions. Some of the issues CBP has faced are competition with other law enforcement agencies; remote, undesirable locations for some positions; and a long and rigorous hiring

[12] For more information see, CRS Report R42138, *Border Security: Immigration Enforcement Between Ports of Entry*, by Carla N. Argueta, and CRS Report R43356, *Border Security: Immigration Inspections at Ports of Entry*, by Carla N. Argueta.

process.[13] However, CBP reports that it has taken some steps to improve its hiring, recruitment, and retention processes.[14]

As of July 2016, CBP's staffing levels were 22,922 CBPOs, 20,004 USBP agents, and 1,004 AMO agents. In comparison, CBP's authorized staffing levels were 23,961 CBPOs, 21,370 USBP agents, and 1,120 AMO agents. In addition, CBP's Workload Staffing Model shows a need for 2,107 additional CBPOs through FY2017.

For FY2017, the Administration requested $3.8 billion for 21,070 USBP agents, which is 300 fewer agents than provided by the FY2016 enacted appropriation. The Administration has also proposed that legislation be introduced to raise fees set under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA, P.L. 99-272) and the Express Consignment Courier Facilities. These fee increases could be used to cover the costs of up to 2,070 additional CBPOs. The proposal also includes lifting the current fee exemption for sea passengers from the United States, Canada, Mexico, and adjacent islands.[15]

H.Rept. 114-668 and S.Rept. 114-264 both noted that CBP has been unable to hire and maintain its personnel at its funded levels. Based on the House Appropriations Committee's assumption that hiring will not happen as fast as CBP plans, H.Rept. 114-668 recommended a $12.7 million reduction to the request for personnel funding, which includes a $42.8 million reduction to the request for funding for an additional 1,500 mission support personnel. With respect to USBP personnel, the report noted that DHS has been unable to provide a validated process to define its level of required USBP personnel. Therefore, H.Rept. 114-668 did not support a decrease in the number of mandated USBP agents.

S.Rept. 114-264 directed that CBP continue using hiring hubs[16] and that CBP work with the Office of Personnel Management to reach their funded personnel levels. It also recommended that CBP create a Border Patrol staffing model that considers situational awareness, officer safety, and other operational needs. Without such an analysis, S.Rept. 114-264 did not support a decrease in the number of USBP agents. Furthermore, S.Rept. 114-264 supported the Administration's request to hire new CBP technicians to take over certain tasks in order to allow CBPOs to focus on law enforcement activities.

Unaccompanied Child Migrants

In FY2014, Border Patrol apprehensions of unaccompanied child migrants (referred to as UACs or unaccompanied minors) reached a peak of 68,541. Though apprehensions of UACs decreased

[13] U.S. Congress, House Committee on Homeland Security, Subcommittee on Border and Maritime Security, *Keeping Pace with Trade, Travel, and Security: How Does CBP Prioritize and Improve Staffing and Infrastructure?*, testimony by Office of Administration Assistant Commissioner Eugene Schied, CBP Human Resources Management Assistant Commissioner Linda Jacksta, and CBP Office of Field Operations Deputy Assistant Commissioner John Wagner, 114th Cong., 2nd sess., April 19, 2016.

[14] Ibid.

[15] Currently, sea passengers arriving in the United States are charged a fee if their journey originated from somewhere outside of the United States. Those arriving from Canada, Mexico, or the U.S. territories, possessions, and adjacent islands are exempt from this fee. U.S. territories include American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and U.S. Virgin Islands. Adjacent islands include St. Pierre, Miquelon, Cuba, the Dominican Republic, Haiti, Bermuda, the Bahamas, Barbados, Jamaica, the Windward and Leeward Islands, Trinidad, Martinique, and other British, French, and Netherland territory or possessions in or bordering the Caribbean Sea. For more information, see https://www.cbp.gov/border-security/ports-entry/cargo-security/carriers/air-sea-passenger-user-fees/facthead.

[16] Hiring hubs integrate and consolidate certain steps and several months of the hiring process into two days. A hiring hub consolidates the interview, polygraph, provisional clearance determination, and employment offer.

to just under 40,000 in FY2015, the number of UACs increased once again in FY2016 (43,309 in the first 9 months of the fiscal year).[17] The apprehension of family units has also followed a similar trend. The agency and appropriators have had to grapple with these minors and families and their impact on CBP's operations and resources.

For FY2017, the Administration requested up to a $23 million increase in appropriations for the Unaccompanied Child Contingency Fund in order to provide CBP with the flexibility to respond to a surge of UACs in FY2017. The contingency funding would only be triggered in the event the FY2017 level of UACs exceeds the level in FY2016. Furthermore, the level of funding available to CBP would depend on the magnitude of the increase in UACs in FY2017. Neither the House nor Senate recommended funding this contingency fund.

However, H.Rept. 114-668 directed that CBP report to Congress on their progress in implementing GAO recommendations regarding the care of UACs while in DHS custody and/or in CBP's short-term holding facilities.[18] In addition, H.Rept. 114-668 provided various recommendations with reference to the treatment of UACs, specifically on short-term holding conditions, UACs' access to resources and legal assistance, and CBP's collaboration with other agencies. H.Rept. 114-668 also mentioned concerns over migrant family separation that occurs after apprehension and prior to crossing the border and recommended that CBP work to keep families together and/or reunite them.[19]

CBP Accountability

In the past few years, CBP incidents involving use-of-force or personnel misconduct have received increased attention. In response, CBP has taken steps to increase the transparency surrounding these incidents. For example, in May 2014, CBP published its use-of-force policy and, in May 2015, the agency released its use-of-force statistics. CBP also conducted a body-worn camera feasibility study[20] and commissioned an independent review of CBP complaints and discipline systems.[21] In general, the review found issues concerning CBP's processes for investigation of misconduct allegations, discipline processes, the roles and responsibilities of internal stakeholders and process owners, the use of performance metrics, and internal and external reporting practices. In addition, the CBP Integrity Advisory Council[22] (CBP IAC) released a report that included various recommendations surrounding different issues such as streamlining "CBP's broken disciplinary process," the system for public complaints, and the need to improve transparency in use-of-force incidents.[23]

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[17] U.S. Customs and Border Protection, *United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions FY2016,* https://www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children/fy-2016.

[18] For more information see, U.S. Government Accountability Office, *Unaccompanied Alien Children: Actions Needed to Ensure Children Receive Required Care in DHS Custody*, GAO-15-521, July 14, 2015 and U.S. Government Accountability Office, *Immigration Detention: Additional Actions Needed to Strengthen DHS Management of Short-Term Holding Facilities*, GAO-16-514, May 26, 2016.

[19] For details on provisions relating to ICE operations regarding unaccompanied child migrants, see "Unaccompanied Alien Children (UAC)" in this report.

[20] U.S. Customs and Border Protection, *Body-Worn Camera Feasibility Study Report,* August 2015.

[21] Pivotal Practices Consulting LLC, *U.S. Customs and Border Protection Complaints and Discipline System Review,* November 23, 2015.

[22] The CBP Integrity Advisory Council is a subcommittee of the Homeland Security Advisory Council.

[23] U.S. Department of Homeland Security, Homeland Security Advisory Council, *Final Report of the CBP Integrity Advisory Panel*, March 15, 2016.

For FY2017, the Administration requested $70 million to support the Investigative Operations Division, which investigates CBP employee misconduct, along with use-of-force incidents. The funding would include $7 million for the hiring of an additional 30 criminal investigators. The Administration also asked for $21 million for the Use of Force Center of Excellence, which is responsible for oversight, reporting, policy, training, and procurement related to CBP personnel's use-of-force and $5 million to support the integration of camera technology into CBP's operations environment (which would include body-worn cameras).

H.Rept. 114-668 recommended an increase of $7 million for the Office of Professional Responsibility to hire 30 additional criminal investigators to investigate use-of-force incidents and allegations against CBP personnel and contractors. Furthermore, CBP was directed to report to the Committee within 24 hours when an individual dies in its custody or subsequent to the use of force by CBP personnel. H.Rept. 114-668 also recommended $5 million to improve the integration of camera technology into CBP's operations environment.

S.Rept. 114-264 noted concern over a DHS Office of the Inspector General (OIG) report that found that CBP had not developed a comprehensive process and analysis to determine the appropriate number of criminal investigators it needed.[24] Furthermore, S.Rept. 114-264 noted concern over CBP IAC's report,[25] which recommended that CBP make certain institutional changes before bringing on a large number of criminal investigators. S.Rept. 114-264 supported this recommendation and therefore included roughly half of the $7 million requested for new investigators.

Public-Private Partnerships at POEs

Section 559 of the Consolidated Appropriations Act, 2014 (P.L. 113-76) created a pilot program that allows CBP to accept donations from stakeholders and/or enter into reimbursable services agreement with them. The Donations Acceptance Program (DAP) allows CBP and the U.S. General Services Administration (GSA) to accept donations from private and public sector entities in the form of real property, personal property, and nonpersonal services.[26] Donations may be used for activities associated with the construction, alteration, operations, or maintenance of new or existing POEs.[27] The Reimbursable Services Program (RSP) enables CBP and private or public sector entities to partner in funding improvements in border facilities and port services, including by funding additional CBP officers and underwriting overtime hours.[28] The FY2016 annual appropriations act (P.L. 114-113) increased the number of possible air POE pilots from 5 to 10.

As mentioned above, the Administration has proposed increased immigration fees to support an increase in the number of CBPOs. However, H.Rept. 114-668 recommended that, instead, the limitation on the number of reimbursable fee agreements allowed in the air POE environment should be removed and that the overtime limitation for CBPOs should be increased to $45,000,

[24] U.S. Department of Homeland Security Office of Inspector General, *CBP Needs Better Data to Justify its Criminal Investigator Staffing*, OIG-160-75, April 29, 2016.

[25] U.S. Department of Homeland Security, Homeland Security Advisory Council, *Final Report of the CBP Integrity Advisory Panel*, March 15, 2016.

[26] For more information see https://www.cbp.gov/border-security/ports-entry/resource-opt-strategy/public-private-partnerships/donation-acceptance-program/program-and-process.

[27] This includes land acquisition, design, and the deployment of equipment and technologies. U.S. Customs and Border Protection, *Section 559 Donation Acceptance Authority: Proposal Evaluation Procedures and Criteria Framework*, 2014.

[28] For more information see https://www.cbp.gov/border-security/ports-entry/resource-opt-strategy/public-private-partnerships/reimbursable-services-program/program-and-partners.

allowing them to work extra overtime in an RSP environment. In contrast, S.Rept. 114-264 recommended placing an annual overtime cap of $35,000 on CBP employees. Also, S.Rept. 114-264 expressed disappointment in that CBP had not chosen any small or mid-sized air POEs for its RSP and recommended that CBP give each proposal equal consideration and include an accompanying justification for any denied RSP proposals.

With respect to DAP, H.Rept. 114-668 directed CBP to consider the impact each donation proposal would have on other POEs on the same border, the costs of maintaining and operating the donation, and its impact on staffing requirements. S.Rept. 114-264 directed CBP to work with GSA to review its "lengthy" evaluation process for donations with a value greater than $3 million and that CBP provide an approval or denial for the proposal within 180 days. The report also recommended that CBP provide a justification for any denied proposals.

Immigration and Customs Enforcement (ICE)[29]

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 responsible for locating, detaining if appropriate, and removing foreign nationals who have overstayed their visas, entered illegally, or become deportable.

Summary of Appropriations

For FY2017, the Administration requested $5,832 million in net budget authority for ICE, a 1.4% increase from the FY2016 enacted amount. The Administration requested $6,234 million in gross budget authority for ICE, which represented an increase of 1.3% from the FY2016 enacted amount.

For FY2017, Senate Appropriations Committee-reported S. 3001 would provide $5,963 million in net budget authority for ICE, which would result in $6,312 million in gross budget authority for the agency. The Senate-reported bill would include 2.2% more than the President's request in net budget authority, which would result in the agency receiving 1.3% more in gross budget authority.[30]

House Appropriations Committee-reported H.R. 5634 would include $5,904 million in net budget authority for ICE, 1.2% more than the Administration's request, and would result in $6,137 million in gross budget authority for the agency.

Select Issues in ICE Appropriations

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 current discussion

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

[30] Senate-reported S. 3001 would withhold $100 million of the appropriated funds until a comprehensive plan to improve immigration data is submitted to the House and Senate Appropriations Committees.

regarding ICE appropriations focuses on Enforcement and Removal Operations (ERO) and issues regarding the identification, custody management, and removal of 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 aliens, except unaccompanied alien children (UAC),[31] who are in removal proceedings or who have been ordered removed from the United States. ERO also is responsible for ensuring that all aliens ordered removed actually depart from the United States.

The number of foreign nationals detained by ICE has been an area of sustained 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 number of detention beds set by Congress is seen as a "mandate"; ICE must, on average, detain daily the same number of aliens as the bed space specified by Congress.[32]

The Administration requested a decrease in funding corresponding to a decrease in the number of requested beds from 34,000 beds to 30,913 beds.[33] Both Senate-reported S. 3001 and House-reported H.R. 5634 would provide funding to maintain a total of 34,000 beds.[34] House-reported H.R. 5634 would also require DHS to submit a report to Congress on ICE detention costs, including information on the number and type of detention contracts (including Inter-Governmental Service Agreements), and costs that are relevant to the performance of the contracts (e.g., transportation costs, health care costs). The House report also included reporting requirements related to detention facility inspections.

Detention Priorities

Congress has had an interest in how DHS exercises its discretion related to the detention and release from detention of certain aliens.[35] House-reported H.R. 5634 stated that no fees or funds may be used to release from custody, other than for removal from the United States or as required by law or court order, any detained aliens described as Priority 1 or 2 in the policy memorandum *Policies for the Apprehension, Detention, and Removal of Undocumented Immigrants,* dated November 20, 2014.[36] Priority 1 includes aliens deemed threats to national security, border

[31] UAC are defined in statute as children who lack lawful immigration status in the United States, who are under the age of 18, and who either are without a parent or legal guardian in the United States or without a parent or legal guardian in the United States who is available to provide care and physical custody.

[32] The mandate first appeared in appropriations legislation in the Senate-reported version of the FY2010 Homeland Security Appropriations Act. According to the House Appropriations Committee report, the mandate continues to be carried in the bill because DHS "cannot demonstrate why reducing the number of available detention beds is appropriate and would have no harmful effects on immigration enforcement." See page 33 of H.Rept. 114-668.

[33] This included 29,957 adult beds and 960 family beds. The average daily rate for an adult bed is $126.46, while the average daily rate for a family bed is $161.36. FY2017 *DHS Congressional Budget Justifications*.

[34] According to H.Rept. 114-668, the funding would maintain 33,040 adult beds, and 960 family beds.

[35] For example, see U.S. Congress, House Committee on Oversight and Government Reform, *Criminal Aliens Released By the Department of Homeland Security*, 114th Cong., 2nd sess., April 28, 2016.

[36] In the memorandum, the Priority levels are mainly used to inform immigration enforcement (i.e., which aliens to arrest and place into removal processes). On detention, the memorandum states, "DHS Detention resources should be used to support the enforcement Priorities…or for aliens subject to mandatory detention by law…." For a discussion of the memoranda, see CRS Report R43852, *The President's Immigration Accountability Executive Action of November*

security, and public safety. Priority 2 includes aliens who have committed multiple or certain misdemeanors or those who have entered the United States illegally after January 1, 2014. ICE reports that in FY2015 approximately 83% of the average daily detained population were aliens classified as Priority 1, while 16% were aliens classified as Priority 2. The rest of the detention population was comprised of aliens who were classified in the memorandum as Priority 3 (i.e., aliens who were issued a final order of removal on or after January 1, 2014), or other possibly removable alien that DHS determined should have been detained.[37]

While some have criticized the manner in which DHS has exercised its discretion to determine who to detain, others argue eliminating ICE discretion to decide who to detain is problematic because it does not allow for exceptions based on humanitarian concerns or health reasons. In addition, critics argue that the requirement to detain certain aliens is in conflict with several court decisions.[38]

Alternatives to Detention

Due to the cost of detaining aliens, and the fact that many nondetained 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 (e.g., family units). 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 $126 million for the ATD program, an increase of almost $12 million from the FY2016 enacted amount. While the House-reported bill would fund the ATD program at the requested level, the Senate-reported bill would provide slightly less, $125 million, for the program. H.Rept. 114-668 stated that ICE should give priority for participation in the ATD program to vulnerable populations.

Unaccompanied Alien Children (UAC)

ICE is responsible for the transportation of UAC arriving in the United States and for 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. While ICE is responsible for detaining adults and family units, the Department of Health and Human Services is responsible for detaining UAC. In FY2014, there was a large increase in the number of UAC apprehensions, which caused a strain on agency resources.[39] UAC apprehensions decreased significantly in FY2015 but have increased again in FY2016.[40] The Administration requested an increase of $10 million for transportation costs related to UAC as well as $3 million in contingency funding if the

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20, 2014: Overview and Issues, coordinated by William A. Kandel.

[37] Department of Homeland Security, *U.S. Immigration and Customs Enforcement, Operations and Support, Fiscal Year 2017 Congressional Justification*, p. 51.

[38] See p. 187 of H.Rept. 114-668.

[39] Although ICE does not detain UAC, the agency is responsible for transporting UAC apprehended at the border by Customs and Border Protection (CBP) to HHS; arguing the government's position in removal proceedings against UAC; and, if the UAC are ordered removed, effectuating their removal.

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

number of UAC exceeds 75,000. The House-reported and Senate-reported bills do not contain any additional funding specifically for UAC transportation.[41]

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."[42] 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 a productive or proper use of ICE resources.[43] The FY2015 DHS Appropriations Act (P.L. 114-4) and the FY2016 DHS Appropriations Act (Division F of P.L. 114-113) specified that no funds under the act could be used to fund the position of Public Advocate within ICE. House-reported H.R. 5634 and Senate-reported S. 3001 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."[44]

Transportation Security Administration (TSA)[45]

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 nonaviation 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 2** presents a breakdown of TSA's total additional budgetary resources requested from all nonappropriated sources and those provided through direct appropriations, as accounted for in the DHS budget justifications.

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[41] For information on provisions relating to CBP and UAC, see "Unaccompanied Child Migrants" in this report.

[42] 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.

[43] 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.

[44] 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.

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

Table 2. TSA Requested Budgetary Resources, FY2017

(budget authority in millions of dollars)

Funding Source	FY2017 Request
Total Offsetting Fees	3,473
Aviation Passenger Security Fee	*2,130*
Proposed Fee Increase	*880*
Aviation Security Capital Fund (Mandatory)	*250*
Credentialing Fees (including Mandatory Alien Flight Student Program)	*213*
Discretionary appropriations	4,116
Total Budgetary Resources	**7,589**

Sources: CRS analysis of the FY2017 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.

Summary of Appropriations

For FY2017, the Administration requested $7.6 billion in gross discretionary budget authority for TSA. This is $141 million (about 1.9%) more than was provided in FY2016. As indicated in the above table, the Administration proposed an $880 million increase in Aviation Passenger Security Fee collections to further offset the discretionary cost of TSA's operations. Neither the Senate nor House appropriations committee included the fee increase.

Senate Appropriations Committee-reported S. 3001 included $7.7 billion in discretionary budget authority for TSA. This is $88 million (about 1.2%) more than was requested by the Administration, and $229 million (roughly 3.1%) more than was provided in FY2016.

House Appropriations Committee-reported H.R. 5634 included $7.6 billion in discretionary budget authority for TSA. This is $22 million (roughly 0.3%) more than was requested by the Administration, and $163 million (about 2.2%) more than was provided in FY2016. The House committee-reported discretionary funding level is $66 million (roughly 0.9%) less than proposed in the Senate committee-reported bill. Contributing to this difference is that the House Appropriations Committee report projects $8 million less in fees for the Transportation Worker Identity Card (TWIC) program than the Administration and Senate Appropriations Committee.

Select Issues in TSA Appropriations

Screener Staffing

H.Rept. 114-668 noted that passenger volume increased by nearly 5% from 2014 to 2015, and has continued to increase in 2016. It expressed concern that this passenger growth has not been fully accounted for in budget requests. Long screening lines and delays led appropriators to approve a reprogramming of FY2016 TSA funds in May allowing TSA to hire more than 750 additional

screeners, but this has largely been regarded as a stopgap measure to address anticipated higher passenger volumes over the 2016 summer season.[46]

House report language directed TSA to conduct comprehensive assessment of its needs in order to improve both the security and efficiency of passenger and baggage screening processes. The report is to include information on staffing requirements based on accurate assumptions regarding projected passenger growth and screener attrition rates.

The Senate committee specified additional funding to increase checkpoint staffing by more than 600 full time equivalent positions in FY2017, which equates to roughly 1,300 full-time and part-time screeners according to the Senate report.

The PreCheck Program

The Senate committee raised concerns that enrollments in TSA's voluntary PreCheck program, a fee-based program that offers expedited screening to passengers who undergo background checks, have lagged considerably behind original projections. The lack of interest in PreCheck has been cited as a factor contributing to long screening checkpoint lines and passenger delays at airports. The committee expressed the view that PreCheck needs to be more accessible to the public and directed TSA to assess whether service fees are fair and reasonable and whether enrollment offices are appropriately staffed and locations and hours are convenient to the public, including conveniences such as extended hours on weekdays and weekend hours as appropriate.

The House committee directed TSA to include in its assessment of passenger screening efficiency and effectiveness consideration of various efforts to leverage airport operators and private-sector entities to increase PreCheck enrollment.

Section 3102 of the FAA Extension, Safety, and Security Act of 2016 (P.L. 114-190) directed TSA to expand enrollment capabilities for the PreCheck program by deploying TSA-approved private-sector solutions including online and mobile enrollment capabilities, and expand marketing of the program through partnerships with private sector entities. The provision also directs TSA to partner with the private sector to use biometrics and other authentication standards to enhance and expedite identity verification for PreCheck applicants. Funding and resources to carry out these mandates may be considered in the context of FY2017 appropriations.

Foreign Last-Point-of-Departure Airports

P.L. 114-190 directed TSA to conduct comprehensive security risk assessments at all foreign airports with nonstop flights to the United States, known as last-point-of-departure airports, by early 2017. It required TSA to develop a plan to enhance security collaboration, coordination, and information sharing to enhance security capabilities at last-point-of-departure airports and at other foreign airports considered to be high risk. The act mandated TSA to complete an assessment of its workforce assets that support global transportation security efforts and authorized TSA to donate security screening equipment to operators of foreign last-point-of-departure airports if TSA determines that such equipment can be reasonably expected to mitigate specific vulnerabilities to the United States or to U.S. citizens traveling abroad. The act also directed TSA to work with foreign governments to review air cargo security programs, and to establish international training and capacity development capabilities to train foreign authorities in aspects of air transportation security such as active shooter and other incident response, the use of canines, mitigating insider threats, enhancing perimeter security, and operating and maintaining

[46] Ron Nixon, "Airport Security Delays Won't End Soon, T.S.A. Chief Says," *The New York Times,* May 25, 2016.

screening equipment. TSA budgetary resources to carry out these new mandates may be an issue for FY2017 appropriations debate.

Transportation Worker Vetting and Credentialing

There has been ongoing concern over the vetting and credentialing of transportation workers, particularly airport worker credentialing systems, which are administered and managed by individual airports or airport authorities. A key enhancement has been the utilization of the Federal Bureau of Investigation's Rap Back Service, a subscription service that monitors and provides notification of criminal activities that occur after a worker's background check has been completed. In line with the Administration's request, the House bill specified $1.65 million to support TSA implementation of Rap Back and $1.5 million for other criminal vetting enhancements.

The Senate report expressed concern over potential misuses of Secure Identification Display Area (SIDA) badges based on reports that terrorist organizations have used airline workers to assist in carrying out attacks in Egypt and Somalia. Senate report language directed TSA to take actions, including information-based screening of aviation workers using available domestic and foreign intelligence information, to secure air travel from vulnerabilities in aviation worker vetting and credentialing processes, and to provide the committee with a report detailing actions taken. The report from TSA is to include data on known cases in which SIDA badges were used to bypass security checkpoints for unauthorized purposes and the number of cases in which individuals granted SIDA access traveled overseas to support or collaborate with terrorist organizations.

U.S. Coast Guard[47]

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 maintenance of aids to navigation.

Summary of Appropriations

For FY2017, the Administration requested $8.4 billion in discretionary budget authority for the Coast Guard. This is $714 million (8%) less than was provided in FY2016.[48]

Senate Appropriations Committee-reported S. 3001 included $8.6 billion in discretionary budget authority for the Coast Guard. This is $129 million more than was requested by the Administration, and $585 million less than was provided in FY2016.

House Appropriations Committee-reported H.R. 5634 included $8.6 billion in discretionary budget authority for the Coast Guard. This is $111 million more than was requested by the Administration, and $603 million less than was provided in FY2016. The House committee-reported funding level is $18 million less than was proposed in the Senate committee-reported bill.

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

[48] Information on the Coast Guard's budget request is available at https://www.uscg.mil/budget/.

Issues in Appropriations

Staffing Level

In a June 2016 speech on the "State of the Coast Guard," the Commandant stated "you're going to need a bigger Coast Guard."[49] For FY2017, the Coast Guard requested an increase in staffing level of 320 FTEs (250 military and 70 civilian).[50] The H.Rept. 114-668 stated that this number did not reflect realistic hiring assumptions and requested an update accompanying the Coast Guard's FY2018 budget request on its progress towards completing a "manpower requirements analysis" as directed in the Coast Guard Authorization Act of 2015 (P.L. 114-120). Both the House and Senate appropriations committees recommended a reduction of $10 million from the Administration's request for military pay and allowances.

The Coast Guard's workload for performing safety inspections of vessels has recently increased as it is now responsible for inspecting towing vessels, in addition to ships. This will approximately double the number of vessels it inspects.[51] Also, as required by Congress, the Coast Guard's role in promoting fishing vessel safety has recently increased.[52] Two opportunities to allocate Coast Guard inspection personnel more efficiently were raised at an April 2016 hearing.[53] The hearing discussed a 2015 report by the Transportation Research Board, requested by Congress, that recommended the Coast Guard rely more on classification societies (nonprofit, independent organizations) to perform vessel safety inspections, asserting that inspections performed by Coast Guard personnel in many cases were redundant.[54] At this same hearing, the Coast Guard noted that it is statutorily required to inspect all maritime facilities (e.g., port terminals, of which there are over 3,000) twice per year for security purposes (46 U.S.C. §70103). The agency suggested that the number of inspections per facility could rather be based on a security risk profile of each facility.

Vessels and Aircraft

As has been 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 2017 fiscal year. The Senate recommended that the Coast Guard procure a 10th national security cutter (NSC) and recommended $95 million to begin the procurement process. The original plan was to acquire eight national security cutters. In FY2016, when the Senate committee recommended procuring a ninth NSC, the House report stated that "funding for additional NSCs beyond the program of record would be neither operationally necessary nor warranted, would create

[49] https://www.uscg.mil/seniorleadership/DOCS/2016SOTCG.pdf.

[50] *FY17 Coast Guard Budget Justification*, p. CG-OE-10 and CG-OE-13.

[51] Testimony of Rear Admiral Paul F. Thomas, Assistant Commandant for Prevention, hearing on Coast Guard Maritime Transportation Safety and Stewardship Programs before the House Committee on Transportation & Infrastructure Subcommittee on Coast Guard & Maritime Transportation, April 14, 2016, p. 2, available at http://transportation.house.gov/uploadedfiles/2016-04-14-thomas.pdf. For further information on towing vessel inspections, see CRS Report R44566, *The Coast Guard's Role in Safeguarding Maritime Transportation: Selected Issues*, by John Frittelli.

[52] 81 *Federal Register* 40438, 40440; June 21, 2016.

[53] House Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation, *Maritime Transportation Safety and Stewardship Programs*, April 14, 2016.

[54] Transportation Research Board, "Impact of United States Coast Guard Regulations on United States Flag Registry," Letter Report, 2016; http://www.trb.org/Main/Blurbs/173981.aspx.

potentially unsustainable operational funding requirements in the future, and could potentially threaten funding for other Coast Guard acquisition priorities."[55] In a March 2016 hearing, the Coast Guard testified that the annual operating cost for a single NSC is $45 million, the cost of shore infrastructure needed to "home port" the vessel is $140 million, and the expected life of the vessel is 60 years.[56] For FY2017, the House Committee did not recommend procuring a 10th NSC but did recommend additional funding to acquire six fast-response cutters instead of the four that the Administration requested. Fast-response cutters are smaller than the NSCs and generally are used for patrol missions closer to shore. For further 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 committee recommended $95 million more than requested to procure a 14th HC-130J long-range surveillance aircraft. The Senate committee did not recommend funding a 14th plane.

Arctic Capability

Less sea ice during late summer has led to increased maritime activity in the Arctic. The Bering Strait along the west coast of Alaska is the entrance and exit waterway for ships transiting the Northern Sea Route along Russia's north coast as well as the Northwest Passage through the Canadian archipelago. The latter appears to be far less viable as a route for large commercial vessels as it is more constricted by shallow and narrow straits and unpredictable ice movement. Most cargo ship activity has taken place along the Northern Sea Route, while cruise vessel excursions have increased in the Northwest Passage. Before the recent fall in oil prices, there was also exploratory oil drilling activity off Alaska's North Coast.

The Senate Committee directed the Coast Guard to provide a report on its oil spill response and search-and-rescue capabilities in the Arctic.[57] Both the House and Senate committee reports commented on the progress the Coast Guard is making in deciding how to acquire a heavy polar icebreaker, with the House Committee recommending $38 million and the Senate Committee recommending $14 million, compared to the $148 million requested. The $148 million requested was for the Coast Guard to hire acquisition staff and for work on specifying the equipment needs of a vessel that is expected to cost around $1 billion and take several years to construct. For further details on the Coast Guard's program to acquire a heavy polar icebreaker, including funding from the Department of Defense, see CRS Report RL34391, *Coast Guard Polar Icebreaker Modernization: Background and Issues for Congress*, by Ronald O'Rourke.

Emission Control Areas

The United States has established a 200-mile perimeter from its coastlines within which maritime vessels must reduce their emissions. To meet a stricter requirement that was triggered on January 1, 2015, ships are to switch to cleaner-burning (lower-sulfur) fuel when they reach this zone.[58] The Coast Guard is responsible for enforcing correct fuel use. Given the additional costs associated with cleaner-burning fuels, ocean carriers are concerned that the level of enforcement

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

[56] House Committee on Appropriations, Subcommittee on Homeland Security, FY2017 Budget for the U.S. Coast Guard, March 3, 2016.

[57] S.Rept. 114-264, p.76.

[58] The stricter emissions requirement is an amendment to Annex VI of MARPOL, the International Maritime Organization Convention for the Prevention of Pollution from Ships. For further information on ship emission requirements, see https://www3.epa.gov/otaq/oceanvessels.htm#interstands.

be uniform. Last fiscal year, the House Appropriations Committee 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.[59] Similarly, this fiscal year, the Senate Appropriations Committee directed the Coast Guard to provide an update to this information and stated its concern that the higher cost of operating in ECAs might shift coastal oil shipments to rail carriers.[60]

The recent drop in world fuel prices has dampened the economic impact of ECA requirements, but additional emission caps pending in 2020 or 2025, which will apply to all shipping routes, could have a more significant impact on shipping costs, according to an OECD report.[61]

Reportedly, some ships have experienced loss of propulsion (LOP) when switching from heavy fuel oil to cleaner fuel at sea as well as subsequently while operating with the cleaner fuel. This loss may be due to "thermal shock," since the cleaner fuel is more viscous than bunker fuel and does not need to be heated before entering the engine.[62] The temperature difference is believed to cause fuel pump seizures, leaks, and wax buildup in filters, especially in colder months. In March 2015, the Coast Guard issued a safety alert to vessels about LOP, stating that "many losses of propulsion have occurred in different ports and have been associated with changeover processes and procedures."[63]

Loss of propulsion creates serious safety and environmental protection concerns. The Houston Pilots Association contends that a March 2015 collision between two ships that resulted in a 88,000-gallon chemical spill was most likely caused by a switch to low-sulfur fuel and consequent loss of speed.[64]

Reimbursement for Nonfederal Construction of Aids to 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 which mark and guide vessels through harbor and waterway channels. According to the Coast Guard, there are about 50,000 federally owned visual aids and an equal number of nonfederal 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.[65] For FY2017, the Administration requested $1.3 billion for the ATON mission, which is about 16% of the agency's discretionary budget request.[66]

In a March 2016 House Appropriations Committee hearing, a Member of Congress expressed interest in allowing the Coast Guard to reimburse a nonfederal entity that constructs an ATON

[59] H.Rept. 114-215, p. 58.

[60] S.Rept. 114-264, p.79.

[61] "OECD: Ocean Carrier Costs Skyrocketing Under New Fuel Regulations," *American Shipper*, May 23, 2016.

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

[63] U.S. Coast Guard, *Marine Safety Alert 2-15*, March 3, 2015; https://www.uscg.mil/hq/cg5/cg545/alerts/0215.pdf.

[64] *Houston Chronicle*, "Houston Pilots: Ultra-low sulfur fuel likely caused 2015 collision, chemical spill," June 19, 2016.

[65] United States Coast Guard, *2016 Budget in Brief*; http://www.uscg.mil/budget/docs/2016_Budget_in_Brief.pdf.

[66] United States Coast Guard, *2017 Coast Guard Budget in Brief*, Table 2; https://www.uscg.mil/budget/docs/2017_Budget_in_Brief.pdf.

(e.g., a port authority, perhaps in order to expedite development of a harbor).[67] A bill (H.R. 5531) providing this authority has been introduced by the leadership of the Subcommittee on Coast Guard and Maritime Transportation. This bill requires, among other things, that the ATON first be approved by the Coast Guard, that the Coast Guard determine that it be necessary for the safe navigation of a federal channel, and that it be transferred to the Coast Guard upon completion of construction.

Drones

In FY2016, Congress provided an additional $12 million above the President's request for the use of unmanned aircraft systems (UAS, or drones) aboard national security cutters.[68] Congress has also expressed interest in receiving a more detailed plan showing how the Coast Guard could take advantage of this technology.[69] Greater use of UAS potentially offers significant efficiencies in the vessels, aircraft, and crews needed to perform various Coast Guard missions. 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 test UAS in the Arctic for missions such as surveying ice conditions, marine environmental monitoring, marine safety, and search and rescue.[70] The unmanned aircraft being tested can be launched from land or a Coast Guard cutter.

The Senate Committee report directed the Coast Guard to provide a briefing on its R&D related to UAS and recommended $18 million to test and evaluate the use of ultra-long endurance UAS.[71]

U.S. Secret Service

The U.S. Secret Service (USSS) has two concurrent missions—protection of certain people, places, and events, and criminal investigations. 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.[72] 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.

Criminal investigation activities carried out by the USSS 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 investigative work of the USSS is enhanced by Electronic Crimes Task Forces and Financial Crimes Task Forces, which according to the USSS, "combine resources from the law enforcement community, the private sector, and academia to combat threats to the Nation's financial payment systems and critical infrastructures."

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[67] Questioning by Rep. Cueller, House Committee on Appropriations, Subcommittee on Homeland Security, FY2017 Budget for the U.S. Coast Guard, March 3, 2016.

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

[69] House Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation, Hearing: "Coast Guard Mission Needs and Resources Allocation," June 14, 2016.

[70] 80 *Federal Register* 18431, April 6, 2015.

[71] S.Rept. 114-264, pp. 85-87.

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

Rather than viewing protection and investigation as separate missions, the USSS views these as an integrated mission set, writing in their budget documents:

> The Secret Service relies on long standing partnerships cultivated through its domestic and international field offices to successfully execute its protective responsibilities. In addition to the permanent protective details assigned to the President, Vice-President, their immediate families and former Presidents, the backbone of the Secret Service is its network of 42 domestic field offices, 60 Resident Offices and Resident Agency Offices, and 21 international Resident investigative offices. In addition to investigating financial crimes, cybercrime investigations, and protective intelligence cases, special agents assigned to these offices provide the surge capacity and advanced planning needed to carry out the Secret Service's protection mission.[73]

For more information on the missions of the USSS, see CRS Report RL34603, *The U.S. Secret Service: History and Missions*, by Shawn Reese.

Summary of Appropriations

For FY2017, the Administration requested just under $1.9 billion in discretionary budget authority for USSS. This is $42 million (2.2%) less than was provided in FY2016.

Senate Appropriations Committee-reported S. 3001 included the overall requested level of discretionary budget authority for USSS. However, in addition to not adopting the common appropriations structure for USSS, the Senate Appropriations Committee recommended shifting $15 million from the USSS protection operations to its investigative operations.

House Appropriations Committee-reported H.R. 5634 included over $1.9 billion in discretionary budget authority for USSS. This is $41 million (2.2%) more than was requested by the Administration, and $1 million (0.1%) less than was provided in FY2016. The House committee-reported funding level is $41 million (2.2%) more than was proposed in the Senate committee-reported bill.

Issues in USSS Appropriations[74]

Administration Priorities

The Secret Service section of the DHS Budget in Brief for FY2017 highlighted three particular programs: the costs of the 2016 Presidential Campaign (considered to extend through the 2017 Inauguration); upgrades for the USSS radio systems; and the Operational Mission Support Initiative (OMS), which is aimed at enhancing the protection of the President and Vice President from established and emerging threats.[75] The Senate report specifically notes support for the funding requests for campaign costs, and cites a recommendation for USSS radio system upgrades within $1 million of the requested level. However, it is unclear (in part due to the differing structures of the request and appropriation) exactly how much of the funding requested for OMS is included in the Senate's legislation.[76] The House report notes higher funding levels in many areas, and includes a variety of directions. As the costs of the 2016 campaign are

[73] Department of Homeland Security, *Budget in Brief: Fiscal Year 2017*, p. 54.

[74] Barbara L. Schwemle, Analyst in American National Government, Government and Finance Division, contributed to this section.

[75] Department of Homeland Security, *Budget in Brief: Fiscal Year 2017*, pp. 56-57.

[76] S.Rept. 114-264, pp. 88-93.

significantly less in FY2017 than in FY2016, these funding levels would appear to be adequate to meet the request, the House report does not specifically note a level of funding for those costs, nor for the radio system upgrades or OMS.[77]

Staffing Levels

The Senate Appropriations Committee report noted the accomplishments of the USSS in the past year, but expresses concerns about the funding level requested for the agency's personnel. According to the report, the request would underfund permanent change of station costs, and anticipates 1,250,000 hours of overtime in the coming fiscal year. It notes a surge in newly trained personnel coming on board in FY2016 and FY2017, and that difficulties remain in USSS's ability to recruit and hire personnel for highly technical roles. The House Appropriations Committee report indicates that the USSS "continues to be unable to hire and maintain personnel at funded levels," and therefore reduces overall personnel funding by nearly $14 million in anticipation of slower hiring.

The House Appropriations Committee report recommended almost $40 million in additional funding "in an attempt to stem attrition," including over $16 million to fund permanent change of station moves, and over $13 million "to support the temporary reemployment of retired agents and officers."[78]

S. 3001 and H.R. 5634, as reported, each included a general provision which temporarily increases the availability of overtime pay for U.S. Secret Service agents. H.R. 5634 would do so for calendar year 2016, while S. 3001 would do so for calendar years 2016 and 2020.[79]

Both House and Senate committee-reported bills provided new pay authority requested by the Administration for subsistence expenses to be paid to Secret Service personnel who, unable to return home at the end of their work shift because of severe weather or other natural or manmade events, must remain on extended duty at their designated posts of duty. The Senate committee report directed the Secret Service to provide a briefing on the use and cost of the authority within 180 days after the act's enactment date.

[77] H.Rept. 114-668, pp. 53-56.

[78] H.Rept. 114-668, p. 55.

[79] §544 and §558, respectively.

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