

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is a darker shade of blue. The hourglass is centered on the page.

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*Border and Transportation Security: Budget for FY2003 and
FY2004*

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Updated January 15, 2004

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Border and Transportation Security: Budget for FY2003 and FY2004

Updated January 15, 2004

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Border and Transportation Security: Budget for FY2003 and FY2004

Summary

A well-managed border is central to maintaining and improving the security of the homeland against terrorist threats. Although the Department of Defense (DOD) will continue to provide an umbrella of protection against potential foreign threats to national security from other nations, the new Department of Homeland Security (DHS) has been given primary responsibility for securing the nation's borders and for increasing the security of transportation, among other responsibilities.

On September 24, 2003, both the House and Senate passed H.R. 2555 the first ever appropriation for DHS. P.L. 108-90 was signed into law October 1, 2003, and provides \$17.8 billion for border and transportation security functions for FY2004. The Administration requested \$17.3 billion for these functions, while the House provided \$17.6 billion and the Senate \$18.1 billion.

The Omnibus Appropriations Resolution for FY2003 (P.L. 108-7) funded activities transferred to DHS to secure the borders and increase transportation security, but the Administration's request for FY2004 was the first attempt to submit an explicit, integrated estimate of the funds needed by DHS for those activities. The total amount provided for DHS for FY2003 was \$29.7 billion, of which 64% was for the operations of border and transportation security, as identified in this report.

Of the amounts appropriated for FY2003 and requested for FY2004 for these activities, Administration documents suggest that 27% of the funding for the accounts would be used for functions other than security. For instance, the U.S. Coast Guard has responsibilities for boat safety programs, including expenses for rescuing passengers of distressed watercraft. Customs administers trade laws, many of which are concerned with import and export operations unrelated to security issues.

Major issues in border and transportation security include determination of the optimum number of Air Marshals and airport screeners, port security measures, cargo security initiatives, implementation of the Visitor & Immigrant Status Indicator project (US VISIT) alien tracking system, border security efforts at the Northern border with Canada, extension of Transportation Security Administration (TSA) security efforts to other forms of transportation (trains, buses, trucks, and pipelines), and funding for the Coast Guard's Deepwater effort to replace its aging ships and planes. Of special concern to House and Senate Appropriations conferees were differences of \$50 million for the US VISIT program; the Coast Guard's Deepwater program (\$172 million); and the TSA (\$224 million), where both houses provide additional funding for the procurement and installation of explosive detection systems (EDS). P.L. 108-90 provides \$330 million for US VISIT; \$668 million for the Coast Guard's Deepwater program; and \$475 million for the installation of EDS. This report draws its data from the reports of the Committees on Appropriations (H.Rept. 108-169; S.Rept. 108-86); and the conference report H.Rept. 108-280. The report will be updated as further information on border and transportation security funding becomes available.

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Border and Transportation Security: Budget for FY2003 and FY2004

Introduction

Increasing border and transportation security are essential strategies for improving and maintaining homeland security. *Border security* entails regulating the flow of goods and people across the borders so that dangerous and unwanted goods or people are denied entry. *Transportation security* entails inspecting people and goods as they move among different locations within the country to reduce the possibility of terrorist attacks or the incursion of unwanted people or goods.

Determining which goods and people are permitted and which are denied entry into the U.S. involves a system of good *border management* so that the distinctions are recognized without interfering with essential commerce and the legitimate free flow of citizens and authorized visitors across the borders. The system must be capable of examining minute details of goods and people seeking entry, but still fit within budget constraints and be administratively feasible.

Improving transportation security has meant an expanded federal role in screening passengers and baggage traveling through airports, and increasing the presence of federal officers aboard domestic and international flights, with plans to extend that presence to other modes of transportation more intensively in the future. Finally, these management systems must accomplish their functions with a minimum of disruption of legitimate activities, and without unnecessary intrusion into the civil liberties of persons affected by them.

Major issues in border and transportation security include: determination of the optimum number of Air Marshals and airport screeners; port security implementation; airline cargo security measures; implementation of the Visitor & Immigrant Status Indicator project (US VISIT) alien tracking system, border security efforts at the Northern border with Canada, extension of Transportation Security Administration (TSA) border security efforts beyond airline security to other forms of transportation (trains, buses, trucks, and pipelines), and funding for the Coast Guard's Deepwater effort to replace its aging ships and planes.

Background

The Homeland Security Act of 2002 (P.L. 107-296) transferred the functions, relevant funding, and most of the personnel of 22 agencies and offices to the new Department of Homeland Security (DHS) created by the Act. The DHS was organized in four major directorates: Border and Transportation Security; Emergency

Preparedness and Response; Science and Technology; and Information Analysis and Infrastructure Protection.

The first Directorate, Border and Transportation Security, along with its close functional sibling, the U.S. Coast Guard, are responsible for the first line of defense against terrorism, as well as remaining responsible for securing and managing the nation's borders. Included in this responsibility are the inspection, investigative and enforcement operations of the former Immigration and Naturalization Service (INS), which had been responsible for managing and coordinating entry into the U.S., and enforcing immigration laws. DHS border and transportation security objectives also include fulfilling the newly expanded federal role of the TSA in protecting the nation's transportation systems, initially involving airline passengers, baggage, and freight.

The Customs function, previously the responsibility of the Department of the Treasury's U.S. Customs Service,¹ is now under the Directorate. The Customs function administered by DHS, together with the U.S. Coast Guard, are expected to effectively secure commercial traffic entering the nation's ports. The Directorate includes a planning office and a training activity to assist state and local entities with homeland security objectives. The Directorate also assumes responsibility for inspecting and monitoring plants and animals entering the U.S. to minimize the risk that noxious pests and diseases will be introduced into the country.

On January 24, 2003 the Department of Homeland Security began operations as a separate federal department. Web sites were launched, some employees given different locations to report for duty, DHS managers began to issue directives to employees, and preparations were made to begin the transfer of most functions, including personnel and funds, on March 1, 2003. At the same time, federal officials responsible for administering the new Department also had responsibility for homeland security issues that could not await the full operations of an established bureaucracy. Not only was there suspected evidence of terrorist plans against the U.S. being developed around the world, but the U.S. was also preparing to use military force to remove the existing rogue regime in the nation of Iraq, an effort that some believed could lead to increased terrorist threats to the U.S. homeland.

Operation Liberty Shield. As the country anticipated the impending conflict with Iraq, considerable attention inside and out of the Administration focused on the possible increased terrorist threat that could be present as a result of the military campaign. In response to the perceived increased threat, on March 17, 2003, the Administration announced Operation Liberty Shield² as a "comprehensive national

¹ The U.S. Customs Service, among the first of federal functions at the origins of the Republic, apparently remains in existence, but in name only. Official DHS documents sometimes refer to operations pertaining to the Customs function and link them to the bureaus of the Directorate. Some documents refer to the U.S. Customs Service, but without reference to its location or operations. Some documents refer to DHS "inspectors," without distinguishing among their INS, Customs, or Animal and Plant Health responsibilities.

² For more detail on Operation Liberty Shield, see CRS Report RS21475, *Operation Liberty* (continued...)

plan to increase protections for America's citizens and infrastructure while maintaining the free flow of goods and people across our border with minimal disruption to our economy and way of life." Although some of its enhanced security steps will continue indefinitely, Operation Liberty Shield terminated on April 17, as the threat appeared to diminish as hostilities in Iraq wound down.

In spite of its short duration as a plan of heightened security, Operation Liberty Shield served as an example of the activities that could accompany any such alert. Furthermore, the program served as an explanation of funds requested for DHS in a bill requesting supplemental appropriations for Operation Iraqi Freedom. Some of the requested funds could be expected to accomplish purposes that would remain in place after Operation Liberty Shield was ended, including those directed to border and transportation security.

Border Security. Land border security was increased by adding agents to the Northern and Southern Border regions, including additional numbers between major ports of entry. Maritime security was increased by adding patrols of major ports and waterways, more escorts of passenger ships, and more Sea Marshals on board "high interest vessels" with cargoes, crewmembers, or other characteristics that warrant closer scrutiny. In addition, the Coast Guard enforced published "security zones" in close proximity to critical infrastructure sites in key ports.

Transportation Security. Operation Liberty Shield implemented additional airport security measures, increasing the presence of law enforcement officers on patrol in and around airports. New flight restrictions were established for the airspace over Washington, D.C., and New York City. DHS requested states to provide additional police or National Guard forces at specified bridges. Railroads (including AMTRAK) were asked to increase security at facilities and rail hubs, and to improve the monitoring of hazardous materials (HAZMAT) and the trains carrying such materials. Shipping companies, as well as trucking companies, were encouraged to improve employee identification checks, communications systems, improved operator awareness, and coordination between the U.S. and Canada on cross-border shipments of HAZMAT.

Budget for Homeland Security

The effective date for shifting most of the responsibilities from former departments and agencies to the new DHS was March 1, 2003. While the transfer of functional lines of authority, and the personnel to carry out those functions was relatively straightforward, problems arose with initial attempts to ascertain the amount of the appropriated funds actually transferred.

Because functions now performed by DHS were previously performed by predecessor agencies with somewhat different purposes than homeland security, comparisons of responsibilities and analyses of requests for increased budget authority were difficult to develop. The funding lines between FY2003 and FY2004

² (...continued)

Shield: Border, Transportation, and Domestic Security, updated by Jennifer Lake.

were not identical to lines of functional responsibility before and after transfer, a problem made more difficult because the basic documentation of appropriations in the President's FY2004 Budget was prepared after the formation of DHS but before final enactment of appropriations for the remainder of FY2003.

Furthermore, the FY2003 appropriations bill was developed using the pre-DHS configuration of appropriations accounts and functions, while the President's request for FY2004 used DHS and its administrative layout as the basis for the requests in the similar functional lines. The Administration's request for additional supplemental funds for Operation Liberty Shield also used the new configuration. Given the different accounting purposes for appropriations lines before and after the formation of DHS, amounts for the various functions of the new agency are not always directly aligned with previous accounts from which those functions were funded in their former agencies. With the completion of appropriations for FY2004, a baseline will be established, making future appropriations decisions more easily compared to the previous year's levels. But at the moment, we have no comparable numbers for FY2002, which would be the base for showing the large increase in funding which has occurred in nearly all these programs for both 2003 and 2004.

Table 1 shows appropriations for various aspects of border and transportation security for FY2003, requested amounts for FY2004, amounts approved by each chamber and the Conference Committee as they completed work on H.R. 2555, *Appropriations for the Department of Homeland Security for FY2004*. The distinction between border and transportation security functions and other functions funded through the same account lines is somewhat arbitrary. In this sense, our analysis uses something akin to a functional classification for "border and transportation security." Consequently, it does *not* include activities in the Directorate for Border and Transportation Security that have no direct bearing on that function (such as the Office for Domestic Preparedness (ODP), Federal Building Protection, and the Secret Service.)

On the other hand, this functional grouping *does* include the activities of the Coast Guard, a separate agency in DHS not part of the Directorate for Border and Transportation Security, but which has an essential role in providing "border and transportation security" as those words are commonly understood.

As noted earlier, definitions are arbitrary, and some functions contained in other accounts that are related to border and transportation security, such as those aspects of the Science and Technology account which improve that security, are excluded from this table. This table shows an approximation of costs for border and transportation security, based on identifying the accounts for which such security functions are the primary function involved, and do not reflect DHS breakdowns as to estimated amounts specifically associated with the Directorate for Border and Transportation Security.

Table 1. Summary of Appropriations: Border and Transportation Security, FY2003-FY2004
(\$ in millions)

Functional authority	FY2003 enacted	FY2004 request	FY2004 House	FY2004 Senate	FY2004 Conf.
Bureau of Customs and Border Protection (BCBP)	5,237	5,647	5,081	4,900	4,928
Bureau of Immigration & Customs Enforcement (BICE)	2,444	2,487	2,997	2,888	3,425 ^a
Transportation Security Administration (TSA)	5,414	2,742	3,082	3,326	2,522 ^a
Visitor & Immigrant Status Indicator Project (US VISIT) ^b	—	—	—	380	330
U.S. Coast Guard:	6,254	6,655	6,681	6,815	6,776
Federal Law Enforcement Training Center (FLETC)	170	146	169	201	193
Federal Protective Services (FPS)	(408)	(424)	(424)	(424)	(424)
Total: Border and Transportation Security	19,111	17,253	17,586	18,086	17,750

Source: CRS Analysis of H.Rept. 108-169; S. Rept.108-86; Conference Report H.Rept. 108-280.

Note: FY2004 conference amounts do not reflect the effects of the 0.59% across-the-board reduction in most discretionary accounts, as called for in the conference version of H.R. 2763, passed by the House on December 8, 2003.

^a The differences between the House and Senate recommendations for BICE and TSA, and the amounts recommended by the Conference Report reflect the transfer of the Federal Air Marshals from TSA to BICE.

^b The Administration's request of \$480 million for US Visit was made under BCBP; the House lists \$350 million in the Automation Modernization Account of BICE; the Senate created a separate account for US VISIT, and recommended \$380 million; the Conference Report follows the Senate report and places US VISIT in a separate account directly under the Undersecretary for Border and Transportation Security.

Table 2 illustrates how we arrived at the functional presentation contained in **Table 1**. It also reflects the differing organization of both the Senate and House recommendations; reconciles the different approaches and provides functional totals which are comparable.

The conferees placed most border and transportation security functions into Title II *Security, Enforcement, and Investigations*. Title II of the conference report (H.Rept. 180-280) includes: the Under Secretary for DBTS, BCBP, BICE, TSA, Coast Guard, and the Secret Service. Title II of the conference report does not include FLETC, which is included in Title IV *Research and Development, Training, Assessments, and Services*. The House offered its Border and Transportation Security recommendations in Title II of H.Rept. 108-169. Title II includes: BCBP,

BICE, TSA, FLETC, and ODP. Title II of the House report does not include the Coast Guard. In contrast, the Senate displayed its Border and Transportation Security recommendations in Title III of S.Rept. 108-86. Title III includes: BCBP, BICE, TSA, and the Coast Guard. Title III of the Senate report did not include FLETC. **Table 2** presents the information from the House, Senate, and conference reports in a format that meets our functional approach and allows for comparison.

FY2004 Appropriations P.L. 108-90. On September 24, 2003 both the House and Senate passed H.R. 2555, appropriations for FY2004 for the Department of Homeland Security (DHS). P.L. 108-90 was signed into law October 1, 2003, and provides \$17.8 billion for the functions identified in this report as having a primary function of providing for border and transportation security. On June 24, 2003, the House passed its version of H.R. 2555 providing \$17.6 billion; and on July 25, 2003, the Senate approved its version of the bill providing \$18.1 billion for these same functions.

FY2004 Request. The Administration requested \$17.3 billion for the operations of border and transportation security as identified in this report.

FY2003 Appropriations. For FY2003, Congress provided \$29.7 billion for DHS activities, including \$3.6 billion in supplemental appropriations, much of which was used to fund the increased security measures entailed by Operation Liberty Shield. Of the total provided to DHS, 64% funded accounts this report identifies as primarily concerned with border and transportation security.

**Table 2. Crosswalk to Border and Transportation Security
Functional Presentation**

(\$ in millions)

	FY2003 enacted	FY2004 request	FY2004 House	FY2004 Senate	FY2004 Conf.
Bureau of Customs and Border Protection (BCBP)	6,054	6,468	5,902	5,745	5,773
BCBP Fee Accounts	(817)	(821)	(821)	(845)	(845)
BCBP Appropriation	5,237	5,647	5,081	4,900	4,928
Bureau of Immigration and Customs Enforcement (BICE)	2,799	2,784	3,294	3,161	3,698
BICE Fee Accounts	(355)	(297)	(297)	(273)	(273)
BICE Appropriation	2,444	2,487	2,997	2,888^a	3,425^a
Transportation Security Administration	5,414^g	2,742	3,082	3,326^a	2,522^a
Federal Law Enforcement Training Center	170	146	169	^b	^b
Office for Domestic Preparedness	3,236	3,558	3,503	^c	^c
U.S. Coast Guard	6,254	6,655	^d	6,815	6,776
Under Secretary of Border and Transportation Security	—	—	—	9^e	8^e
U.S. VISIT^f	—	—	—	380	330
Subtotal Border and Transportation Security	22,755	21,258	14,852	18,318	17,989
Subtract Federal Building Protection	(408)	(424)	(424)	(424)	(424)
Subtract Office for Domestic Preparedness	(3,236)	(3,558)	(3,503)	—	—
Subtract Under Secretary Border and Transportation Security	—	—	—	(9)	(8)
Add Federal Law Enforcement Training Center	—	—	—	201	193
Add U.S. Coast Guard	—	—	6,681	—	—
Functional Total: Border and Transportation Security	19,111	17,253	17,586	18,086	17,750

Source: CRS Analysis of H.Rept. 108-169; S. Rept.108-86; conference report H.Rept. 108-280.

Note: FY2004 conference amounts do not reflect the effects of the 0.59% across-the-board reduction in most discretionary accounts, as called for in the conference version of H.R. 2763, passed by the House on December 8, 2003.

^a The differences between the House and Senate recommendations for BICE and TSA, and the amounts recommended by the Conference Report reflect the transfer of the Federal Air Marshals from TSA to BICE.

^b The Senate did not include FLETC in Title III, the conference report includes FLETC in Title IV.

^c The Senate did not include ODP in Title III, the conference report includes ODP in Title III.

^d The House did not include Coast Guard in Title II, Border and Transportation Security.

^e The Senate includes the Under Secretary of Border and Transportation Security in Title III.

^f The Administration's request of \$480 million for US VISIT was made under BCBP; the House lists \$350 million in the Automation Modernization Account of BICE; the Senate recommended \$380 million; the conference provided \$330 million; both the Senate and conference created a new account directly under the Under Secretary for DBTS.

^g Includes \$2.4 billion in grants to air carriers provided by P.L. 108-11.

Operational Components of Border and Transportation Security

While most observers indicate the need for additional funding in the area of border and transportation security, the issue for Congress is to determine the appropriate levels of such funding, in the context of the current budget situation and competing claims for resources. The following sections of the report provide detail concerning the operational components of border and transportation security. These details include selected appropriation detail; issues of potential interest to the conferees; and a discussion of some of the challenges facing the different components of border and transportation security.

Securing the nation's borders and transportation systems includes the regulation of imports and exports; enforcement of laws pertaining to immigration and visitation; border-related inspection of agriculture and livestock; oversight of the security of ports; federal inspection of airline passengers and baggage; and comprehensive approaches to improving overall transportation security. In addition to these explicit activities associated with securing the borders are a set of disparate activities in support of broader goals which have been collected under the title "border security." These ancillary activities include protection of federal buildings, training for law enforcement personnel, and development of strategic plans and support assistance for state and local first responders. This report excludes these ancillary activities from both the numbers and discussion of border and transportation security that follows.³

Some observers might question the exclusion of the Bureau of Citizenship and Immigration Services (BCIS) from the discussion of border and transportation security. There is no question that homeland security is enhanced by the well managed administration of routine immigration services. However, such services would remain even in absence of any threats to the homeland. Immigration activities would continue in any event, and including the cost of these activities would distort the true summary costs of border and transportation security.⁴

³ For additional information on the Office for Domestic Preparedness (ODP), Secret Service and the Federal Building Protection Service, see CRS Report RL31549, *Department of Homeland Security: Consolidation of Border and Transportation Security Agencies*, by Jennifer Lake. Additional information on ODP can be found in CRS Reports RL31490, *Department of Homeland Security: State and Local Preparedness Issues*; and CRS Report RL31475, *First Responder Initiative: Policy Issues and Options*, both by Ben Canada.

⁴ For more information on FY2004 funding for Immigration Activities please see CRS Report RS21504 *Immigration-Related Funding in the President's FY2004 Budget Request*, by Karma Ester.

Table 3 provides more detail on appropriations for border and transportation security functions, for FY2003, as requested for FY2004, and House and Senate versions of H.R. 2555, and the final appropriated amounts signed into law.

Directorate of Border and Transportation Security. The DBTS is organized into two bureaus that reflect a distinction between direct border inspection and interior enforcement requirements and those that are more contingent, that is they entail more investigation and evaluation in advance of enforcement activities.

Bureau of Customs and Border Protection (BCBP). Although border security could be thought of as beginning with the procedures by which visas are issued at consular posts around the world, border security functional responsibilities are at their most vivid at the point at which goods or people are expected to cross borders. The BCBP has responsibility for security at and between ports-of-entry along the border. These responsibilities include inspecting people and goods to determine that they are authorized entry, and maintaining border crossing stations to process persons seeking entry to the U.S. The inspection and border-related functions of the Customs Service; the border security functions of the former INS, including the Border Patrol; and the inspection functions of the Agricultural Quarantine Inspection (AQI) program are consolidated under the BCBP.

The Customs Function. In the past, the U.S. Customs Service processed goods being imported into the U.S., and collected duties and tariffs. Upon passage of the Homeland Security Act of 2002 (P.L. 107-296), the functions of the Customs Service were transferred to Border and Transportation Security at DHS. The customs function is the first line of defense against illegal drugs, contraband, and other illicit goods entering the country, and administers export laws, including laws pertaining to illegal currency transfers, exportation of sensitive and controlled commodities, and other trans-border crimes, including those committed through use of the Internet.

Even before the events of September 11, 2001, the Customs Service was aware of the difficulties inherent in performing its dual missions of enforcing laws to protect U.S. borders against the illegal entry of goods and of regulating legitimate commercial traffic. In FY2001, Customs officers processed 142 million conveyances, 472 million land, sea, and air passengers, and over 23 million import entries with a value of over \$1 trillion, while collecting \$23.8 billion in revenues.⁵

⁵ U.S. General Accounting Office, *Major Management Challenges and Program Risks: Department of Treasury*, (Washington, D.C., Jan. 2003) GAO-03-109, p. 21.

Table 3. Selected Detail for Appropriations: Border and Transportation Security, FY2003-2004
(\$ in millions)

Operational component	FY2003 enacted	FY2004 request	FY2004 House	FY2004 Senate	FY2004 Conf.
Customs and Border Protection	5,237	5,647	5,081	4,900	4,928
Automation modernization	433	—	494	441	441
Fee accounts	(817)	(821)	(821)	(845)	(845)
Visitor & Immigrant Status Indicator project (US VISIT)	—	—	—	380	330
Immigration and Customs Enforcement	2,444	2,487	2,997	2,888	3,425
Salaries and expenses	1,855	2,063	2,030	2,180	2,151
Rescission from salaries and expenses	—	—	—	—	(54)
Federal Protective Services	408	424	424	424	424
Automation & infrastructure modernization	—	—	368	—	40
Construction	—	—	—	27	27
Air and marine interdiction	181	—	175	257	210
Federal Air Marshals	—	—	—	—	626
Fee accounts	(355)	(297)	(297)	(273)	(273)
Transportation Security Administration	5,414	2,742	3,082	3,326	2,522
Aviation security (total funding)	4,486	3,597	3,679	4,524	3733
Administration	—	—	—	—	427
Grants to airlines (one-time appropriation)	2,396	—	—	—	—
Offsetting collections (estimated)	(2,650)	(2,070)	(2,070)	(2,070)	(2,070)
Reimburse. from DOT, FAA, fac. & equip.	-143	—	—	—	—
Federal Air Marshals	—	620	635	—	—
Maritime and land security	263	86	232	295	263
Intelligence	—	14	14	14	14
Research and development	109	75	126	130	155
U.S. Coast Guard	6,254	6,655	6,681	6,815	6,776
Operating expenses	4,503	4,838	4,704	4,719	4,642
Rescission	—	—	—	(71)	(71)
Environmental compliance & restoration	17	—	17	17	17
Reserve training	86	—	94	95	95
Acquisition, construction, & improvements	720	797	805	1,035	967
Alteration of bridges	17	—	20	—	19
Research, development, tests, & evaluation	22	—	22	—	15
Retired pay (mandatory, entitlement)	889	1,020	1,020	1,020	1,020
Administration	307	421	487	433	—
Federal Law Enforcement Training Center	170	146	169	201	193
Federal Protective Services	(408)	(424)	(424)	(424)	(424)
Total: DHS funding for border and transportation security functions	19,111	17,253	17,586	18,086	17,750

Source: CRS Analysis of H.Rept. 108-169; S.Rept. 108-86; Conference Rpt. H.Rept. 108-280.

Note: FY2004 conference amounts do not reflect the effects of the 0.59% across-the-board reduction in most discretionary accounts, as called for in the conference version of H.R. 2763, passed by the House on December 8, 2003.

FY2004 BCBP Appropriation. P.L. 108-90 provides a total appropriation of \$4.9 billion for BCBP. The appropriation is allocated into three accounts: Salaries and Expenses; Automation Modernization; and Construction. P.L. 108-90 provides \$4.4 billion to the Salaries and Expenses Account, of which:

- \$100.8 million is to remain available until September 30, 2005 for inspection technology;
- \$1 million is to be used for compensation for informants;
- \$12.7 million is to be used to enforce laws against forced child labor;
- \$4.75 million for textile transshipment enforcement;
- \$41 million for an additional 570 Border Patrol Agents;

The conference report further allocates specific amounts in the Salaries and Expenses account; some of these are highlighted in **Table 4**.

P.L. 108-90 provides \$441.1 million for the Automation Modernization Account, of which \$318.6 million are to be used for the development of the Automated Commercial Environment (ACE) (discussed below), subject to the Appropriations Committees approval of an expenditure plan prepared by the Under Secretary for Border and Transportation Security. P.L. 108-90 also provides \$90.3 million in the Construction Account. **Table 4** provides the details on the accounts.

Table 4. BCBP Account Detail
(\$ millions)

BCBP Account	FY2004 request	FY2004 House	FY2004 Senate	FY2004 Conf.
Salaries and Expenses	5,644	4,585	4,366	4,393
Harbor Maintenance Fee	3	3	3	3
Automation Modernization	—	494	441	441
Construction	—	—	90	90
Total Direct Appropriations	5,647	5,081	4,900	4,927

Source: CRS Analysis of H.Rept. 108-169; S. Rept.108-86; Conference Rept. H.Rept. 108-280.

Note: FY2004 conference amounts do not reflect the effects of the 0.59% across-the-board reduction in most discretionary accounts, as called for in the conference version of H.R. 2763, passed by the House on December 8, 2003.

Table 5 provides detail on selected programs and activities of BCBP. The conferees fully funded the Administration’s request (after adjusting for some realignment of funding), and also added \$17.9 million to fully fund 2003 pay adjustments; \$4.8 million to fund textile transshipment enforcement; and \$10 million for additional non-intrusive inspection technology. The Senate fully funded the

Administration's request for critical equipment and inspection technologies, while the House provided an additional \$10 million in addition to the base request of \$119 million.

Table 5. Selected Detail on Accounts, Programs, and Activities of BCBP

(\$ millions)

Select programs and activities	FY2004 request	FY2004 House	FY2004 Senate	FY2004 Conf.
Inspection Technologies:				
<i>Treasury Enforcement Communications System Wireless PDA's</i>	14.5	14.5	15.5	14.5
<i>Radiation Detection System (RDS)/Vehicle And Cargo Inspection System (VACIS)/Isotope Identifiers</i>	57.8	67.8	63.8	63.8
<i>Fiber Optic Scopes</i>	6.8	6.8	6.8	6.8
<i>License Plate Readers</i>	6	6	6	6
<i>Customs Automated Operations System (CAOS)</i>	9.7	9.7	9.7	9.7
<i>Chemical/Detector Dogs</i>	17.5	17.5	17.5	17.5
<i>Other, Including Inspector Staff</i>	6.7	6.7	—	6.7
Total Inspection Technologies	119	129	119	125
Customs -Trade Partnership Against Terrorism (C-TPAT)	18.0	18.0	15.3	14.1
Container Security Initiative (CSI)	61.7	61.7	61.7	61.7
Automation Modernization	—	493.7	441.1	441

Source: CRS Analysis of H.Rept. 108-169; S. Rept.108-86; Conference Rpt. H.Rept. 108-280.

Note: FY2004 conference amounts do not reflect the effects of the 0.59% across-the-board reduction in most discretionary accounts, as called for in the conference version of H.R. 2763, passed by the House on December 8, 2003.

Both the Container Security Initiative (CSI) and the Customs-Trade Partnership Against Terrorism (C-TPAT) are programs initiated by Customs as a part of the effort to 'push the borders outward' from the physical land border of the United States. P.L. 108-90 provides \$14.1 million for C-TPAT, and \$61.7 million for CSI. For a full discussion of recent initiatives to address cargo container and seaport security, including the Container Security Initiative (CSI) and the Customs-Trade Partnership Against Terrorism (C-TPAT) see CRS Report RL31733, Port and Maritime Security: Background and Issues for Congress.

BCBP, and the U.S. Customs Service before it, has been engaged in a long-term effort to modernize its commercial processing systems. These efforts are discussed in more detail in the next section below. The House has created a separate account for Automation Modernization with \$493 million recommended; while the Senate has included their recommended appropriation of \$441 million in the salaries and

expenses account. The House Automation Modernization account fully funds the Administration's request, and realigns funding requested under the salaries and expenses account. P.L. 108-90 reflects the House realignment, and funds the Automation Modernization Account at \$441 million. The House request includes \$30.2 million for the homeland security information technology transformation and transition reserve, which is not funded by the Senate, as the committee notes that significant technology infrastructure updates are funded through the US VISIT project; P.L. 108-90 does not include funding for this reserve.

Challenges Facing the Administration of the Customs Function. A recent General Accounting Office (GAO) report projects that trade volume will more than double from \$1 trillion in 1999 to more than \$2 trillion in 2006.⁶ In addition, Title VI of the North American Free Trade Agreement Implementation Act (P.L. 103-182) shifted a portion of the responsibility for declaring the value, classifications, and rate of duty on imports to importers. This system, known as "informed compliance" was designed to expedite the processing of imports. Another GAO report found that the customs function will entail a variety of challenges in carrying out its missions, including improving differing international mail and package inspection processes; ensuring that various illegal items, including weapons of mass destruction, do not enter the country in cargo containers at seaports; and acquiring a new import processing system.⁷

Shipping containers are a component of commerce that is potentially vulnerable to terrorist interference. Moreover, two recent CRS Reports highlighted the serious threats faced at seaports around the nation, including the possibility of the use of weapons of mass destruction.⁸ Changes to international commerce to improve the security of containers reflect the need to balance security objectives with expeditious handling of containers to speed the flow of legitimate trade that fuels the world economy. Eventually, international trade will be based on an automated import-export system that will expedite secure containers while requiring only one filing of the appropriate documentation, potentially reducing the opportunities for tampering with containers between origin and destination.

DHS is now responsible for the administration of the customs function, and is continuing with an effort to acquire a new trade processing system known as the Automated Commercial Environment (ACE). ACE is a strategy for developing commercial automation protocols and procedures so that expeditious tracking and effective screening and monitoring can improve over time. This program is expected to cost approximately \$1.7 billion to replace the current Automated Commercial System (ACS) that GAO testimony characterized as "paper-intensive, error-prone, and transaction based, and out of step with just-in-time inventory practices of the

⁶ Ibid., p. 23.

⁷ Ibid., p. 23.

⁸ See, CRS Report RS21293, *Terrorist Nuclear Attacks on Seaports*, by John Medalia; and CRS Report RL31733, *Port and Maritime Security*, by John F. Frittelli.

trade community.”⁹ A recent GAO report found that the Customs Service was improving its operations as it moved toward an ACE alignment. However, GAO cautions that many challenging tasks remain before the customs function will have implemented full ACE capability.¹⁰ Improvements in the technology of detection are being added to the trade process as they are developed. The International Trade Data System (ITDS) is an interconnected database of all government agencies involved in the trade process, and allows users to submit data to one agency database, and have that data available to other agencies. ACE is the application of ITDS capability. Container commerce is being streamlined to take advantage of more sophisticated electronic capabilities, with the expectation that further changes will occur as new technologies emerge.

In 1999, when the U.S. Customs Service was still at Treasury, GAO had recommended that the Service initiate an evaluation of the effectiveness of the informed compliance strategy, including its impact on compliance with trade laws. The Customs’ Trade Compliance Strategy Study was completed on May 24, 2001. According to GAO, the study concluded that while the informed compliance strategy had proceeded logically, and its initiatives do improve compliance, the overall impact on compliance rates remains small. GAO stressed that part of the challenge facing the agency responsible for administering the customs functions is to not lose sight of the trade compliance program in the midst of a continued focus on terrorism.¹¹

The Border Patrol Function.¹² Traditionally, the U.S. Border Patrol enforced immigration and customs law at or along the borders. P.L. 107-296 transferred the function to DHS. Border Patrol agents often apprehend drug smugglers and others engaged in criminal activities. The Border Patrol improves the security of the border by diminishing illegal immigration between ports-of-entry, and participates in ensuring that all goods and persons entering and exiting the country do so legally.

Challenges Facing the Border Patrol. Recent GAO analyses continued to express concern over the inability of the former INS (hereafter referred to simply as INS) to fully implement a border control strategy.¹³ In August 2001, GAO reported that INS was in the seventh year, and in the second of four phases of implementing

⁹ U.S. General Accounting Service, *U.S. Customs Service: Observations on Selected Operations and Program Issues*, T-GGD/AIMD-00-150 (Washington, Apr. 20, 2000), p. 6.

¹⁰ U.S. General Accounting Office, *Major Management Challenges and Program Risks: Department of the Treasury*, (Washington, D.C., Jan. 2003) GAO-03-109, pp. 25-26.

¹¹ *Ibid.*, p. 24.

¹² This section prepared with the assistance of Lisa Seghetti. For more information see CRS Report RL31727, *Border Security: Immigration Issues in the 108th Congress*, by Lisa M. Seghetti.

¹³ U.S. General Accounting Office, *INS’ Southwest Border Strategy: Resource and Impact Issues Remain After Seven Years*, (Washington: Aug. 2, 2001) GAO-01-842.; and *Management Challenges and Program Risks: Department of Justice*, (Washington: Jan. 2003) GAO-03-105.

a border control strategy. This strategy was based on allocating resources first to areas with the highest levels of illegal activity.

INS officials testified in 2001 that 334 border patrol agents and 498 inspectors were assigned to the northern border, while over 9,500 border patrol agents and inspectors were assigned to the smaller southwest border.¹⁴ A 2002 Department of Justice (DOJ), Office of the Inspector General (OIG) report stated that a lack of sufficient resources and staffing were creating significant enforcement challenges for the border patrol along the northern border.¹⁵ The DOJ OIG report indicated that INS had developed a northern border strategy, but that its implementation had been delayed because of changes in INS administration and the events of September 11, 2001.

Moreover, according to GAO, INS' preliminary estimate stated that it could take an additional 5 years and a total of between 11,700 and 14,000 Border Patrol agents, plus numerous other increases in support personnel and funding for technology and infrastructure improvements to gain control of the *southwest border*. GAO reported that the number of Border Patrol agents on the southwest border increased from 3,389 in FY1993 to 9,188 in FY2002; and the number of apprehensions increased from 1.21 million in FY1993 to 1.64 million in FY2000. However, the number of apprehensions declined to 0.93 million in FY2002.¹⁶

Staffing is a primary concern at both the northern and southern borders. P.L. 108-90 provides a total of \$1.9 million for Border Patrol operations. P.L. 108-90 also includes \$6.7 million for additional staffing to support new inspection technology and implement wireless personal data assistant database access; \$41 million for an additional 570 Border Patrol agents; and \$9 million for additional inspectors. In an effort to better understand the staffing needs of BCBP, the conference report to P.L. 108-90 directs CBP to submit a detailed staffing plan to the Committees on Appropriations no later than December 1, 2003.

Both the House and Senate Committee reports expressed concern over the state of the Northern Border. The Senate directs the Under Secretary of Border and Transportation Security to provide a comprehensive report to the committee describing the specific measures DHS has taken since September 11, 2001, to increase security at the northern border, what Congressionally authorized improvements have yet to be carried out, and which aspects of northern border security require additional resources and focus.

Agriculture Quarantine Inspection (AQI). The AQI program, formerly part of the Department of Agriculture's Animal and Plant Health Inspection Service (APHIS), is the first point of inspection for USDA- and FDA-regulated food imports,

¹⁴ Senate Hearing, *Northern Border Security*, 107th Cong., 1st Sess., Oct. 3, Dec. 5, 2001.

¹⁵ U.S. Department of Justice, Office of the Inspector General (OIG), *Follow-Up Report on the Border Patrol's Efforts to Improve Northern Border Security*. OIG report I-2002-004.

¹⁶ U.S. General Accounting Office, *Management Challenges and Program Risks: Department of Justice*, (Washington: Jan. 2003), GAO-03-105, p. 14.

and is charged with determining the safety of agricultural products and livestock entering the U.S. The mission of the AQI program is to “maintain the risk of introduction of invasive species into the United States at acceptable levels to protect American agricultural products, and to facilitate the movement of people and commodities across the borders.”

Section 421 of P.L. 107-296 (the Homeland Security Act of 2002) authorized the transfer of no more than 3,200 APHIS border inspection personnel to DHS out of a staff of nearly 8,000. Although the AQI program has a federal appropriation, it is primarily supported by user-fees collected from international air passengers and aircraft, as well as commercial aircraft, vessels, trucks and railcars. Those user fees support more than the border inspection functions transferred to DHS and will continue to be collected by USDA to carry out those other activities. USDA will transfer funds from the user fee account to cover DHS-related costs.

P.L. 108-90 provides a total of \$42 million to fund AQI. Both the House and Senate reports recommended fully funding the Administration’s request for an AQI increase of \$2.7 million for additional agricultural canine teams, and \$2.8 million for inspectors and x-ray machines for use in detecting the presence of agricultural pests and diseases.

Bureau of Immigration and Customs Enforcement (BICE).¹⁷ BICE focuses on enforcement of immigration and customs laws within the U.S., as well as investigations into such activities as fraud, forced labor, trade agreement noncompliance, smuggling and illegal transshipment of people and goods, and vehicle and cargo theft. The Bureau will develop a nationwide anti-smuggling program, and will enforce laws against money laundering, child pornography, and trafficking in people. In addition, this bureau oversees the building security activities of the Federal Protective Service, formerly of the General Services Administration.

The Bureau combined the investigations and intelligence functions of the U.S. Customs Service and the former INS, the air and marine interdiction functions of those agencies, and the immigration detention and removal programs (including the operations of the Federal Protective Service). The BICE conducts investigations to develop intelligence to reduce illegal entry into the U.S., and is responsible for locating and removing illegal aliens by inspecting places of employment for undocumented workers. BICE is responsible for identifying and finding persons who have overstayed their visas, and the Bureau also develops intelligence to combat terrorist financing and money laundering, and to enforce export laws against smuggling and fraud. **Table 6** provides account-level detail for BICE.

¹⁷ This section was prepared with the assistance of Lisa Seghetti.

Table 6. BICE Account Detail
(\$ millions)

BICE Account	FY2004 request	FY2004 House	FY2004 Senate	FY2004 Conf.
Salaries and Expenses	2,063	2,030	2,180	2,151
Rescission ^a	—	—	—	(54)
Federal Protective Service	424	424	424	424
Federal Air Marshals ^b	—	—	—	626
Automation Modernization	—	368 ^c	—	40
Air and Marine Interdiction	—	175	257	210
Construction	—	—	27	27
Total Direct Appropriations	2,487	2,997	2,888	3,425
Total not Including FPS	2,063	2,573	2,464	3,001

Source: CRS Analysis of H.Rept. 108-169, and S.Rept. 108-86; Conference Rpt. H.Rept. 108-280.

Note: FY2004 conference amounts do not reflect the effects of the 0.59% across-the-board reduction in most discretionary accounts, as called for in the conference version of H.R. 2763, passed by the House on December 8, 2003.

- (a) The rescission is of funds originally provided by P.L. 108-11, for activities related to Operation Liberty Shield, but which are no longer needed for such purposes.
- (b) The conference report and P.L. 108-90 reflect the Administration's moving the FAM from TSA to ICE. The Administration had requested \$600 million for FAM; the House had recommended \$635 million and the Senate \$610 million.
- (c) The House recommendation included \$350 million for US VISIT.

FY2004 BICE Appropriation. P.L. 108-90 provides \$3.4 billion for BICE (including the rescission), or \$3 billion not including \$424 million appropriated for FPS. The BICE appropriation is broken out into the following accounts: Salaries and Expenses, Federal Air Marshals, Federal Protective Service, Automation Modernization, Air and Marine Interdiction, and Construction.

The Salaries and Expenses account includes the following distributed amounts:

- \$1.09 billion for detention and removals;
- \$4.75 million for textile transshipment enforcement;
- \$3.0 million to enforce laws relating to forced or indentured child labor;
- \$6.7 million for additional investigators, particularly for compliance monitoring;
- \$5.4 million for personnel costs associated with establishing a Northern Border Airwing; and
- \$6.4 million for the Intellectual Property Rights Center.

The BICE Salaries and expenses account also includes a \$54 million rescission of funds originally made available by P.L. 108-11 for activities related to Operation Liberty Shield.

P.L. 108-90 provides \$40 million in the BICE Automation Modernization account, to fund major technology improvements for ICE including Atlas/Chimera data modernization and connectivity. Atlas/Chimera is a series of seven information technology (IT) infrastructure projects designed to improve the interoperability and connectivity of DHS IT systems.

The Federal Air Marshals (FAM) were transferred to BICE September and as a result, P.L. 108-90 funds FAM as a separate account within BICE. P.L. 108-90 provides \$626 million for FAM.

P.L. 108-90 provides \$210 million for the Air and Marine Interdiction account, including \$35 million for the establishment of a Northern Border Airwing, of which \$12.8 million is to available for the procurement of aircraft.

Immigration Enforcement Programs. Immigration enforcement activities include: detention and removal; investigations; and immigration intelligence activities. Through these activities, the former INS and now BICE: reduce immigration benefit fraud and the employment of illegal aliens; identify and remove criminal aliens; and combat the smuggling of aliens into the U.S.

Immigration Benefit Fraud. While INS officials noted the “pervasive and serious” nature of immigration benefit fraud, according to GAO evaluations, INS was not positioned to adequately deal with it. According to GAO, immigration benefit fraud had a comparatively low priority within INS, and thus it suffered from a lack of resources. For example, in 2000 INS had 40 positions dedicated to fraud and detection, while the four service centers received millions of applications for immigration benefits.¹⁸

Previous GAO reports had concluded that INS also lacked a comprehensive plan to coordinate benefit fraud investigations, guidance to ensure the prioritization of cases, an agency-wide case tracking and management capability to maintain data on investigations, and that adjudicating staff did not have access to appropriate data.¹⁹ In response to these GAO concerns, INS developed a strategic plan for combating immigration fraud, mandated that all investigative components use the agency-wide Criminal Investigative Reporting System to track and manage all criminal investigations, and required that all applications be checked against a federal law enforcement database.²⁰

Reducing Employment of Illegal Aliens. GAO has reported that under the former INS, resources allocated to work site enforcement were limited, and that as a result employers who hired unauthorized workers were unlikely to be investigated. The Census Bureau reported an estimated 8 million illegal aliens resided in the

¹⁸ Ibid.

¹⁹ U.S. General Accounting Office, *Immigration Benefit Fraud: Focused Approach is Needed to Address Problems*, (Washington: Jan. 2002), GAO-02-66.

²⁰ U.S. General Accounting Office, *Management Challenges and Program Risks: Department of Justice*, (Washington: Jan. 2003), GAO-03-105, p. 17.

United States, and GAO testified in June of 2002 that hundreds of thousands of unauthorized aliens used fraudulent documents to obtain employment.²¹

In 1998, INS devoted roughly 300 work-years to work-site enforcement, but that number had declined to roughly 124 work years by FY2002. After the September 11, 2001 terrorist attacks, INS shifted its work site enforcement priorities. Rather than focusing on industries that traditionally rely on undocumented workers, INS focused its enforcement efforts on industries critical to the nation's infrastructure, such as nuclear plants, airports and municipal water supplies. Operation Tarmac was launched by INS to focus investigations on companies with direct access to commercial aircraft or who provide airport security. According to recent INS testimony, Operation Tarmac has resulted in the arrest of over 500 unauthorized aliens and the filing of more than 20 criminal charges.²²

Identifying and Removing Criminal Aliens. GAO has reported on several occasions that the former INS efforts to identify and remove criminal aliens required improvement.²³ A recent Department of Justice, Office of the Inspector General (OIG) report found that INS was not effectively managing the Institutional Removal Program (IRP). The IRP is a national program that identifies removable criminal aliens in federal and state correctional facilities, ensures they are not released into the community, and deports them from the United States after they have completed their sentences. GAO found that the INS had not determined the nationwide population of foreign-born inmates, had not kept pace with an increasing workload, and that staffing levels for the IRP actually decreased due to vacancies in the immigration agent position.²⁴

Efforts to Combat the Smuggling of Aliens. Alien smuggling is a significant and growing enforcement problem, and GAO found that INS' ability to implement and evaluate its anti-smuggling program has been impeded by a lack of coordination, lack of an automated agency-wide case tracking system, and limited performance measures. The former INS implemented a case tracking and management system, and mandated that all investigative components begin using the Automated Criminal Investigative Reporting System to track and manage criminal investigations.²⁵ The former INS had also partially implemented or agreed to establish criteria for opening

²¹ Ibid.

²² Statement of Joseph R. Greene, Assistant Commissioner for Investigations, before the House Subcommittee on Immigration and Claims, June 19, 2002.

²³ U.S. General Accounting Office, *Criminal Aliens: INS' Efforts to Identify and Remove Imprisoned Aliens Need to be Improved*, (Washington: July 15, 1997) GAO/T-GGD-97-154; and U.S. General Accounting Office, *Criminal Aliens: INS' Efforts to Identify and Remove Imprisoned Aliens Continue to Need Improvement*, (Washington: Feb. 25, 1999) GAO/T-GGD-99-47.

²⁴ U.S. Department of Justice, Office of Inspector General, *Immigration and Naturalization Service Institutional Removal Program*, Audit Report No. 02-41 (Washington: Sept. 2002), p. ii.

²⁵ U.S. General Accounting Office, *Management Challenges and Program Risks: Department of Justice*, (Washington: Jan. 2003), GAO-03-105, p. 20.

anti-smuggling cases to help focus resources on high priority cases, establish performance measures, and examine coordination, program structure, and communications issues.

Transportation Security Administration.²⁶ The Transportation Security Administration (TSA),²⁷ created by the Aviation and Transportation Security Act (ATSA; P.L. 107-71), was established to increase the protection of people and commerce as they traveled into and through the U.S.

Table 7. TSA Account Detail
(\$ millions)

TSA Account	FY2004 request	FY2004 House	FY2004 Senate	FY2004 Conf.
Aviation Security	3,617	3,659	3,914	3,733
Federal Air Marshals	600	635	610	^a
Maritime and Land Security	86	232	295	263
Intelligence	14	14	14	14
Research and Development	75	126	130	155
Administration	421	487	433	427
Subtotal TSA:	4,813	5,153	5,396	4,592
Offsetting Fee Collections	(2,070)	(2,070)	(2,070)	(2,070)
Total TSA	2,743	3,082	3,326	2,522

Source: CRS Analysis of H.Rept. 108-169, and S.Rept. 108-86; Conference Rpt. H.Rept. 108-280.
(a) Federal Air Marshals have been transferred to BICE.

Note: FY2004 conference amounts do not reflect the effects of the 0.59% across-the-board reduction in most discretionary accounts, as called for in the conference version of H.R. 2763, passed by the House on December 8, 2003. Rounding may affect totals.

FY2004 TSA Appropriation. P.L. 108-90 provides TSA with a total of \$2.522 billion. The administration requested a total appropriation of \$2.743 billion for TSA. The House Committee recommended \$3.083 billion, while the Senate recommended \$3.326 billion. The remainder of TSA's funding (\$2 billion) will come from offsetting fee collections. The main account for the TSA is the Aviation Security Account. This account accounts for the bulk of the TSA's activities. P.L. 108-90 provides \$3.733 billion in the Aviation Security account including:

- \$1.8 billion for passenger screening;
- \$1.3 billion for baggage screening;
- \$700 million for security direction and enforcement.

²⁶ This section was prepared with the assistance of Bartholomew Elias.

²⁷ For more detailed information, see CRS Report RL31308, *Appropriations for FY2003: Transportation and Related Agencies*, coordinated by David Randall Petersen and John Frittelli.

Table 9 illustrates selected differences, resolved in conference, between the requested and recommended levels. Of interest to the conferees were the differences in the amounts allocated for the procurement and installation of Explosive Detection Systems (EDS). The Administration did not request funding for these items, and differences between the House and Senate include: \$50.5 million for EDS procurement, and \$74 million for installation and airport modifications. P.L. 108-90 provides \$150 million for EDS procurement; \$250 million for EDS installation; and \$75 million for EDS maintenance.

Recently, much attention has been focused on the Federal Air Marshals (FAM) program. The FAM has been transferred to BICE. P.L. 108-90 provides a total appropriation of \$626 million for FAM, including \$10 million for the requested Air-to-Ground Communication System (AGCS). The House added an increase of \$15 million to the administration's request for the FAM program, for a total of \$615 million for FAM itself; but did not fund the AGCS. The Senate, funded the FAM program at the requested \$600 million and funded the AGCS at \$10 million.

Other issues resolved in conference include: port security grants funded at \$125 million over the request; air cargo security funded at \$35 million above the request; Operation Safe Commerce funded at \$14.5 million over the request; and intercity bus funded at \$10 million which was not requested.

The TSA was directed, by the end of calendar year 2002, to hire screeners and purchase the necessary equipment to carry out its responsibilities. Initial estimates projected a need for 25,000-35,000 screeners, and a total TSA workforce of 35,000-40,000 employees. The FY2002 emergency supplemental capped TSA's full-time screener positions at 45,000 (this cap was extended for FY2003 by P.L. 108-7). In deploying federal screeners to meet the mandate established under ATSA, the TSA screener workforce grew to 54,600 employees despite the cap. TSA had initiated a workforce realignment that resulted in a reduction of 6,000 screeners by the end of FY2003. The conference report to P.L. 108-90 illustrates Congress' continued concern with the size of TSA's workforce, and conferees direct TSA to have no more than 45,000 full-time equivalent screeners on its rolls by the end of FY04.

The original TSA plan assumed that, for each checkpoint lane, seven screeners would be required to screen passengers and carry-on baggage, plus one supervisor for each checkpoint, and one manager for each airport, or in the case of larger airports, each terminal. The staffing model has been adjusted down to an average of 6.5 per lane at the larger airports, and three screeners per lane at the smaller airports, as experience has yielded increases in efficiency.

Table 8. Selected Accounts, Programs, and Activities of TSA
(\$ millions)

Select programs and activities	FY2004 request	FY2004 House	FY2004 Senate	FY2004 Conf.
Passenger Screening	1,801	1,672	1,807	1,806
Baggage Screening:	944	1,285	1,378	1,319
<i>Baggage Screeners</i>	774	780	774	774
<i>Explosive Detection System (EDS):</i>				
<i>EDS Procurement</i>	—	100	150.5	150
<i>EDS Installation</i>	—	235	309	250
<i>EDS Maintenance/Utilities</i>	100	100	75	75
<i>Total EDS</i>	100	335	535	475
Next Generation EDS	10	40	45	45
Federal Air Marshals (FAM)	620	635	625	626 ^a
Port Security Grants	—	100	150	125
Air Cargo Security	20	20	30	55
Intercity Bus Security	—	10	10	10
Transportation Worker Identification Card (TWIC)	55	55	35	50
Operation Safe Commerce (OSC)	2.5	2.5	30	17
Trucking Industry Grants	—	22	25	22
Hazardous Materials Permit Program	—	—	13	7

Source: CRS Analysis of H.Rept. 108-169, and S.Rept. 108-86; Conference Rpt. H.Rept. 108-280.
(a) The Conference Report appropriates funding for FAM under ICE.

Note: FY2004 conference amounts do not reflect the effects of the 0.59% across-the-board reduction in most discretionary accounts, as called for in the conference version of H.R. 2763, passed by the House on December 8, 2003.

At the time of ATSA's passage, considerable attention was directed to the question of whether screening of passengers and checked baggage could best be conducted with federal workers or private sector employees under contracts supervised by the federal government. The ATSA required TSA to conduct pilot programs at five airports, in which contract employees would conduct the screening tasks, under the management authority of a Federal Security Director. Whether part time employees under contract can perform the screening tasks to standards established by the TSA could become an issue, as TSA undergoes scrutiny over the number of employees it employs, and whether it could perform the required tasks with fewer employees on the federal payroll.

H.Rept. 108-55, a report accompanying the House version of the supplemental, includes language requiring TSA to submit an operating plan by May 1, 2003 that would show how the agency would meet FY2003 funding requirements, including meeting the staffing cap of 45,000 employees enacted through P.L. 107-206. The report said that the "Committee is aware that TSA is still exceeding the staffing cap"

which the report said was “unacceptable.” H. Rept 108-76 expands on the requirement’s specificity.

*TSA Progress on Improving Aviation Security.*²⁸ GAO reported recently that while TSA has made “considerable progress” in addressing aviation security, significant challenges remain.²⁹ According to the GAO, TSA met the November 2002 deadline to hire and deploy more than 40,000 passenger screeners to screen passengers at 429 airports nationwide.

GAO also reported that as of mid-December 2002, TSA had installed only 239 of the estimated 1,100 explosive detection machines, and only 1,951 of the estimated 6,000 trace detection machines needed to meet the requirements of ATSA. Many airport operators need to redesign airport baggage handling systems to accommodate and install inline EDS machines. In addition to the logistical challenges to implementing inline EDS systems, funding for these projects remains a key issue. Though ATSA authorized the use of Airport Improvement Program (AIP) funds for airport security related projects, using these funds can have an impact on other airport improvement projects. The Senate bill (S. 824) to reauthorize the Federal Aviation Administration and related aviation programs contains a provision to establish a separate Aviation Security Capital Fund that would use money derived from passenger and air carrier security fees for these projects.

ATSA contains general provisions for the screening of cargo on passenger aircraft, but does not specify how this objective is to be achieved. At present, security of cargo carried aboard passenger aircraft primarily relies on so-called known shipper programs to detect and prevent the shipment of cargo from unknown sources aboard passenger aircraft. To date, security of all-cargo operations has not received much attention.³⁰ GAO reported that although the TSA uses the “known shipper” program to meet these ATSA requirements, TSA lacked a comprehensive plan with long-term goals and performance targets for cargo security, time frames for implementing security improvements, and risk-based criteria for achieving these goals. GAO recommended that TSA develop such a plan, and the TSA agreed.³¹

GAO also noted that TSA lacked reliable statistical data to estimate the nature, frequency, and risk of shipments of undeclared dangerous goods. GAO recommended that TSA determine whether it needed additional inspection authority to develop such data. GAO also estimated that revenues from the new passenger security fee would fund only approximately one-third of TSA’s budget, with the remainder of the requirements dependent on appropriations. GAO noted concerns

²⁸ For more information see CRS Report RL31969, *Aviation Security: Issues Before Congress Since September 11, 2001*, by Bartholomew Elias.

²⁹ GAO, *Major Management Challenges and Program Risks: Department of Transportation*. Washington D.C., Jan. 2003, (GAO-03-108), p. 16.

³⁰ See CRS Report RL31969, *Aviation Security: Issues Before Congress Since September 11, 2001*, by Bartholomew Elias.

³¹ For more information see CRS Report RL32022 *Air Cargo Security*, by Bartholomew Elias.

regarding the funding and implementation of planned security improvements to other transportation facilities including seaports and mass transit facilities, each of which will require significant outlays for infrastructure, technology, and personnel.

U.S. Coast Guard.³² The Coast Guard is the lead federal agency for the maritime component of homeland security. As such, it is lead agency responsible for border and transportation security as it applies to U.S. ports, coastal and inland waterways, and territorial waters. The Coast Guard also performs other missions, including some (such as fisheries enforcement) that are not related to homeland security.

The Coast Guard was transferred from the Department of Transportation (DOT) to the new Department of Homeland Security (DHS) on March 1, 2003. The law that established DHS (P.L. 107-296) directed that the Coast Guard be maintained as a distinct entity within DHS and that the Commandant of the Coast Guard report directly to the Secretary of DHS. Accordingly, the Coast Guard exists as its own agency with DHS and is not part of DHS's border and transportation security directorate. The Coast Guard does, however, work closely that directorate.³³

Mission vs. Resources in General.³⁴ A key issue for Congress regarding the Coast Guard's role in border and transportation security concerns the adequacy of the Coast Guard's resources for carrying out its various homeland and non-homeland security missions. Even before September 11, 2001, the Coast Guard appeared hard-pressed to perform all its missions at desired levels with available assets and resources. In the 2 years prior to September 11, 2001, Coast Guard leaders and supporters attempted repeatedly to draw attention to this *missions vs. resources* situation.

Prior to September 11, 2001, both the Gilmore and the Hart-Rudman commissions made specific recommendations regarding the Coast Guard. The Hart-Rudman Commission noted that the Coast Guard's ships and aircraft were "aging and technologically obsolete" and that the Coast Guard cutter fleet was older than 39 of the world's other 41 coast-guard-like naval fleets.³⁵ The commission noted that the Coast Guard faced serious readiness issues because of increased operating and maintenance costs, and a lack of essential capabilities in speed, sensors, and

³² This section was prepared with the assistance of Ronald O'Rourke.

³³ For more on the Coast Guard's role in homeland security, see CRS Report RS21125, *Homeland Security: Coast Guard Operations — Background and Issues for Congress*, by Ronald O'Rourke. Some of the discussion below is adapted from this report.

³⁴ For a more detailed discussion of the issues surrounding the Coast Guard's missions and resources, see CRS Report RS21125 *Homeland Security: Coast Guard Operations - Background and Issues for Congress*, by Ronald O'Rourke.

³⁵ Hart-Rudman Commission Phase III, p. 17. The Hart-Rudman Commission (*The U.S. Commission on National Security/21st Century*) cited in its analysis of the state of the Coast Guard fleet the Report of the Interagency Task Force on U.S. Coast Guard Roles and Missions. *A Coast Guard for the Twenty-First Century*. (Washington D.C., Dec. 1999).

interoperability of IT equipment and databases. The commission recommended modernizing and rebuilding the Coast Guard.

The Gilmore Commission noted that the Coast Guard has taken on a number of additional homeland security missions and that “Coast Guard resources to perform its ordinary missions have been reduced in recent budget cycles, with no concomitant reduction in mission.” As an example, the commission noted that the Coast Guard lacked sufficient resources to conduct port vulnerability assessments at the more than 350 U.S. ports. The commission recommended increasing resources for the Coast Guard’s homeland security missions, but did not suggest a level of appropriate funding.³⁶

The terrorist attacks of September 11, 2001 increased Coast Guard requirements for homeland-security missions, including border and transportation security, without obviously reducing requirements for other missions. As a result, numerous observers have expressed increased concern for the Coast Guard’s ability to perform all its missions as desired levels. GAO testimony noted that levels of effort on homeland security related functions remain at much higher levels than prior to September 11, 2001; while levels of efforts on missions including fisheries enforcement and drug interdiction have dropped substantially. GAO also stated that the FY2004 budget request for the Coast Guard “contains little that would substantially change levels of effort for most missions,” and noted that if the FY2004 Coast Guard budget request “is approved, about half of the agency’s operating expenses will be directed to fulfilling homeland security responsibilities.”³⁷

Few observers appear to oppose the general notion that the Coast Guard’s resources will need to be increased to bring them into better alignment with the service’s post-September 11, 2001 mission requirements. The issue appears to center more on the question of the size of the increase that will be needed.

Funding for Deepwater Program. A more specific Coast Guard budget issue concerns funding for the Deepwater program — the Coast Guard’s 20-year acquisition program to replace and modernize its current aging fleet of deepwater-capable cutters, patrol boats, and aircraft. Among other things, these assets perform the outermost portion of the Coast Guard’s border and transportation responsibilities

³⁶ *Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction* (popularly referred to as The Gilmore Commission), Third Annual Report, p. 40.

³⁷ U.S. General Accounting Office, *Coast Guard[:] Comprehensive Blueprint Needed to Balance and Monitor Resource Use and Measure Performance for All Missions*. Washington, 2003. (Testimony Before the Subcommittee on Oceans, Atmosphere, and Fisheries, Committee on Commerce, Science, and Transportation, U.S. Senate, Mar. 12, 2003, GAO-03-544T) p. 1-3. Other recent GAO reports and testimony on the *missions vs. resources* issue include GAO-03-467T, Feb. 12, 2003; GAO-03-155, Nov. 12, 2002; and GAO-02-538T, Mar. 19, 2002.

and are also used closer to shore to perform close-in border and transportation security missions.³⁸

In June 2002, the Coast Guard awarded a \$17-billion, 20-year contract for the Deepwater program to an industry team led by Lockheed Martin and Northrop Grumman's Ship Systems. Prior to the contract-award announcement, the Coast Guard estimated that equipment acquisition for the Deepwater program was estimated to require, over a 20-year period, an annual average of \$530 million in constant (i.e., inflation-adjusted) FY1998 dollars — \$500 million for the contractor and \$30 million for Coast Guard administration of the program — for a total equipment acquisition cost of about \$10.6 billion in FY1998 dollars. The program has received a total of \$914.2 million to date, including \$42.3 million in FY2001, \$320.2 million in FY2002, and \$478 million in FY2003.

Some observers have long been concerned about the Coast Guard's ability to secure adequate funding for the Deepwater program. Deepwater supporters are concerned that the annual funding requirement of \$500 million in constant FY1998 dollars for the contractor is being reinterpreted in budget requests to mean a flat figure \$500 million per year in nominal dollars, which will result in less and less actual purchasing power for the program each year due to inflation. They are also concerned that the \$500 million figure is being interpreted as including the annual \$30-million cost for Coast Guard administration of the program. Deepwater supporters argue that unless the program is funded at the equivalent of about \$530 million per year in constant FY1998 dollars, the Deepwater program will become increasingly underfunded each year.

The Coast Guard estimates that funding the program at \$500 million per year in nominal dollars would stretch the planned Deepwater acquisition period from 20 years to about 27 years. On March 12, 2003, GAO testified that "under current funding plans, the Coast Guard faces significant potential delays and cost increases," and that "if appropriations hold steady at \$500 million (in nominal dollars) through fiscal year 2008, the Coast Guard estimates that the cumulative shortfall will reach \$626 million."³⁹

FY2004 Coast Guard Appropriation. The Administration's proposed FY2004 budget for DHS requests \$6.655 billion for the Coast Guard. The House has recommended an appropriation of \$6.681 billion, or \$26 million more than the request, while the Senate has recommended an appropriation of \$6.815 billion, or \$160 million more than the request.

³⁸ For more on the Deepwater program, see CRS Report RS21019, *Coast Guard Deepwater Program: Background and Issues for Congress*, by Ronald O'Rourke. Some of the above discussion is adapted from this report.

³⁹ For the full text of this discussion see, U.S. General Accounting Office, *Coast Guard[:] Comprehensive Blueprint Needed to Balance and Monitor Resource Use and Measure Performance for All Missions*, Washington, 2003. (Testimony Before the Subcommittee on Oceans, Atmosphere, and Fisheries, Committee on Commerce, Science, and Transportation, U.S. Senate, Mar. 12, 2003, GAO-03-544T) pp. 18-19.

Table 9. Coast Guard Account Detail
(\$ millions)

Coast Guard Account	FY2004 request	FY2004 House	FY2004 Senate	FY2004 Conf.
Operating Expenses	4,838	4,704	4,648	4,642
Environmental Compliance and Restoration	--	17	17	17
Reserve Training	--	94	95	95
Acquisition, Construction, and Improvements	797	805	1,035	967
Alteration of Bridges	--	20	--	19
Research, Development, Test, and Evaluation	--	22	--	15
Retired Pay (Mandatory)	1,020	1,020	1,020	1,020
Total Coast Guard	6,655	6,682	6,815	6,776

Source: CRS Analysis of H.Rept. 108-169, and S.Rept. 108-86; Conference Rept. H.Rept. 108-280.

Note: FY2004 conference amounts do not reflect the effects of the 0.59% across-the-board reduction in most discretionary accounts, as called for in the conference version of H.R. 2763, passed by the House on December 8, 2003.

P.L. 108-90 provides \$668 million for the Coast Guard's Deepwater program, in the Acquisition, Construction, and Improvements account. This is \$168 million above the \$500 million request for the Deepwater program. The House recommended an appropriation of \$530 million, or \$30 million more than the request, while the Senate recommended an appropriation of \$702 million, or \$202 million more than the request. Of the \$202 million increase recommended by the Senate, \$84 million is for unmanned surveillance aircraft. P.L. 108-90 provides \$50 million for unmanned air vehicles. The Senate-recommended appropriation of \$702 million matches the figure that House and Senate authorization committees have recommended for the program as part of the Coast Guard reauthorization process.⁴⁰

⁴⁰ The House Transportation and Infrastructure Committee recommended an authorization of \$702 million in its markup of H.R. 2443. The Senate Commerce, Science, and Transportation Committee recommended an authorization of \$702 million in its markup of S. 733.