

Report for Congress

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Appropriations for FY2004: Transportation, Treasury, Postal Service, Executive Office of the President, General Government, and Related Agencies

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

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

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

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Appropriations for FY2004: Transportation, Treasury, Postal Service, Executive Office of the President, General Government, and Related Agencies

Summary

This is the first year in which Congress will consider appropriations for the Department of Transportation, the Department of the Treasury, the United States Postal Service, the Executive Office of the President, and Related Agencies, as well as General Government provisions, in a single appropriations bill. Prior to FY2004, appropriations for the Department of Transportation and related agencies and the Department of the Treasury and its related agencies were in separate bills. Some agencies formerly in the Departments of Transportation and the Treasury have been transferred to the Department of Homeland Security (DHS). Budget numbers in this report for years prior to FY2004 have been adjusted for these changes to make comparisons between previous appropriations and FY2004 requested funding.

On February 4, 2003, President Bush presented his FY2004 budget request to Congress. It requested

- \$54.3 billion for the Department of Transportation, 2.6% less than FY2003;
- \$11.3 billion for the Department of the Treasury, 4.6% more than FY2003;
- \$97 million for the United States Postal Service, 9.3% less than FY2003;
- \$790 million for the Executive Office of the President, 1.7% more than FY2003; and
- \$19.6 billion for Related Agencies, 2.1% more than FY2003.

Key issues in transportation appropriations include a proposed \$2.3 billion reduction in the federal-aid highway program and Amtrak's request for \$900 million more than the Administration's request.

Among the key issues in treasury and related agencies appropriations are Internal Revenue Service efforts to enforce compliance with tax laws, the Postal Service's interest in additional funding for increasing the security of employees and mail customers, a proposal to consolidate several separate appropriations within the Executive Office of the President into a single appropriation, a proposal to allow the President authority to transfer up to 10% of the annual appropriation among several offices within the Executive Office of the President, a proposal to create a "Human Capital Performance Fund" within the Office of Personnel Management to support performance-driven pay systems for federal employees, and the proposed pay increase for federal employees. This report will be updated as warranted by events.

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Division abbreviations:

DSP = Domestic Social Policy

G&F= Government & Finance

RSI = Resources, Science, and Industry Division.

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Appropriations for FY2004: Transportation, Treasury, Postal Service, Executive Office of the President, General Government, and Related Agencies

Most Recent Developments

On February 3, 2003, President Bush submitted his budget proposal for FY2004. The proposed FY2004 budget for the Department of Transportation, Treasury, Postal Service, Executive Office of the President, and Related Agencies is \$85.9 billion, \$740 million below the comparable enacted figure for FY2003 (less than 1%).

Overview

Legislative Status

Table 1. Status of Department of Transportation/Department of the Treasury Appropriations for FY2004

Subcommittee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	

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

As part of the creation of the Department of Homeland Security (DHS), the United States Coast Guard and the Transportation Security Administration were transferred from the Department of Transportation to DHS. Also, the Bureau of

Alcohol, Tobacco, and Firearms, the Customs Service, and the United States Secret Service were transferred from the Department of the Treasury to DHS, and the Office of Homeland Security was transferred from the Executive Office of the President to DHS. Budget numbers for years prior to FY2004 have been adjusted to make comparisons between previous appropriations and FY2004 requested funding.

FY2003 Appropriations

The FY2003 Consolidated Appropriations Resolution (P.L. 108-7) included a 0.65% across-the-board rescission which applied to most accounts in the Department of Transportation and Department of the Treasury and General Government appropriations. The FY2003 figures in this report reflect the rescission, and so differ slightly from the figures in P.L. 108-7.

FY2004 Budget Request

The Administration's FY2004 budget request for the Department of Transportation, Department of the Treasury, Executive Office of the President, and Related Agencies is \$85.9 billion, \$740 million below the final comparable FY2003 enacted figure (less than 1%). Table 3 shows the allocation of funding within the overall request.

Table 2. Transportation/Treasury Appropriations, by Title, FY2003-FY2004 (millions of dollars)

Title	Final FY2003 Enacted ^a	FY2004 Request	\$ mil. + or -	% + or -
Title I: Department of Transportation	55,690	54,266	-1,424	-2.6
Title II: Department of the Treasury	10,849	11,343	494	4.6
Title III: Postal Service	107	97	-10	-9.3
Title IV: Executive Office of the President	777	790	13	1.7
Title V: Related Agencies	19,151	19,556	405	2.1
Title VI: General Provisions	279	—	-279	-100
Total, Transportation/Treasury Appropriations	86,604	85,864	-740	-0.9

Source: House Committee on Appropriations, Table: *President's Request with Outlays*, FY2004, May 5, 2003.

a. Includes 0.65% across-the-board rescission.

Major Funding Trends

Table 3: Funding Trends for Transportation/Treasury Appropriations, FY1999-FY2004 (billions of current dollars)

Department	FY1999	FY2000	FY2001 ^d	FY2002	FY2003 ^e	FY2004 Admin. Request
Title I: Transportation ^a	43.9	46.2	51.9	57.4	55.7	54.3
Title II: Treasury ^b	9	9	9.9	10.5	10.8	11.3
Title III: Postal Service	0.1	0.1	0.1	0.7	0.1	0.1
Title IV: Executive Office of the President	0.7	0.7	0.7	0.8	0.8	0.8
Title V: Related Agencies ^c	14.6	15	15.8	16.8	19.2	19.6

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

- Figures for Department of Transportation appropriations for FY1999-FY2003 have been adjusted for comparison with FY2004 figures by subtracting the United States Coast Guard, the Transportation Security Administration, the National Transportation Safety Board, and the Architectural and Transportation Barriers Compliance Board, and by adding the Maritime Administration.
- Figures for Department of the Treasury appropriations for FY1999-FY2003 have been adjusted for comparison with FY2004 figures by subtracting the Bureau of Alcohol, Tobacco, and Firearms, the Customs Service, the United States Secret Service, and the Law Enforcement Training Center.
- Figures for Related Agencies appropriations for FY1999-FY2003 have been adjusted by adding the National Transportation Safety Board and the Architectural and Transportation Barriers Compliance Board.
- FY2001 figures include 0.22% across-the-board rescission.
- FY2003 figures include 0.65% across-the-board rescission.

Title I: Transportation Appropriations

Overview

The Administration's FY2004 budget proposes a DOT budget of \$54.3 billion — 2.6% below FY2003's comparable enacted level of \$55.7 billion.¹ The budget request conformed to the basic outline of both the Transportation Equity Act for the 21st Century (TEA-21; P.L. 105-178) which authorizes spending on highways and

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

transit, and the aviation funding authorized in the Wendell Ford Aviation Investment and Reform Act of the 21st Century (FAIR21 or AIR21; P.L. 106-181), although both acts will have expired before the beginning of FY2004 (see Appendix 1 for more information on these authorizing acts). However, the request did propose a few changes to the highway and transit funding structure, in line with the Administration's reauthorization proposal; see the sections on the Federal Highway Administration and Federal Transit Administration for details.

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

Department or Agency (Selected Accounts)	Final FY2003 Enacted ^a	Request FY2004	House FY2004	Senate FY2004	FY2004 Enacted
Office of the Secretary of Transportation	172	177			
Essential Air Service ^b	102	50			
Federal Aviation Administration	13,510	14,007			
Operations (trust fund & general fund)	7,023	7,591			
Facilities & Equipment (F&E) (trust fund)	2,942	2,916			
Grant-in-aid Airports (AIP) (trust fund) (limit. on oblig.)	3,378	3,400			
Research, Engineering & Development (trust fund)	147	100			
Federal Highway Administration	32,417	30,225			
(Limitation on Obligations)	31,593	29,294			
(Exempt Obligations)	893	931			
Additional funds (trust fund)	—	—			
Additional funds ^c (general fund)	187	—			
Federal Motor Carrier Safety Administration	313	447			
National Highway Traffic Safety Administration ^d	434	665			
Federal Railroad Administration ^j	1,261	1,089			
Amtrak ^e	1,043	900			
Federal Transit Administration	7,179	7,226			
Formula Grants (general fund)	763	—			
Formula Grants (trust fund)	3,051	5,615			
Capital Investment Grants. (general fund)	603	1,214			
Capital Investment Grants (trust fund)	2,413	321			

Department or Agency (Selected Accounts)	Final FY2003 Enacted ^a	Request FY2004	House FY2004	Senate FY2004	FY2004 Enacted
St.Lawrence Seaway Development Corporation	14	14			
Maritime Administration	230	219			
Research and Special Programs Administration ^f	105	118			
Office of Inspector General	55	55			
Surface Transportation Board	18	18			
Total, Department of Transportation) ^g	55,690	54,266			

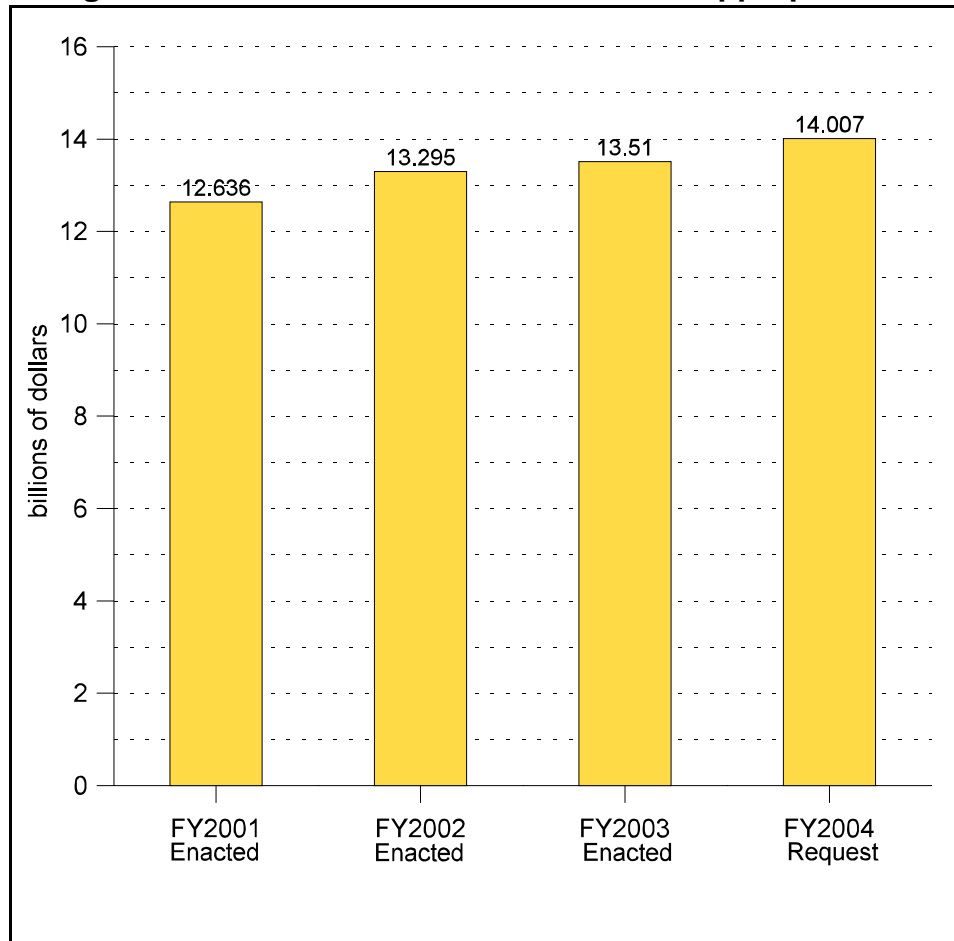
Note: Figures were taken from tables in House Committee on Appropriations reports. Because of differing treatment of offsets, the totals will not always match the Administration's totals. The figures within this table may differ slightly from those in the text due to supplemental appropriations, rescissions,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

- a. These figures reflect the 0.65% across-the-board rescission included in P.L. 108-7.
- b. In FY2003 Essential Air Service received an appropriation in addition to its authorized program level.
- c. For Appalachian Development Highway System (\$187 million).
- d. NHTSA's FY2004 request includes \$100 million transferred from FHWA; this funding was previously provided through the FHWA but administered by NHTSA. Therefore, the difference between budgetary resources available to NHTSA for FY2003 and its FY2004 request is \$131 million, not \$231 million.
- e. In addition to Amtrak's FY2003 appropriation, Congress postponed Amtrak's repayment of a \$100 million loan from the DOT.
- f. The figures do not reflect \$14 million in permanent appropriations. Therefore, the total resources for RSPA for FY2003 may be seen as \$119 million.
- g. Rescissions of unobligated previous years' contract authority have been subtracted from this total. Because rescissions of prior years' contract authority have no impact on the budgetary resources available for the current fiscal year, the total resources available could be seen as \$55.9 billion for FY2003 enacted.

Federal Aviation Administration (FAA)

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

The Bush Administration is requesting FAA funding of slightly more than \$14 billion for FY2004. This represents an almost \$500 million increase over the FY2003 enacted level of \$13.5 billion (this amount reflects a 0.65% rescission to which some parts of the FAA budget were subjected). Almost all of the increased funding requested in the FY2004 budget submission would be used for Operations & Maintenance (O&M) expenses. With the exception of some program adjustments there are essentially no major new initiatives in the FY2004 proposal.

Figure 1. Federal Aviation Administration Appropriations

The appropriations debate for FY2003 lasted well into the fiscal year and was only settled by passage of the Consolidated Appropriations Resolution (P.L. 108-7). Although the Resolution itself was controversial, FAA funding was not part of the controversy. In fact, the finally agreed upon FY2003 funding level closely tracked the levels provided for in House and Senate versions of the legislation. The Resolution did make some changes in existing FAA programs, however, most of these were minor. The Resolution also consolidated various earmarks from Senate and House bills.

The vast majority of FAA funding is provided from the Airport and Airway Trust Fund. Only O&M funding uses a mix of trust fund and Treasury general fund monies. In FY2002 a Treasury general fund contribution of \$1.1 billion was provided for O&M funding. The Administration proposed a general fund contribution of almost \$3.3 billion for FY2003. Whereas the general fund contribution for FY2002 was on the low side historically, the Administration was trying to return to a higher contribution level. In this effort they were successful, with both the House and the Senate agreeing ultimately on \$3.4 billion. Historically, this funding split has been an important part of the annual FAA budget debate. The

rationale behind the general fund contribution has been that the public at large realizes some benefit from aviation whether it uses the system or not.²

Operations and Maintenance (O&M). The Administration is proposing to spend almost \$7.6 billion on O&M in FY2004 as compared with the not quite \$7.1 billion level agreed to in P.L. 108-7. The majority of funding in this category is for the salaries of FAA personnel engaged in air traffic control, certification, and safety related activities. Much of the increased funding called for in the FY2004 request is for additional air traffic controllers and other safety related staff.

Facilities and Equipment (F&E). P.L. 108-7 provides \$2.96 billion for this activity. The FY2004 request is essentially unchanged from this level. F&E funding is used primarily for capital investment in air traffic control and safety. There are no significant new F&E spending initiatives in the Administration proposal.

Research, Engineering, and Development (RE&D). The Administration is suggesting a funding level of \$100 million for RE&D in FY2004, well below the \$148.5 million enacted in FY2003.

Essential Air Service (EAS). The EAS program is operated through the Office of the Secretary of Transportation (OST), and receives its funding from designated user fees collected from overflights of United States territory by foreign aircraft. EAS has had an annual authorized funding level of \$50 million for the last several years. The overflight funding mechanism, however, has never provided this much annual funding, so additional funding has been provided from other sources. The EAS program continues to enjoy significant support in Congress. As a result, \$102 million was provided for this program in FY2003.

For FY2004 the Bush Administration is proposing \$50 million in spending for the program. Of this, \$33 million is to come from overflight fees and the remaining \$17 million is to be provided by unspent prior year funding. In addition, the Administration is proposing major changes in the operation of the EAS program by requiring greater local financial support for EAS service and by changing the eligibility of certain communities based on their proximity to airports with non-EAS service.

Grants-in-Aid for Airports. The Airport Improvement Program (AIP) provides grants for airport development and planning. The Bush Administration FY2004 budget requests \$3.4 billion for AIP, roughly the same as enacted for FY2003. The budget request provides for up to \$69.7 million of these funds to be obligated for administration and \$7.4 million for technology research.

AIP's existing authorization expires at the end of FY2003. The Bush Administration, as part of its FAA reauthorization proposal for FY2004-FY2007,

² General fund appropriations have varied substantially, both in dollar terms and as a percentage of FAA appropriations as a whole, from year to year. Over the last 12 years the share has ranged from 0% to 47%. See table 1 in CRS Report RS20177, *Airport and Airway Trust Fund Issues in the 106th Congress*, by John W. Fischer.

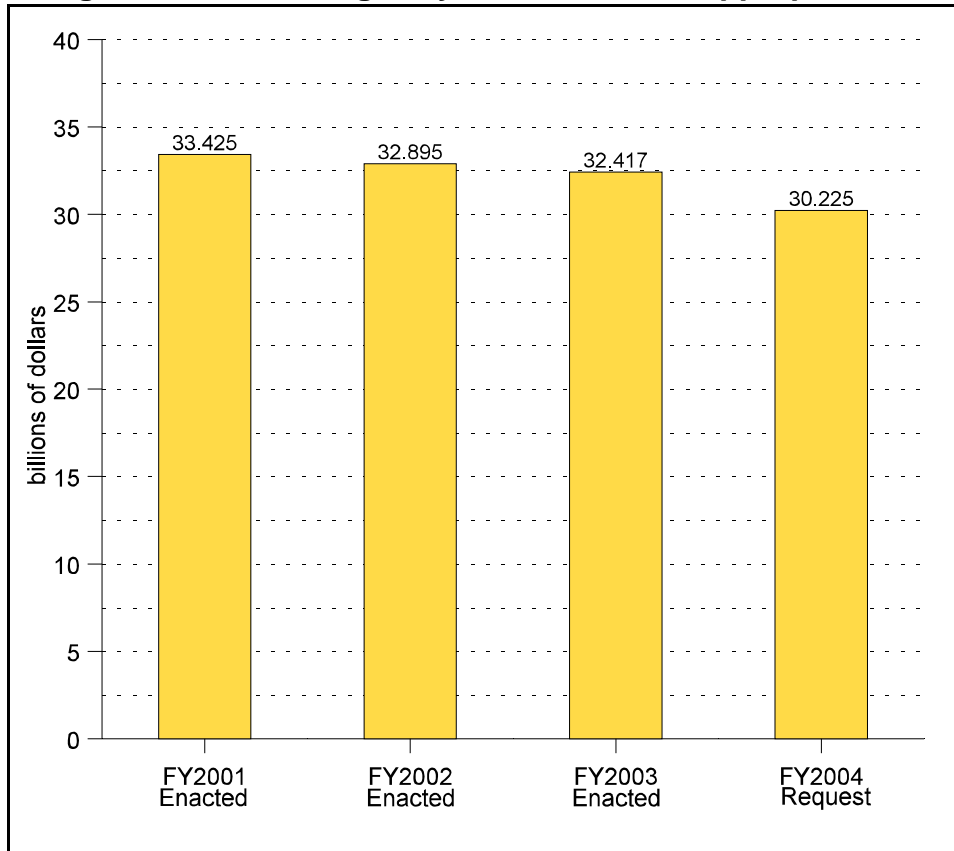
would hold AIP’s annual funding at the \$3.4 billion level for the life of the authorization. It would also restructure AIP to increase the program’s discretionary funding from 34% to 46% of total program funding. This would require less generous funding of the popular airport “entitlements” which are distributed by formula.

Federal Highway Administration (FHWA)

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

The FHWA budget provides funding for the Federal-Aid Highway Program (FAHP), which is the umbrella term for nearly all the highway programs of the agency. For FY2004, the President requests \$30.2 billion for FHWA. This represents a decrease of \$2.2 billion (-7%) from the FY2003 appropriation of \$32.4 billion. The proposed obligation limitation, which supports most of the FAHP, is set at \$29.3 billion and is significantly less than the \$31.6 billion enacted for FY2003. Funding for exempt programs (emergency relief and a portion of minimum guarantee funding) is set at \$931 million, up \$38 million from FY2003's \$893 million.

Figure 2. Federal Highway Administration Appropriations



The budget continues FHWA’s major programs but also proposes some changes, which reflect the Administration’s reauthorization proposal. A new \$1.0 billion Infrastructure Performance and Maintenance initiative is one of the proposed changes. The program’s funds would be distributed, according to the Surface Transportation Program formula, for use on “ready-to-go” projects that address

congestion and improve infrastructure conditions. States would have to commit these funds during the first six months of the fiscal year. Funds not obligated within this time frame would be reallocated among the states.

On the revenue side, the budget proposes the redirection of revenues from the 2.5 cents-per-gallon excise tax on gasohol, that are now deposited in the Treasury's general fund, to the highway trust fund. This change is expected to add roughly \$600 million to highway trust fund revenues in FY2004. This change would require legislation in addition to the appropriations bill. The budget assumes no revenue aligned budget authority (RABA) adjustments for FY2004.

The TEA-21 Funding Framework. Authorizing legislation for surface transportation programs, the Transportation Equity Act for the 21st Century (TEA-21) expires at the end of FY2003. The new authorization is expected to at least retain a large part of the existing program funding framework. TEA-21 created the largest surface transportation program in U.S. history. For the most part, however, it did not create new programs. Rather, it continued most of the highway and transit programs that originated in its immediate predecessor legislation, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA, P.L. 102-240).

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

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

There are a further set of programs, known as the "allocated" programs. These programs are under the direct control of FHWA or other governmental entities. These programs include: the Federal Lands Highway Program, High Priority Projects (former demonstration project category), Appalachian Development Highway System roads, the National Corridor Planning and Border Infrastructure Program, and several other small programs.

Federal Motor Carrier Safety Administration (FMCSA)

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

The FMCSA was created by the Motor Carrier Safety Improvement Act of 1999 (MCSIA), P.L. 106-159.³ This agency became operational on January 1, 2000, and assumed the responsibilities and personnel of DOT's Office of Motor Carrier Safety.⁴ FMCSA issues and enforces the federal motor carrier safety regulations, which govern the operation and maintenance of interstate commercial truck and bus operations and specify requirements for commercial drivers. FMCSA also administers several grants and programs to help states conduct various truck and bus safety activities. Together with the states, FMCSA conducts inspections of Mexican-domiciled commercial drivers and vehicles entering the United States, advances Intelligent Transportation Systems for commercial operations, and reviews carriers transporting high hazard materials. Most of the funds used to conduct FMCSA activities are derived from the federal highway trust fund.

The FY2004 Administration request for the FMCSA is \$447 million. This is an increase of almost \$134 million (43%) over the FY2003 appropriation of \$313.1 million. The FMCSA appropriation consists of two primary components: FMCSA administrative and operations expenses; and financial assistance to the states for the conduct of various truck and bus safety programs, including state border enforcement activities.

Administrative and Operations Expenses. The President's budget request for FMCSA's administrative and operations expenses in FY2004 is \$224 million (up from \$124 million in FY03), including funds for research and technology (R&T) and regulatory development. Some of the activities that would be funded include: enforcement to reduce the number of unsafe carriers and drivers; outreach efforts to help educate the motoring public on how to share the road with commercial vehicles; and the establishment of a medical review board to assist FMCSA.

Grants to States and Other Activities. The Administration's FY2004 request for these activities is \$223 million. These funds are used primarily to pay for the Motor Carrier Safety Assistance Program (MCSAP), which provides grants to states to help them enforce commercial vehicle safety and hazardous materials transportation regulations. MCSAP grants cover up to 80% of the costs of a state's truck and bus safety program. Some 10,000 state and local public-utility and law-enforcement officers conduct more than 2.6 million roadside inspections of trucks and buses annually under the program.

³ During various hearings held in the first session of the 106th Congress, a number of organizations, including DOT's Inspector General, the General Accounting Office, and many industry associations raised a variety of concerns regarding the effectiveness of the federal truck and bus safety program. In response to these concerns, Congress created the FMCSA.

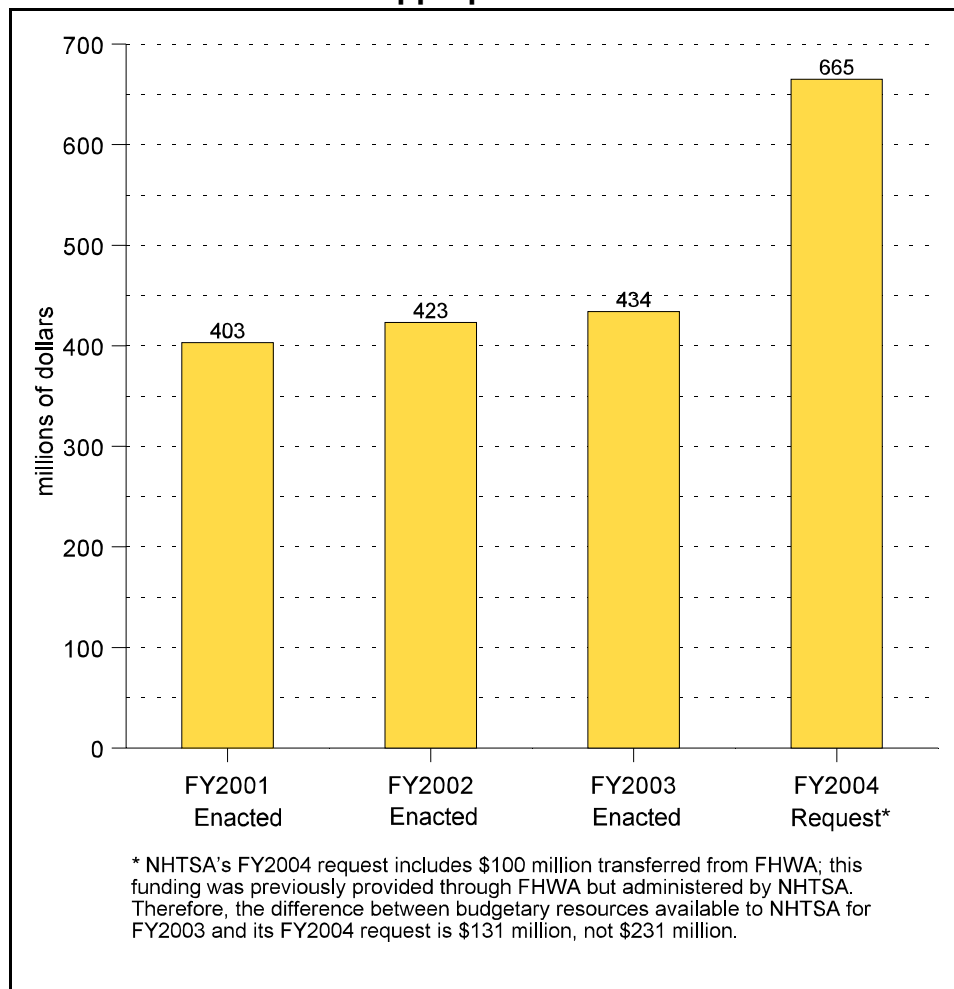
⁴ DOT's Office of Motor Carrier Safety, which operated from October 9 through December 31, 1999, replaced the Office of Motor Carriers of the Federal Highway Administration of the DOT.

National Highway Traffic Safety Administration (NHTSA)

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

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

Figure 3. National Highway Traffic Safety Administration Appropriations



For FY2004, the Administration requests \$665 million to carry out its mission. The request reflects an increase of \$6 million above the FY 2003 program level, and the addition of funding previously allocated to safety belt use and impaired-driving

law incentive programs under the Federal Highway Administration.⁵ Of the total amount requested for FY2004, \$447 million is designated to support traffic safety incentive and performance grants to states, primarily to encourage occupant protection measures and reduce impaired driving. The FY2004 request also includes \$218 million for NHTSA's own operations and research activities to reduce highway fatalities and prevent injuries. The request includes funding for the following four major areas: research and analysis (e.g., collection of crash statistics and research on vehicle performance and occupant damage during these crashes), highway safety programs (e.g., developing improved countermeasures to combat impaired driving), safety assurance (e.g., testing of vehicles to ensure compliance with federal motor vehicle safety standards and maintaining a legislatively required database to track vehicle defects), and safety performance standards (e.g., conducting crash avoidance and crashworthiness testing, and evaluating child safety seats).

Federal Railroad Administration (FRA)

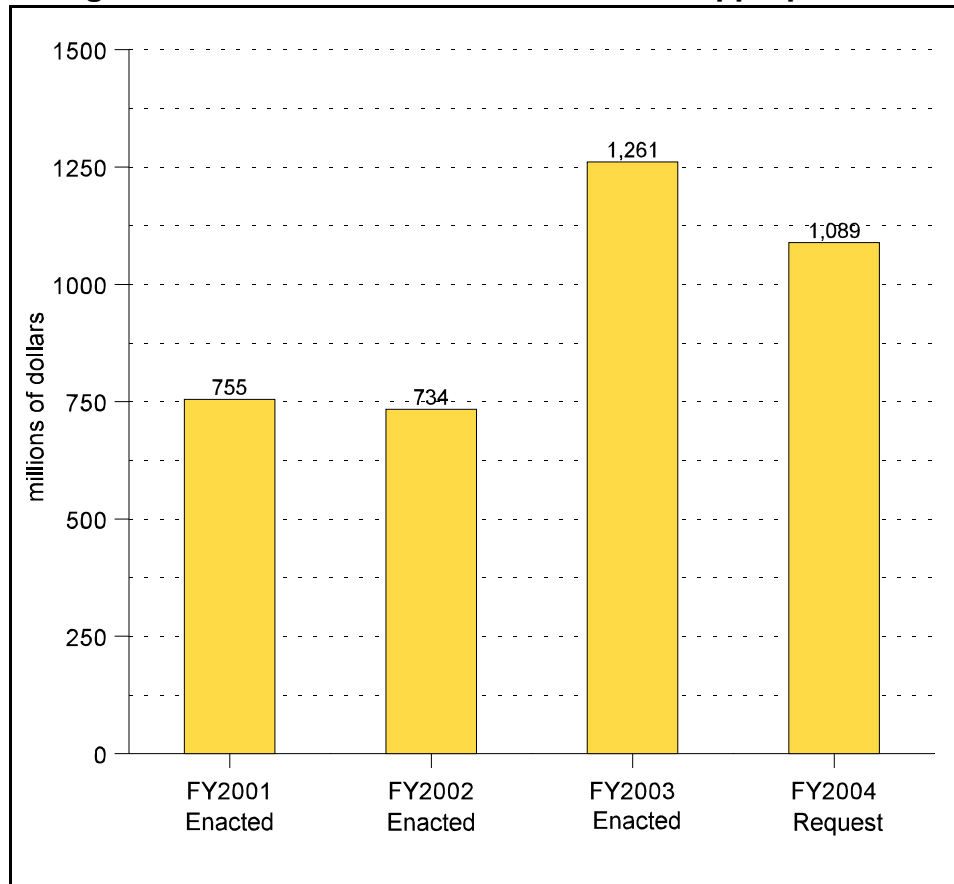
[<http://www.fra.dot.gov>]

For FY2004, the Administration requested \$1.09 billion in funding for the FRA. Most of this amount is for Amtrak. The Administration requested \$900 million for Amtrak, \$150 million less than provided in FY2003 and \$379 million more than the President requested in FY2003. Of the \$900 million requested, \$671 million is for operating costs and \$229 million is for infrastructure costs.

The Administration requested \$131 million for railroad safety and operations, which is \$14 million more than provided in FY2003 and \$13 million more than the President requested for FY2003. For railroad research and development, the President requested \$35 million, which is \$6 million more than funding for FY2003. For next generation high-speed rail, the President requested \$23 million, \$7 million less than last year.

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

⁵ <http://www.dot.gov/bib2004/nhtsa.html>. According to DOT, total funds requested for NHTSA for FY2004: "Includes \$222 million of TEA-21 resources for the Sections 157 and 163 grant programs formerly appropriated to FHWA. NHTSA has always administered these funds; therefore, the budget proposes that the funding be appropriated directly to NHTSA."

Figure 4. Federal Railroad Administration Appropriations

Railroad Safety and Research and Development. The FRA is the primary federal agency that promotes and regulates railroad safety. Increased railroad traffic volume and density make equipment, employees, and operations more vulnerable to adverse safety impacts. The Administration proposes \$131 million in FY2004 for FRA's safety program and related administrative and operating activities. Most of the funds are used to pay for salaries as well as associated travel and training expenses for FRA's field and headquarters staff and to pay for information systems monitoring the safety performance of the rail industry.⁶ The funds requested support FRA's goals of reducing rail accidents and incidents, reducing grade-crossing accidents, and contributing to the avoidance of serious hazardous materials incidents. The Administration's request for FY2004 represents about a 13% increase over the \$116.6 million provided in the FY2003 DOT appropriations for rail safety and operations.

⁶ The funds also are used to conduct a variety of initiatives, including the Safety Assurance and Compliance Program (SACP), the Railroad Safety Advisory Committee (RSAC), and field inspections. SACP involves numerous partnerships forged by railroad management, FRA personnel, and labor to improve safety and compliance with federal railroad safety regulations. RSAC uses a consensus-based process involving hundreds of experts who work together to formulate recommendations on new or revised safety regulations for FRA's consideration.

The railroad safety statute was last reauthorized in 1994. Funding authority for the program expired at the end of FY1998. FRA's safety program continues using the authorities specified in existing federal railroad safety law and funds provided by annual appropriations. Though hearings have been held since 1994, the deliberations have not resulted in agreement on funding for FRA's regulatory and safety compliance activities or change to any of the existing authorities used by FRA to promote railroad safety. A reauthorization statute changing the scope and nature of FRA's safety activities would most likely affect budgets after FY2004.

To improve its safety regulations and industry practices, the FRA conducts research and development (R&D) on an array of topics, including railroad employee fatigue, technologies to control train movements, and track dynamics. In reports accompanying House and Senate transportation appropriation bills and in annual conference reports, the appropriations committees historically have allocated FRA's R&D funds among various research categories pertaining to safety. The FY2003 DOT appropriation provided \$29.1 million for the R&D program. For FY2004, the Administration requests \$35 million for these activities.

Next Generation High-Speed Rail R&D. This program supports work on high-speed train control systems, track and structures technology, corridor planning, grade crossing hazard mitigation, and high-speed non-electric locomotives. The Administration requested \$23.2 for this program in FY2004; this is \$7.05 million (23%) less than the FY2003 appropriation of \$30.25 million.

Amtrak

[<http://www.amtrak.com>]

The President requested \$900 million for Amtrak for FY2004; this is \$150 million below Amtrak's FY2003 appropriation of \$1,050 million⁷ and \$900 million less than the \$1.8 billion Amtrak has requested for FY2004.

In a change of policy, Congress stipulated (in P.L. 108-7) that Amtrak's FY2003 appropriation would not go directly to the corporation, but to the Secretary of Transportation, who will provide funding to Amtrak quarterly through the grant-making process. Congress also imposed several other requirements on Amtrak which have the effect of reducing Amtrak's discretion with its federal funding. Among these was a requirement that Amtrak submit a 5-year business plan to Congress, which it did on April 25, 2003. In this plan, Amtrak requests average annual federal support of \$1.6 billion for FY2004-FY2008 to maintain the current network and begin to address the \$5-6 billion in backlogged maintenance needs.

Amtrak's authorization expired at the end of FY2002; Congress may consider Amtrak reauthorization during the 108th Congress. In June 2002 the Administration presented its principles for Amtrak reform; in April 2003 they presented an outline

⁷ For FY2003, Congress also deferred Amtrak's repayment of a \$100 million loan to the DOT.

of a plan for restructuring Amtrak and passenger rail service. See CRS Report RL31743, *Amtrak Issues in the 108th Congress*, for further information.

Federal Transit Administration (FTA)

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

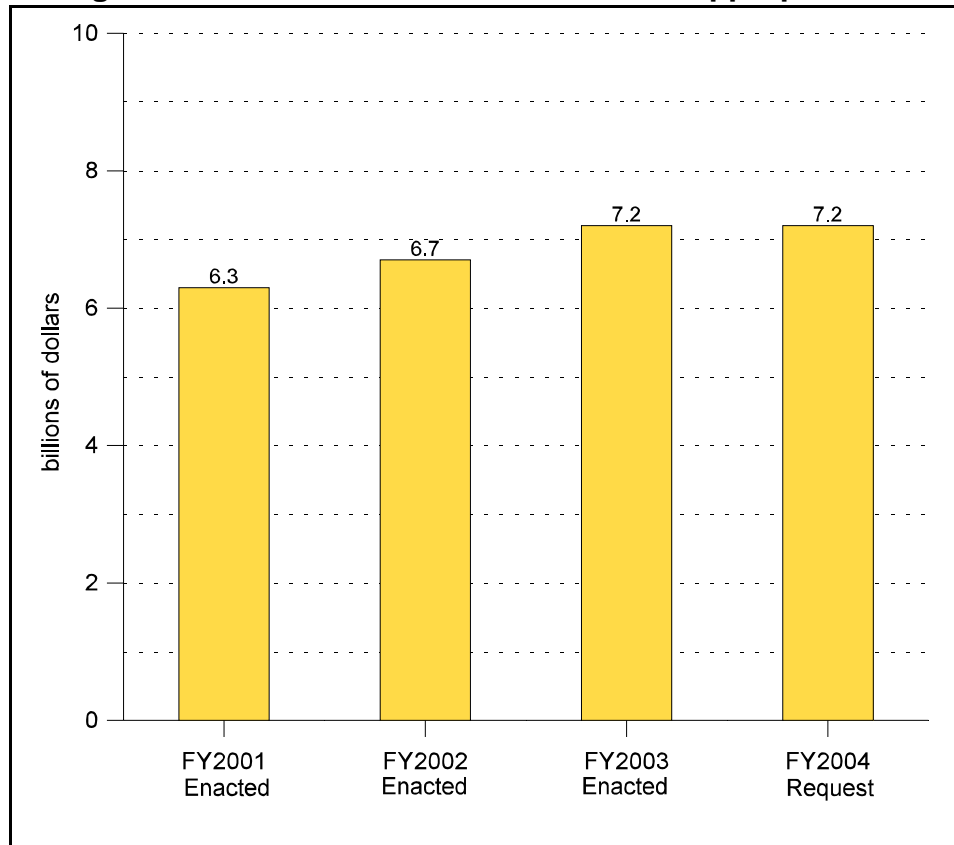
President Bush's FY2004 budget request for FTA is \$7.226 billion, virtually the same level as FTA's FY2003 appropriation (FTA's FY2003 \$7.226 billion final appropriation was reduced to \$7.179 billion after the 0.65% rescission).⁸ The Administration's request also proposes some changes to FTA's program structure, reflecting the Administration's reauthorization proposal. **Table 5** presents the Administration request in the existing program structure. The proposed program changes include the following:

Restructuring the Capital Investment Grants and Loans Program.

This program consists of three component programs: New Starts, the Fixed Guideway Modernization formula program, and the Bus and Bus Facilities discretionary grant program. The Administration request renames the Capital Investment Grants and Loans Program "Major Capital Investment Grants," eliminates the Bus and Bus Facilities program, groups the Fixed Guideway Modernization program with other formula programs, and groups funding for metropolitan and statewide planning under this newly renamed program. Thus, after these changes the program's funding would support only New Starts and a portion of metropolitan and statewide planning spending. In addition, the budget proposes that 80% of the funding for the "Major Capital Investment Grants" program would come from General Fund appropriations and 20% from the Mass Transit Account of the Highway Trust Fund; currently, 80% of the funding for the Capital Investment Grants and Loans Program comes from the Mass Transit Account, and 20% from General Fund appropriations.

Eliminating the Bus & Bus Facilities Program. The Administration requests no funding for this program; funds previously allocated to this discretionary program (\$607 million in FY2003) are proposed to be divided among the Urbanized Areas Formula Program, the Non-Urbanized Areas Formula Program, and the New Starts program, in accordance with the Administration's reauthorization proposal. Buses can be purchased under all three of these programs. The Bus and Bus Facilities Program is a discretionary grant program and was completely earmarked in FY2003. The Administration's proposal would eliminate bus earmarks and distribute bus and bus facilities funds through two formula programs and the New Starts program.

⁸ These figures for FTA do not include any projections to account for possible flexible funding transfers from FHWA to FTA. In FY2002 such transfers amounted to \$1.1 billion.

Figure 5. Federal Transit Administration Appropriations

Proposed New Freedom Initiative. The Administration's request proposes to create a new formula program, the New Freedom Initiative, which seeks to use alternative methods to promote access to transportation for persons with disabilities (this program was also proposed in FY2003, but was not supported by Congress). The President's budget requests \$145 million for this program in FY2004.

For information on FTA's programs and funding structure, see CRS Report RL31854, *Transit Program Reauthorization in the 108th Congress*.

Table 5. FTA Appropriation, FY2003-FY2004 (millions of dollars)

Program	FY2003 Enacted	FY2004 Request	FY2004 House	FY2004 Senate	FY2004 Conference
Urbanized Areas Formula Program (Section 5307)	3,407	3,521			
Capital Investment Grants & Loans Program (Section 5309) Total	3,016	2,729			
New Starts Program	1,207	1,515			
Fixed Guideway Modernization Program	1,207	1,214			
Bus Discretionary Program	603	—			

Program	FY2003 Enacted	FY2004 Request	FY2004 House	FY2004 Senate	FY2004 Conference
Non-Urbanized Areas Formula Program (Section 5311)	237	359			
Job Access & Reverse Commute Program	149	150			
Elderly & Individuals with Disabilities Formula Program (Section 5310)	90	87			
Rural Transportation Accessibility Incentive Program (Section 3038), also known as the Over-the-Road Bus Accessibility program	7	7			
Planning	73	70			
Research	55	50			
Other	145	108			
New Freedom Initiative	—	145			
FTA Total	7,179	7,226			

Note: numbers may not add due to rounding.

Source: *The Budget of the United States Government, Fiscal Year 2004, Appendix: "Federal Transit Administration,"* p. 740-747, adjusted by CRS to reflect the 0.65% across-the-board rescission, with reference to House Committee on Appropriations, Table: *President's Request with Outlays, FY2004.*

Maritime Administration (MARAD)

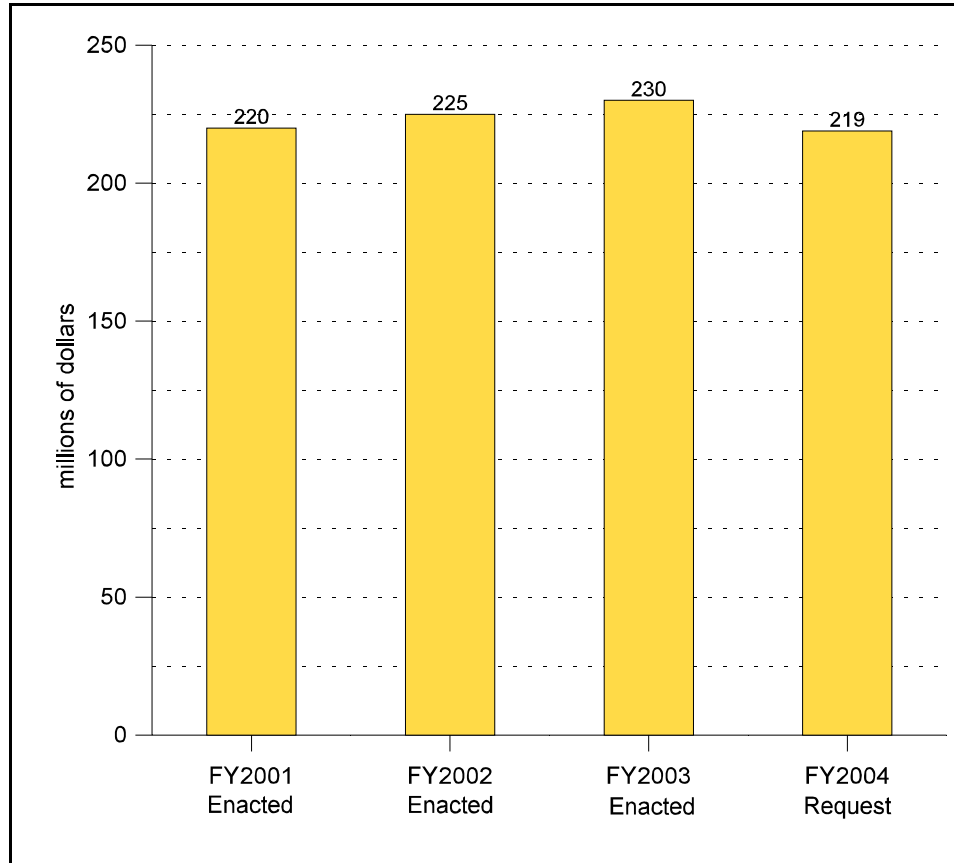
[<http://www.marad.dot.gov>]

MARAD's mission is to promote the development and maintenance of a U.S. merchant marine capable of carrying the Nation's waterborne domestic commerce, a portion of its waterborne foreign commerce, and to serve as a naval and military auxiliary in time of war. MARAD administers programs that benefit U.S. vessel owners, shipyards, and ship crews. For FY2004, the President requested a total of \$219 million for MARAD, which is about \$12 million more than the President requested, and about \$11 million less than Congress appropriated, for FY2003.

Much of the discussion concerning MARAD's budget focuses on the Maritime Guaranteed Loan Program (the "Title XI" program). This program provides guaranteed loans for purchasing ships from U.S. shipyards and for the modernization of U.S. shipyards. The purpose of the program is to promote the growth and modernization of U.S. shipyards. Consistent with its budget requests in prior years, the Administration has requested no funds for additional loans in FY2004, calling the program a "corporate subsidy." The Administration has, however, requested \$4.5 million for the administration of existing loans. For FY2003, in the Consolidated Appropriations Resolution (P.L. 108-7), Congress initially provided no funds for the program other than \$4 million for administrative expenses. However, in the Supplemental Appropriations bill (P.L. 108-11), Congress provided \$25 million for the program. The DOT Inspector General has recently issued a report on the Title XI program (report no. CR-2003-031, March 27, 2003) calling on MARAD to review loan applications more effectively, exercise more rigorous financial oversight of

borrowers, and use an external financial advisor in reviewing loan applications. The IG's investigation was prompted by the bankruptcy of American Classic Voyages, leaving MARAD with \$367 million in bad loans for the construction of two cruise ships.

Figure 6. Maritime Administration Appropriations



For operations and training, the Administration is requesting \$104.4 million which is about \$12 million more than Congress appropriated in FY2003. Of this amount, \$52.9 million is requested for the U.S. Merchant Marine Academy in Kings Point, New York; \$9.5 million for state maritime academies; and \$42 million for the operations of MARAD. For the Maritime Security Program (MSP), the Administration is requesting \$98.7 million which is virtually the same amount as Congress provided last year. MSP is a fleet of 47 privately-owned U.S. flag commercial vessels engaged in international trade that are available to support the Department of Defense in a national emergency. For the disposal of obsolete vessels in the National Defense Reserve Fleet (NDRF), the Administration is requesting \$11.4 million which is about the same amount as Congress appropriated in FY2003. There are over 130 vessels in the NDRF that are awaiting disposal because of their age. MARAD has until 2006 to dispose of these surplus ships. Most of the ships are located on the James River in Virginia and in Suisan Bay, California.

Research and Special Programs Administration (RSPA)

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

The Research and Special Programs Administration (RSPA) includes a variety of operating entities, including Office of Pipeline Safety and the Office of Hazardous Materials Safety. RSPA also conducts a multimodal research program, helps coordinate and plan for transportation research and technology transfer activities, sponsors educational activities to promote innovative transportation, and manages DOT's transportation-related emergency response and recovery responsibilities. For FY2004, the Administration requests a budget of \$132 million for RSPA. Most of this funding would be allocated to activities that promote transportation safety. For RSPA's pipeline transportation safety program, \$67 million is proposed, an increase of \$3 million over the FY2003 appropriation. For its hazardous materials transportation safety program, \$25 million is requested, an increase of \$2 million over the FY2003 appropriation. Much of the additional funding requested is intended to enhance RSPA's ability to ensure that the federal hazardous materials transportation pipeline safety regulations are complied with and to assist DOT in participating in the safety oversight of containment systems that will be used to ship spent nuclear fuel and high-level radioactive wastes.

Title II: Treasury Appropriations

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

Program or Account	FY2003 Enacted	FY2004 Request	FY2004 House	FY2004 Senate	FY2004 Enacted
Departmental Offices	158	167			
Department-wide Systems and Capital Investments	37	37			
Inspector General	135	135			
Air Transportation Stabilization Program	6	3			
Treasury Building Repair and Restoration	29	25			
Financial Crimes Enforcement Network	51	58			
Interagency Crime and Drug Enforcement	107	—			
Financial Management Service	221	229			
Bureau of the Public Debt	189	174			
Internal Revenue Service, Total	9,835	10,437			
Processing, Assistance and Management	3,930	4,075			
Tax Law Enforcement	3,705	3,977			

Program or Account	FY2003 Enacted	FY2004 Request	FY2004 House	FY2004 Senate	FY2004 Enacted
Earned Income Tax Credit Compliance Initiative	145	251			
Information Systems	1,622	1,670			
Business Systems Modernization	364	429			
Health Insurance Tax Credit Administration	70	35			
Total, Department of the Treasury	10,840	11,343			

Department of the Treasury Budget and Key Policy Issues

In recent decades, the Department of the Treasury has performed four basic functions: (1) formulating, recommending, and implementing economic, financial, tax, and fiscal policies; (2) serving as the financial agent for the federal government; (3) enforcing federal financial, tax, counterfeiting, customs, tobacco, alcoholic beverage, and gun laws; and (4) producing postage stamps, currency, and coinage. With the creation of the Department of Homeland Security late in 2002 and its assumption in March 2003 of operational control of the authorities transferred to it by executive order, this functional profile has changed somewhat. Treasury still serves as the federal government's main economic policymaker, financial manager, revenue collector, and producer of currency, coinage, and stamps; but its role in law enforcement is now much more limited.

At its most basic level of organization, the department consists of departmental offices and operating bureaus. The departmental offices are responsible for the formulation and implementation of policy and the management of the department as a whole, while the operating bureaus carry out specific duties assigned to the department. The bureaus typically account for more than 95% of Treasury Department employment and funding. With one notable exception, the bureaus can be separated into those having financial responsibilities and those engaged in law enforcement. In recent decades, financial responsibilities have been handled by the Comptroller of the Currency, U.S. Mint, Bureau of Engraving and Printing, Financial Management Service, Bureau of Public Debt, Community Development Financial Institutions Fund, and Office of Thrift Supervision; and law enforcement has been done by the Bureau of Alcohol, Tobacco, and Firearms (BATF), U.S. Secret Service, Federal Law Enforcement Training Center, U.S. Customs Service, Financial Crimes Enforcement Network (FinCen), and Treasury Forfeiture Fund. The sole exception to this dichotomy is the Internal Revenue Service (IRS), which performs both financial functions and law enforcement through its administration of federal tax laws.

The advent of DHS has greatly diminished the department's law-enforcement functions. Under the law establishing the new department (P.L. 107-296), the Secret Service, Customs Service, and Federal Law Enforcement Training Center are being

transferred from the Treasury Department to DHS, while the Treasury Forfeiture Fund and many functions of BATF are being transferred to the Justice Department (DOJ). On January 24, 2003, the Treasury Department announced the establishment of a new bureau to administer laws related to the use of alcohol and tobacco and to implement regulations which formerly were handled by BATF: the Alcohol and Tobacco Tax and Trade Bureau. Its functions include collecting alcohol and tobacco excise taxes and classifying those products for tax purposes.

In its budget request for FY2004, the Bush Administration proposes to increase the Treasury Department's budget by 3.5% over the amount enacted for FY 2003, after adjusting for the transfer of functions to DHS and the Justice Department. If the request is enacted without change, funding for Treasury accounts would total \$11.408 billion in FY2004, up from \$11.018 billion in FY 2003.⁹ According to budget documents, the Administration's top priorities for Treasury operations in the coming fiscal year are to bolster IRS's efforts to monitor and enforce compliance with tax laws, increase the Department's efficiency by further streamlining operations, and continue to play a central role in the efforts to combat money laundering and thwart financial networks supporting international terrorist activities. Under the newly configured Treasury accounts, the IRS accounts for 91.5% of the proposed Treasury budget, followed by the Financial Management Service (2.0%), the Bureau of Public Debt (1.6%), and Departmental Offices (1.5%).

The budget request also calls for an increase of \$7 million in funding for FinCen and an additional \$4 million for the Department's International Technical Assistance program, which focuses on helping countries seeking to rebuild after conflicts to improve their systems of economic governance. In addition, the Administration is proposing that the Department's Inspector General for Tax Administration be merged with the Department's Inspector General (IG), since many of the IG's functions have been transferred to other agencies, especially DHS.

Internal Revenue Service (IRS). The federal government levies individual and corporate income taxes, social insurance taxes, excise taxes, estate and gift taxes, customs duties and miscellaneous taxes and fees. The federal agency responsible for administering all these taxes and fees, except customs duties, is the IRS. In discharging that duty, it receives and processes tax returns and other related documents, processes payments and refunds, enforces compliance through audits and other methods, collects delinquent taxes, and provides a variety of services to taxpayers to help them understand their rights and responsibilities and resolve problems. In FY 2002, the most recent year for which data are available, the IRS collected \$2,017 billion before refunds, the largest component of which was individual income tax revenue of \$1,038 billion.

⁹ There is a discrepancy of \$65 million between the Administration's budget request for the Treasury Department in FY2004 and the amount being considered by the appropriations committees. This difference represents funding for two programs which are administered by Treasury but funded through separate appropriations accounts: the Community Development Financial Institutions Fund (CDFI) and international technical assistance. The former is covered under the appropriations for the Department of Housing and Urban Development and the latter under the appropriations for foreign operations.

The Bush Administration is asking Congress for \$10.436 billion to fund IRS operations in FY2004. This amount is 6.1% greater than the \$9.834 billion enacted for FY 2003 and 5.2% greater than the amount requested by the Administration for FY 2003. Of the requested budget for FY2004, \$4.135 billion would be used for processing, assistance, and management; \$4.086 billion for tax law enforcement; \$1.709 billion for information systems; \$500 million for PRIME; \$251 million for a program aimed at curbing fraud and abuse in claims for the earned income tax credit; and \$2 million to pay for the cost of using private debt collectors to collect past-due taxes.

The proposed budget places a high priority on improving individual and business compliance with tax laws. It would set aside \$133 million for a new program aimed at stemming five sources of tax evasion: (1) the promotion of abusive tax schemes; (2) the misuse of trusts and offshore accounts to hide or illegally lower taxable income; (3) the use of abusive corporate tax avoidance schemes; (4) the under-reporting of income by upper-income individuals; and (5) the failure of employers to file employment tax returns and pay substantial amounts of employment taxes in a timely manner. The Administration hopes such a program will lead to a 72% increase in the number of audits of tax returns for high-income individuals and businesses. Nonetheless, both former IRS Commissioner Charles Rossotti and the IRS Oversight Board have expressed the concern in recent months that funding IRS operations at levels similar to what the Administration is requesting would fall far short of what is required to enable the IRS to enforce the tax laws adequately.¹⁰

Title III: Postal Service

Table 7. Title III: United States Postal Service Appropriations
(in millions of dollars)

Program or Account	FY2003 Enacted	FY2004 Request	FY2004 House	FY2004 Senate	FY2004 Enacted
Payment to the Postal Service Fund	29	29			
Advance Appropriation, FY2002/2003	47	31			
Advance Appropriation, FY2004	31	37			
Total, Postal Service	107	97			

Source: United States House of Representative, Committee on Appropriations, Table: *President's Request with Outlays, FY2004*.

The U.S. Postal Service (USPS) generates nearly all of its funding — about \$70 billion annually — through the sale of products and services. It does receive a regular appropriation from Congress, however, to compensate for revenue it forgoes

¹⁰ Alison Bennett, "Rossotti Details IRS Successes, Notes Much Work Remains for Years Ahead," *Daily Report for Executives*, Bureau of National Affairs, no. 210, Oct. 30, 2002, p. G-6; and George Guttman, "Oversight Board Concerned About IRS Budget Situation," *Tax Notes*, vol. 97, no. 11, pp. 1404-1406.

in providing, at congressional direction, free mailing privileges for the blind and visually impaired and for overseas voting. Under the Revenue Forgone Reform Act of 1993, Congress is required to reimburse USPS \$29 million each year until 2035, for services performed but not paid for in the 1990s (for more information, see CRS Report RS21025, *The Postal Revenue Forgone Appropriation: Overview and Current Issues*). The terrorist attacks in the fall of 2001, however, including use of the mail for delivery of anthrax spores to congressional and media offices, generated new funding needs that USPS contends should be met through appropriations.

In FY2003, USPS received a revenue forgone appropriation of \$59.6 million, including \$30.8 million for revenue forgone in FY2003 but not payable until October 1, 2003, and the \$29 million (\$28.8 after rescission) due annually under the Revenue Forgone Reform Act of 1993.

In its FY2004 Budget, the Administration proposed an appropriation of \$55.7 million for revenue forgone in fiscal 2004, and \$29 million for the FY2003 installment under the Revenue Forgone Reform Act of 1993 — reduced by \$19.2 million as a reconciliation adjustment to reflect actual versus estimated free mail volume in 2001 — for a total of \$65.5 million. Of this amount, \$36.5 million would not be available for obligation until October 1, 2004, which is in FY2005. However, USPS will also have available for obligation during FY2004 the \$31 million provided for revenue forgone in fiscal 2002, for a total of \$60 million. In its FY2002 Budget, the Bush Administration had proposed to “reverse the misleading budget practice of using advance appropriations simply to avoid [annual] spending limitations.” The Administration did not renew the proposal in its FY2003 or FY2004 Budgets.

In its detailed justification of its FY2004 budget request, USPS asked Congress for an additional \$350 million (above the OMB proposal of \$65.5 million) in emergency response funds to protect the safety of employees and customers from threats such as the 2001 anthrax attack. The funds would be used to continue acquisition and deployment of ventilation and filtration equipment that was begun with \$762 million provided in FY2002 specifically for emergency response. Neither the Administration’s FY2003 Budget nor its FY2004 Budget included any additional funds for emergency preparedness for the Postal Service. As a condition to receiving the largest part of its previous emergency response funding, on March 6, 2002 USPS submitted to its oversight and appropriations committees an emergency preparedness plan to combat the threat of biological and chemical substances in the mail.¹¹ The March 6, 2002 emergency preparedness plan did identify substantial needed appropriations of \$799.8 million for FY2003, and \$897.5 million for FY2004.

The Administration’s Budget also contained a proposal to correct an anticipated over-funding of USPS obligations for the retirement benefits of postal workers under the Civil Service Retirement System. Congress has passed legislation (P.L. 108-18) to reduce the annual USPS contribution to the Civil Service Retirement and Disability Fund, which will have the effect of saving USPS \$2.9 billion in FY2003 and \$2.6 billion in succeeding years. For more on this legislation, see CRS Report

¹¹ See [http://www.usps.com/news/2002/press/pr02_pmg0313.htm], visited April 14, 2003.

RL31684, *Funding Postal Service Obligations to the Civil Service Retirement System.*

Title IV: Executive Office of the President (EOP) and Funds Appropriated to the President

**Table 8. Title IV: Executive Office of the President (EOP) and
Funds Appropriated to the President Appropriations**
(in millions of dollars)

Office	FY2003 Enacted	FY2004 Request	FY2004 House	FY2004 Senate	FY2004 Enacted
Compensation of the President	0.45	—			
The White House Office (salaries and expenses)	50	—			
Office of Homeland Security	19	—			
Executive Residence at the White House (operating expenses)	12	—			
White House Repair and Restoration	1	—			
Office of the Vice President (salaries and expenses)	4	—			
Official Residence of the Vice President (operating expenses)	0.32	—			
Council of Economic Advisors	4	—			
Office of Policy Development	3	—			
National Security Council	8	—			
Office of Administration	91	—			
The White House	—	184			
Office of Management and Budget	62	77			
Office of National Drug Control Policy (salaries and expenses)	26	27			
Office of National Drug Control Policy Counterdrug Technology Assessment Center	48	40			
Federal Drug Control Programs: High Intensity Drug Trafficking Areas Program	225	206			
Federal Drug Control Programs: Other Programs	222	250			
Total, EOP and Funds Appropriated to the President	777	790			

Source: United States House of Representative, Committee on Appropriations, Table: *President's Request with Outlays, FY2004*.

The Transportation, Treasury and General Government Appropriations bill funds all but three offices in the Executive Office of the President (EOP). Of the

three exceptions, the Council on Environmental Quality and Office of Environmental Quality, and the Office of Science and Technology Policy are funded under the Veterans Affairs, Housing and Urban Development, and Independent Agencies appropriations; and the Office of the United States Trade Representative is funded under the Commerce, Justice, State, and the Judiciary and Related Agencies appropriations.

The President's FY2004 budget proposes to consolidate and financially realign several annual EOP salaries and expenses appropriations that directly support the President into a single annual appropriation, called "The White House." This consolidated appropriation would total \$183.8 million in FY2004, a decrease of 3.0% from the \$189.4 appropriated in FY 2003 for the accounts proposed to be consolidated. The accounts included in the consolidated appropriation would be:

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

The budget states that the consolidation "initiative provides enhanced flexibility in allocating resources and staff in support of the President and Vice President, and permits more rapid response to changing needs and priorities."¹² The Administration proposed similar consolidations in the FY 2002 and FY 2003 budgets, but the conference committees for the Treasury and General Government Appropriations Act, FY 2002 (P.L. 107-67) and FY 2003 (P.L. 108-7, Division J) agreed to continue with separate appropriations for the EOP accounts. A concern of the Administration has been the "needless complexity [of different accounts] that adds expense, that adds burdens, that adds administrative hurdles that they must go through to accomplish anything."¹³ A concern of Congress about consolidation has been its "legitimate needs and desires to have oversight over spending of public funds."¹⁴

Included with the FY2004 budget request for consolidation is a proposal for a Title VI general provision that would provide for a 10% transfer authority among the following accounts:

¹² U.S. Executive Office of the President, Office of Management and Budget, *Budget of the United States Government Fiscal Year 2004 Appendix* (Washington: GPO, 2003), p. 882. (Hereafter referred to as FY2004 Budget, Appendix.)

¹³ Representative Ernest Istook, then chairman of the Subcommittee on Treasury, Postal Service and General Government of the House Committee on Appropriations, discussing the FY 2002 proposal for consolidation of the Executive Office of the President accounts. *Congressional Record*, daily edition, July 25, 2001, p. H4570.

¹⁴ *Ibid.*

- The White House (Compensation of the President, White House Office (including the Office of Homeland Security), Executive Residence, White House Repair and Restoration, Office of Administration, Office of Policy Development, National Security Council, Council of Economic Advisers)
- Office of Management and Budget
- Office of National Drug Control Policy
- Special Assistance to the President and Official Residence of the Vice President (transfers would be subject to the approval of the Vice President)
- Council on Environmental Quality and Office of Environmental Quality
- Office of Science and Technology Policy
- Office of the United States Trade Representative¹⁵

According to the EOP budget submission, the transfer authority would “allow the President to address, in a limited way, emerging priorities and shifting demands” and would “provide the President with flexibility, improve the efficiency of the EOP, and reduce administrative burdens.”¹⁶ The OMB director, or such other officer as the President may designate, could, 15 days after giving notice to the Senate and House Committees on Appropriations, transfer up to 10% of any appropriation to any other appropriation, to be merged with, and available for, the same time and for the same purposes as the appropriation to which transferred. An appropriation could not be increased by more than 50% by such transfers.¹⁷

EOP Offices Funded Through Treasury and General Government Appropriations. The President’s FY2004 budget for EOP programs funded under the Treasury and General Government appropriations proposes an appropriation of \$790.6 million, an increase of 1.7% over the \$777.0 million appropriated in FY 2003. The FY2004 budget proposals for specific accounts are discussed below.

Compensation of the President. The President’s FY2004 budget proposes an appropriation of \$450,000, which includes an expense allowance of \$50,000. This is the same amount as was appropriated in FY 2003. The salary of the President is \$400,000 *per annum*, effective January 20, 2001.

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

The President’s FY2004 budget proposes an appropriation of \$70.3 million, an increase of 39.5% over the \$50.4 million appropriated in FY 2003.

¹⁵ FY2004 Budget, Appendix, p. 882. U.S. Executive Office of the President, *Fiscal Year 2004 Congressional Budget Submission* (Washington: GPO, [Feb. 2003]), p. 11. (Hereafter referred to as EOP Budget Submission.)

¹⁶ EOP Budget Submission, p. 11.

¹⁷ *Ibid.*

Office of Homeland Security (OHS). This office provides support and advice to the President and interagency coordination of all aspects of homeland security, including the implementation of the National Strategy for Homeland Security. The funding for OHS is included in the White House Office request. Of the \$70.3 million requested for the WHO for FY2004, \$8.3 million is for the OHS. The OHS FY 2003 appropriation was \$19.3 million. The Homeland Security Council functions established in the Homeland Security Act of 2002, P.L. 107-296, are supported by the OHS budget.

Executive Residence (White House) Operation and Care. These accounts provide for the care, maintenance, and operation of the Executive Residence and its repair, alteration, and improvement.

The President's FY2004 budget proposes an overall appropriation of \$16.7 million for this account, an increase of 25.4% over the \$13.3 million appropriated in FY 2003. For the executive residence, the budget proposes an appropriation of \$12.5 million, an increase of 2.9% over the \$12.3 million appropriated in FY 2003. For repair and restoration of the White House, the budget proposes an appropriation of \$4.2 million, an increase of 254.4% over the \$1.2 million appropriated in FY 2003. The EOP budget submission states that the repair and restoration funding would be used to renovate various specific electrical, mechanical, and control system components; replace two power servers; and complete the second phase of the restoration of the East and West Wing exterior.¹⁸

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

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

The President's FY2004 budget proposes an appropriation of \$4.5 million for salaries and expenses, an increase of 10.4% over the \$4.0 million appropriated in FY 2003. According to the EOP budget submission:

An additional programmatic increase of \$70,000, or 1.7 percent was requested for costs associated with official Vice Presidential travel. Since September 11,

¹⁸ EOP Budget Submission, p. 62.

2001, the Vice President's travel has been augmented by travel to undisclosed locations for security purposes. This travel is 100 percent official ...¹⁹

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

The President's FY2004 budget proposes an appropriation of \$331,000 for the operating expenses of the Official Residence, an increase of 2.8% over the \$322,000 appropriated in FY 2003.

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

The President's FY2004 budget proposes an appropriation of \$4.5 million, an increase of 20.4% over the \$3.8 million appropriated in FY 2003.

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

The President's FY2004 budget proposes an appropriation of \$4.1 million, an increase of 27.2% over the \$3.2 million appropriated in FY 2003. Of the total, an estimated \$2.1 million supports the Office of Policy Development's DPC functions and \$2.0 million supports the office's NEC functions.²⁰

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

The President's FY2004 budget proposes an appropriation of \$10.6 million, an increase of 35.8% over the \$7.8 million appropriated in FY 2003. Of the total, \$9.8 million funds the operations of the NSC, including the Office for Combating Terrorism, and \$741,000 funds the President's Foreign Intelligence Advisory Board.²¹

Office of Administration. The Office of Administration provides administrative services, including information technology; human resources

¹⁹ EOP Budget Submission, p. 164.

²⁰ EOP Budget Submission, p. 102.

²¹ EOP Budget Submission, p. 129.

management; library and records management; financial management; and facilities, printing, and supply, to the Executive Office of the President.

The President's FY2004 budget proposes an appropriation of \$77.2 million, a decrease of 15.1% from the \$90.9 million appropriated in FY 2003. Of the total, \$56.6 million is for salaries and expenses and \$20.6 million is for capital investment.²²

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

The President's FY2004 budget proposes an appropriation of \$77.4 million, an increase of 24.9% over the \$62.0 million appropriated in FY 2003. According to the EOP budget submission, "Since the start of the Administration, OMB has maintained a very tight budget" and "In light of constrained funding levels over the past two years, the majority of the increase in the FY2004 request will permit OMB to continue current operations."²³

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

The President's FY2004 budget proposes an appropriation of \$27.3 million, an increase of 3.8% over the \$26.3 million appropriated in FY 2003. Of the total, \$25.9 million is for salaries and expenses operations and \$1.4 million is for policy research.²⁴

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

The President's FY2004 budget proposes an appropriation of \$40 million, a decrease of 16.1% from the \$47.7 million appropriated in FY 2003. Of the total, \$18 million is for counternarcotics research and development projects (which shall be

²² EOP Budget Submission, p. 73.

²³ EOP Budget Submission, p. 189.

²⁴ EOP Budget Submission, p. 216.

available for transfer to other federal departments or agencies) and \$22 million is for the continued operation of the technology transfer program.²⁵

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

The President's FY2004 budget proposes an appropriation of \$206.4 million, a decrease of 8.2% from the \$224.9 million appropriated in FY 2003. No less than 51% of the total shall be transferred to State and local entities for drug control activities, which shall be obligated within 120 days of enactment of the Transportation/Treasury appropriations act. Up to 49% of the total shall remain available until September 30, 2005, and may be transferred to federal agencies and departments at a rate to be determined by the director, of which not less than \$2.1 million shall be used for auditing services and associated activities, and at least \$500,000 of the \$2.1 million shall be used to develop and implement a data collection system to measure the performance of the High Intensity Drug Trafficking Areas Program.²⁶

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

The President's FY2004 budget proposes an appropriation of \$250 million, an increase of 12.7% over the \$221.7 million appropriated in FY 2003. Of the total, \$170 million is to support a national media campaign, as authorized by the Drug-Free Media Campaign Act of 1998; \$70 million is for a program of assistance and matching grants to local coalitions and other activities, as authorized in chapter 2 of the National Narcotic Leadership Act of 1988, as amended; \$4.5 million is for the Counterdrug Intelligence Executive Secretariat; \$2 million is for evaluations and research related to National Drug Control Program performance measures; \$1 million is for the National Drug Court Institute; \$1.5 million is for the United States Anti-Doping Agency for anti-doping activities; and \$1 million is for the United States membership dues to the World Anti-Doping Agency.²⁷

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

²⁵ FY2004 Budget, Appendix, p. 1053.

²⁶ FY2004 Budget, Appendix, p. 1051.

²⁷ FY2004 Budget, Appendix, p. 1052.

The President's FY2004 budget proposes an appropriation of \$1 million. This is virtually the same amount as was appropriated in FY 2003 (\$993,000 after rescission).

Title V: Independent Agencies

Table 9. Title V: Related Agencies Appropriations

(in millions of dollars)

Agency	FY2003 Enacted	FY2004 Request	FY2004 House	FY2004 Senate	FY2004 Enacted
National Transportation Safety Board	72	72			
Federal Election Commission	50	50			
Election Assistance Commission	835	500			
Federal Labor Relations Authority	29	30			
Federal Maritime Commission	17	18			
General Services Administration (Total)	1,222	464			
Federal Buildings Fund (appropriations)	373	217			
Federal Buildings Fund (limitations on obligations)	6,567	6,634			
Policy	66	74			
Operating Expenses	72	85			
Office of Inspector General	38	39			
Electronic Government (E-Gov) Fund	5	45			
Election Reform Payments	650	—			
Merit Systems Protection Board	34	36			
Morris K. Udall Foundation	3	1			
National Archives and Records Administration	262	298			
Office of Personnel Management (total)	16,558	18,012			
Government Payments for Annuitants, Employees Health Benefits	6,853	7,219			
Government Payments for Annuitants, Employee Life Insurance	34	35			
Payment to Civil Service Retirement and Disability Fund	9,410	9,987			

Agency	FY2003 Enacted	FY2004 Request	FY2004 House	FY2004 Senate	FY2004 Enacted
Office of Special Counsel	12	14			
United States Tax Court	37	40			
Total, Related Agencies	19,151	19,556			

Source: United States House of Representative, Committee on Appropriations, Table: *President's Request with Outlays, FY2004*.

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

The President's fiscal 2004 budget proposes an appropriation of \$50.4 million for the FEC, a 1.8% increase over the fiscal 2003 appropriation of \$49.5 million. The FEC, in its separate budget submission to Congress, concurs with the Administration proposal, both in the request for overall appropriations and for 391 employees. The agency noted in its submission that the 1.8% increase represented "essentially a Current Services request," reflecting only an adjustment for inflation and salary and benefits increases but no additional funds or staff for new programs or initiatives. The agency attributed the essentially stable budget request to the greater efficiency resulting from mandatory electronic filing and the new administrative fine and Alternative Dispute Resolution programs.

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

The President's FY2004 budget proposes an appropriation of \$29.6 million for the FLRA, an increase of 3.0% over the \$28.8 million appropriated in FY 2003.

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

The President's FY2003 budget request for GSA includes the largest requests to date to renovate and improve security measures in federal buildings.

Table 10. General Services Administration Appropriations
(in millions of dollars)

Fund / Office	FY2003 Enacted	FY2004 Request	FY2004 House	FY2004 Senate	FY2004 Enacted
Federal Buildings Fund					
Appropriations	373	217			
Limitations on Obligations	6,567	6,634			
Government-wide Policy	66	74			
Operating Expenses	72	85			
Office of Inspector General	38	39			
Allowances and Office Staff for Former Presidents	3	3			
Electronic Government (E-Gov) Fund	5	45			
Election Reform Payments and Reimbursements	665	—			
GSA appropriations total	1,222	464			

Source: United States House of Representative, Committee on Appropriations, Table: *President's Request with Outlays, FY2004*.

The President's FY2004 budget contains a request of \$74.0 million for government-wide policy and \$85.1 million for operating expenses; \$39.2 million for the Office of Inspector General, \$3.4 million for allowances and office staff for former Presidents; \$45.0 million for interagency electronic government initiatives; and \$17.6 million to be deposited into the Federal Consumer Information Center Fund.

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

The President's FY2004 budget requests that an additional \$217.0 million be deposited into the Federal Buildings Fund, for a total of \$6,579.9 million. An amount not to exceed \$400.6 million is to remain available until expended for new construction projects. An additional \$1,012.7 million is to remain available until expended for repairs and alterations. This amount includes \$217.2 million for repairs

to five existing courthouses; \$20.0 million to implement a glass fragmentation program; \$5.0 million to implement a chlorofluorocarbons program; and “amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056.”

Electronic Government Fund. The President’s budget for FY2004 seeks \$45 million for the e-government fund. The account statement notes that the fund has been authorized by the E-Government Act of 2002, which may serve to reduce or eliminate some of the past controversy about the management of the fund.²⁸ Under the terms of the authorizing provision, the fund is administered by the Administrator of General Services as a GSA account to support projects approved by the director of OMB. No monies may be transferred from the fund to any agency until 15 days after the Administrator has submitted to the House Committee on Appropriations and Committee on Government Reform and the Senate Committee on Appropriations and Committee on Governmental Affairs a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of Chapter 36 of Title 44, United States Code.

Funding for the Electronic Government Fund was a somewhat contentious matter between the President and Congress in FY2003, as it had been in FY2002. In advance of his proposed budget for FY2002, the President released, on February 28, 2001, *A Blueprint for New Beginnings: A Responsible Budget for America’s Priorities*. Intended as a 10-year budget plan, the *Blueprint*, among other innovations, proposed the establishment of an electronic government account, seeded with “\$10 million in 2002 as the first installment of a fund that will grow to a total of \$100 million over three years to support interagency electronic Government (e-gov) initiatives.” Managed by OMB, the fund was foreseen as supporting “projects that operate across agency boundaries,” facilitating “the development of a Public Key Infrastructure to implement digital signatures that are accepted across agencies for secure online communications,” and furthering “the Administration’s ability to implement the Government Paperwork Elimination Act of 1998, which calls upon agencies to provide the public with optional use and acceptance of electronic information, services and signatures, when practicable, by October 2003.”²⁹ About one month later, on March 22, OMB Deputy Director Sean O’Keefe announced that the Bush Administration had decided to double the amount to be allocated to the e-gov fund, bringing it to \$20 million.³⁰

As included in the President’s budget, the fund was established as an account within the General Services Administration (GSA), to be administered by the Administrator of General Services “to support interagency projects, approved by the

²⁸ See 116 Stat. 2899 at 2906; 44 U.S.C. 3604.

²⁹ U.S. Executive Office of the President, Office of Management and Budget, *A Blueprint for New Beginnings*, pp. 179-180.

³⁰ William Matthews, “Bush E-gov Fund to Double,” *Federal Computer Week*, vol. 15, Mar. 26, 2001, p. 8.

Director of the Office of Management and Budget, that enable the Federal Government to expand its ability to conduct activities electronically, through the development and implementation of innovative uses of the Internet and other electronic methods.” The President’s initial request for the fund was \$20 million, to remain available until September 30, 2004. Congress, however, appropriated \$5 million for the fund for FY2002, to remain available until expended. Appropriators specified that transfers of monies from the fund to federal agencies could not be made until 10 days after a proposed spending plan and justification for each project to be undertaken using such monies had been submitted to the Committees on Appropriations. Expressing general support for the purposes of the fund, they also recommended, and both chambers agreed, that the administration work with the House Committee on Government Reform and the Senate Committee on Governmental Affairs to clarify the status of its authorization.

The President’s budget for FY2003 “recognizes GSA as operator of the official federal portal for providing citizens with one-stop access to federal services via the Internet or telephone” and, therefore, a key agency in implementing the President’s e-gov vision, which will “require cross-agency approaches that permit citizens, businesses, and state and local governments to easily obtain services from, and electronically transact business with the federal government.” In this regard, an administration interagency Quicksilver E-Gov Task Force, according to the budget, “identified 23 high priority Internet services for early development.” Seeking \$45 million for the e-gov fund, the budget acknowledged that this amount was “a significant increase over the \$20 million requested in 2002,” but noted that the request “is supported by specific project plans developed by the Quicksilver Task Force.”³¹ Furthermore, according to the fund account statement, these monies “would also further the Administration’s implementation of the Government Paperwork Elimination Act (GPEA) of 1998, which calls upon agencies to provide the public with optional use and acceptance of electronic information, services, and signatures, when practicable, by October 2003.”

The House Appropriations Committee again rejected the amount requested by the President and recommended \$5 million for the fund, reiterating, as previously, that transfers of monies from the fund to federal agencies could not be made until 10 days after a proposed spending plan and justification for each project to be undertaken using such monies had been submitted to the Committees on Appropriations. The committee also declined to recommend an appropriation for the fund as a GSA account, but did fund it as an account under the jurisdiction of the Office of Management and Budget within the Executive Office of the President.³² The Senate Committee on Appropriations recommended the full \$45 million requested by the President. Their report states that OMB “would control the allocation of the fund and direct its use for information systems projects and affect

³¹ U.S. Office of Management and Budget, *Fiscal Year 2003 Budget of the U.S. Government*, pp. 386-387.

³² U.S. Congress, House Committee on Appropriations, *Treasury, Postal Service, and General Government Appropriations Bill, 2003*, a report to accompany H.R. 5120, 107th Cong., 2nd sess., H.Rept. 107-575 (Washington: GPO, 2002), pp. 64, 83.

multiple agencies and offer the greatest improvements in access and service.”³³ Final funding, as provided by P.L. 108-7, was \$5 million.

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

The President’s FY2004 budget proposes an appropriation of \$35.5 million for the MSPB. The request is 11.6% more than the \$31.8 million appropriated in FY 2003. The MSPB budget submission states that the amount requested includes “\$75,000 to provide for employee and managerial development opportunities” and “\$100,000 to comply with the Accountability of Tax Dollars Act of 2002, Public Law 107-289, which requires audited financial statements for agencies with over \$25,000,000 in appropriated funds in their budget.”³⁴ According to the budget submission:

Beginning in fiscal year 2004, at the request of [OMB], the [MSPB] is not requesting funds be transferred from the Civil Service Retirement and Disability Trust Fund. Instead, the funding previously supplied from the Trust Fund for adjudication of Civil Service Retirement appeals is being requested as part of the regular appropriation total of \$35,503,000. OMB has recommended this change to simplify the financial record keeping for both the [MSPB] and the Civil Service Retirement and Disability Trust Fund. We checked with the Office of Personnel Management, which has responsibility for the Trust Fund, and they have no objection to this change.³⁵

Office of Personnel Management (OPM). The budget for OPM is comprised of budget authority for both permanent and current appropriations. This report discusses the budget authority for current appropriations. The agency is responsible for administering personnel functions. The OPM helps agencies to develop merit-based human resources management accountability systems to support their missions. The Strategic Human Resources Policy Division designs and develops human resources policies and strategies linked to agency accomplishment of missions. The Human Capital Leadership and Merit Systems Accountability Division assists agencies in implementing and assessing human capital strategies. The Human Resources Products and Services Division supports federal agencies by administering retirement and insurance programs, providing personnel investigation

³³ S.Rept. 107-212, p. 77.

³⁴ U.S. Merit Systems Protection Board, *Fiscal Year 2004 Budget Justification*, Feb. 3, 2003, p. 6.

³⁵ *Ibid.*, p. 5.

services, managerial and executive training, and other human resources services.³⁶ The Office of Inspector General (OIG) conducts audits, investigations, evaluations, and inspections throughout the agency and may issue administrative sanctions related to the operation of the Federal Employees Health Benefits Program.

The President's FY2004 budget proposes an appropriation of \$18.0 billion for OPM. This total includes discretionary funding of \$118.7 million³⁷ for salaries and expenses and \$1.5 million for OIG salaries and expenses. It also includes mandatory funding of \$7.5 billion for the government payment for annuitants of the employees health benefits program, \$35.0 million for the government payment for annuitants of the employee life insurance program, and \$10.0 billion for payment to the civil service retirement and disability fund. Included in this total as well are trust fund transfers of \$135.9 million³⁸ for salaries and expenses and \$14.4 million³⁹ for OIG salaries and expenses. (In FY 2003, \$120.8 million for salaries and expenses and \$10.9 million for OIG salaries and expenses were transferred from trust funds.)

According to OPM's budget submission, the \$118.7 million requested for salaries and expenses "includes \$111,748,000 in annual funds [for such things as enhanced information technology support and competitive sourcing studies], \$4,500,000 in no-year funds for e-Government (e-Gov) projects, and \$2,500,000 to remain available through the end of FY 2005 to coordinate and conduct program evaluation and performance management."⁴⁰

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

will finance more audit staff, special agent criminal investigators, associated analytical staff, and improved information systems. OPM expects to reduce the audit cycle from 5 years to 3.6 years for community-related carriers. Recoveries are expected to increase by \$16 million annually as a result.⁴¹

The OPM budget request is 8.8% more than the \$16.6 billion appropriated in FY 2003. Specifically, it is 7.7% less than the \$128.6 million appropriated in FY 2003

³⁶ U.S. Office of Personnel Management, *Congressional Budget Justification; Annual Performance Plan Fiscal Year 2004*, Feb. 2003, p. 3. (Hereafter referred to as OPM Budget Justification.)

³⁷ Of this total of \$118,748,000, \$2,000,000 shall remain available until expended for the cost of the enterprise human resources integration project, \$2,500,000 shall remain available until expended for the cost of leading the government-wide initiative to modernize federal payroll systems and service delivery, and \$2,500,000 shall remain available through September 30, 2005 to coordinate and conduct program evaluation and performance measurement.

³⁸ Of this total of \$135,914,000, \$36,700,000 shall remain available until expended for the cost of automating the retirement record keeping systems.

³⁹ This money is for administrative expenses to audit, investigate, and provide other oversight of OPM's retirement and insurance programs.

⁴⁰ OPM Budget Justification, p. 5.

⁴¹ FY2004 Budget, Appendix, p. 974.

for salaries and expenses; 0.7% less than the \$1.5 million for OIG salaries and expenses; 5.3% more than the \$6.9 billion for the government payment for annuitants of the employees health benefits program; 2.9% more than the \$34.0 million for the government payment for annuitants of the employee life insurance program; and 6.1% more than the \$9.4 billion for payment to the civil service retirement and disability fund.⁴²

Human Capital Performance Fund. The President's FY2004 budget proposes an appropriation of \$500 million for this new fund which

is designed to create performance-driven pay systems for employees and reinforce the value of employee performance management systems. The Administration proposes providing additional pay over and above any annual, across-the-board pay raise to certain civilian employees based on individual or organizational performance and/or other critical agency human capital needs. Ninety percent of funds appropriated would be distributed to agencies on a pro rata basis, upon OPM approval of an agency's plan. The remainder, and any amount withheld from agencies due to inadequate plans, would be allocated at the discretion of OPM.⁴³

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

The President's FY2004 budget proposes an appropriation of \$13.5 million for the OSC, an increase of 9.2% over the \$12.4 million appropriated in FY 2003. According to the budget, the funding "will enable OSC to continue its efforts to reduce its long-standing case processing backlogs This request provides funding for seven additional full time staff in [the Hatch Act and Disclosure Units] to address growing backlog concerns."⁴⁴

Title VI: General Provisions

This section of the report discusses, briefly, general provisions such as government-wide guidance on basic infrastructure-like policies. Examples are provisions related to the Buy America Act, drug-free federal workplaces, and

⁴² The amounts of \$6,853,000,000; \$34,000,000; and \$9,410,000,000 for FY 2003 are from P.L. 108-7. OPM notifies the Secretary of the Treasury of the "such sums as may be necessary" to fund these accounts each fiscal year. The FY2004 estimates for these accounts are \$7,219,000,000; \$35,000,000; and \$9,987,000,000 (from the House Committee on Appropriations Table: *Presidents Request with Outlays*, FY2004).

⁴³ FY2004 Budget, Appendix, p. 973.

⁴⁴ FY2004 Budget, Appendix, p. 1091.

authorizing agencies to pay GSA bills for space renovation and other services which are annually incorporated into the Treasury and General Government appropriations legislation. Quite frequently, additionally, there have been provisions which relate to specific agencies or programs. For both Transportation/Treasury-related general provisions and government-wide general provisions, with noted exceptions, the sections discussed here will be those which are new or contain modified policies.

The Administration's proposed language for government-wide general provisions is found the *Appendix*.⁴⁵ Most of the general provisions continue language which has appeared under that title for several years. For an array of reasons, Congress has determined that reiterating the language is preferable to placing the provisions in permanent law.

The Administration is recommending dropping several such provisions. The provisions are listed below. Not listed are FY2003 provisions which related only to the single fiscal cycle.

- **Payment of salary to pending nominees.** Repeats recommendation to eliminate the provision (FY2003, Sec. 609) which prohibits payment to political appointees functioning in jobs for which they have been nominated, but not confirmed. This provision has been in the bill for at least 20 years. The previous administration also recommended its elimination.
- **Regulations — resolutions of disapproval.** Recommended elimination of the provision (FY2003, Sec. 612) which prohibits use of funds to “implement, administer, or enforce any regulation” which has been disapproved through statutorily authorized means. If the provision were eliminated, conceivably the executive could continue regulatory activities which Congress had disapproved, through resolution of disapproval or the Congressional Review Act. The provision, in the bill since the early 1980s, had been recommended for elimination previously by both the current and Clinton administrations.
- **Importation restrictions.** Recommends elimination of provision banning use of funds to Customs Service for importation or release in the United States of goods found to be manufactured by forced or indentured child labor (FY2003, Sec. 619). This provision may reappear under the Department of Homeland Security appropriation.
- **Federal employee training.** Recommends elimination of provision (FY2003, Sec. 621) which requires that no funds be obligated or expended for employee training not directly related to the employee's official duties; that may induce high levels of emotional response or psychological stress in some participants; that fails to inform re course content or post-course evaluation; that contains

⁴⁵ *FY2004 Budget, Appendix*, pp. 9-13.

methods or content “associated with religious or quasi-religious belief systems or ‘new age’ belief systems;” and that is offensive to, or designed to change, participants’ personal values or lifestyles away from the workplace. Elimination of this language, in the bill since the mid-1990s, was requested in the last two budget cycles by the Bush Administration and previously by the Clinton Administration.

- **Nondisclosure agreements.** Section 622 (FY2003) prohibits the use of funds to require and execute employee non-disclosure agreements without those agreements having whistle-blower protection clauses. The Bush proposal repeats their FY2002 and FY2003 request for elimination of that provision, which has been in the bill for over ten years.
- **Mailing and telephone lists.** Section 625 (FY2003) requires approval by the Committees on Appropriations of release of any “non-public” information such as mailing or telephone lists to any person or any organization outside the federal government. The Bush Administration is repeating their request for its elimination.
- **Use of official time.** Federal employees in executive agencies are required (section 627, FY2003) to “use official time in an honest effort to perform official duties.” That requirement, in the bill since FY1999, has been slated for elimination by both the Bush and Clinton budget proposals. The argument has been that the ethics statutes, in fact, place that same requirement on all federal personnel.

One of the Administration’s proposals is a continuation of a provision (FY2003, Sec. 615) but with conforming language to include the Department of Homeland Security. The Administration has recommended seven general provisions which were not enacted as part of the FY2003 statute.

- **Federal Employees Compensation Act amendment.** The Administration is repeating its request (proposed sec. 630) to amend provisions of the Federal Employees Compensation Act (FECA) which relates to workers’ compensation available to federal employees.
- **Accrual cost funding for federal pension.** Funding would be authorized if provisions like those of the proposed Managerial Flexibility Act of 2001 (S. 1612, 107th Congress), relating to the accrual of funds for the payment of federal pensions and post-retirement health benefits, were enacted. Similar legislation has not yet been introduced in the 108th Congress. (Proposed Sec. 631.)
- **Transfer of funds.** The Administration would be authorized to transfer up to 5% from any appropriation, with certain limitations. (Proposed Sec. 632.)

- **National Oceanographic Partnership Program Office.** Interagency funding would be authorized in support of the office. (Proposed Sec. 634.)
- **Executive Office of the President — transfer of funds.** The Administration would be allowed to transfer funds between accounts funding operations in the Executive Office of the President. (Proposed Sec. 635.) In the two previous funding cycles, the Administration had requested that all of the accounts within the Executive Office of President be consolidated into one account. Congress rejected that proposal.
- **Human Capital Performance Fund.** A fund, administered by the Office of Personnel Management, would be established under which the agencies could be authorized to “provide targeted pay increases to individual employees based on performance.” (Proposed Sec. 636.)
- **Senior Executive Service.** Proposed section 637 would change the pay system for the Senior Executive Service.

Federal Personnel Issues

General Schedule Pay. Under the Federal Pay Comparability Act of 1990 (FEPCA), federal white collar employees, paid under the General Schedule and related salary systems, are to receive annual adjustments based on two separate mechanisms. The first is the adjustment to base pay which is based on changes in private sector salaries as reflected in the Employment Cost Index (ECI). The rate of pay adjustment is supposed to be the percentage rate of change in that element of the ECI, minus 0.5. Under that formula, for January 2003, the base pay adjustment was 3.1%. On December 31, 2002, the President signed an Executive Order establishing the salary schedules for federal civilian personnel effective January 2003.⁴⁶

Under the provisions of Section 637, Division J, P.L. 108-7, the full pay increase for the General Schedule is 4.1%. There was no stipulation as to how the additional 1% would be apportioned between base pay and locality-based comparability payments. The payment will be retroactive to January 2003. On March 21, it was announced that the additional 1% would be applied exclusively to locality-based comparability payments.⁴⁷

⁴⁶ U.S. National Archives and Records Administration, “Executive Order 13282 — Adjustments of Certain Rates of Pay,” *Federal Register*, vol. 68, January 8, 2003 (Washington: GPO, 2003), pp. 1133-1142. E. O. 13282, dated December 31, 2002.

⁴⁷ U.S. National Archives and Records Administration, “Executive Order 13291 — Further Adjustment of Certain Rates of Pay,” *Federal Register*, vol. 68, March 25, 2003 (Washington: GPO, 2003), pp. 14525-14526. E. O. 13291, dated March 21, 2003.

The President's budget proposes a federal civilian pay increase of 2.0% in January 2004.⁴⁸ However, the proposal does not indicate how the pay increase would be split between basic pay and locality-based payments for the General Schedule and related pay systems.

Section 601 of the FY2004 budget resolution (H. Con. Res. 95, H. Rept. 108-71) contained a Sense of the Senate provision stating that the civilian and military pay increases should be in parity.

Federal Wage System. The Federal Wage System (FWS) is designed to compensate the federal blue collar, or skilled labor, force at rates prevailing in local wage areas for like occupations. If the statutory system were allowed to be managed as planned, the wage rates and the rates of adjustment in the over 130 wage areas would vary, according to the labor costs and compensation in the private sector. For the last several years, Congress has limited the rates of adjustment, based on the rates of adjustment for the General Schedule (P.L. 108-7, Division J, Section 613). Part of the rationale for that decision is that, in certain high cost areas, some FWS wages would exceed the salaries paid to General Schedule supervisors. Wages in lower cost areas will be allowed to increase according to the findings of the wage surveys but the high cost area wages will be capped.

P.L. 107-117 extends the Monroney Amendment out-of-area survey application to Department of Defense personnel.

Senior Executive Service Salaries. Section 637 of the President's proposed General Provisions would amend the statute governing the determination of salary levels for the Senior Executive Service. It would increase the level at which the salaries are capped, both for base pay and for the application of locality pay. It would eliminate the 6-tier system with a pay band system. It also would adjust language related to pay for performance.⁴⁹

Human Capital Performance Fund. The Administration's FY2004 pay proposal would combine a 2% across-the board increase with a performance component. A \$500 million fund would be set aside government-wide to allow managers to reward top-performing individuals with permanent increases in base pay.⁵⁰

Members of Congress, Judges, and Other Officials. Under the Ethics Reform Act of 1989, as amended, pay adjustments for federal officials, including Members of Congress and judges, are also based on ECI calculations, but for a different 12-month period. The ECI calculations dictated a pay adjustment in January 2003 of 3.3%. However, the statute limits those adjustments to the rate of adjustment for base pay of the General Schedule. Therefore, since the General Schedule base pay was adjusted at the rate of 3.1%, 3.1% is the maximum rate of

⁴⁸ *FY2004 Budget, Analytical Perspectives*, p. 287.

⁴⁹ *FY2004 Budget, Appendix*, p. 13.

⁵⁰ *FY2004 Budget, Appendix*, p. 12 and *Analytical Perspectives*, p. 287.

adjustment in salaries of federal officials for January 2003. Because the mechanism described above is automatic, no bill language is necessary to establish the pay adjustment.⁵¹

Unlike that for Members of Congress and executive branch officials, the annual pay increase must be specifically authorized for judges. The language permitting the judges to receive the January 2003 increase was reported by the Senate Committee on Appropriations as section 304 of S. 2778. However, Congress adjourned prior to enactment. Therefore, the judges did not receive the 3.1% adjustment as of January 1, 2003. The 108th Congress enacted P.L. 108-6⁵² for the purpose of permitting the judges to receive the increase retroactive to the first of the year. At no time, since the authorization was required, have the judges received lower adjustments than the other officials.

President. Pursuant to the Treasury and General Government Appropriations Act, 2000 (P.L. 106-58), effective noon, January 20, 2001, the President receives a salary of \$400,000 *per annum*. Since 1969, Presidents had been paid a salary of \$200,000. No further action on presidential pay is expected. Former Presidents receive a pension equal to the rate of pay for Cabinet Secretaries (currently \$171,900) and the pension is adjusted automatically as those pay rates are changed.⁵³

Federal Employees Workers' Compensation Program (FECA). The Federal Employees Compensation Act (FECA) provides workers' compensation benefits for Federal employees injured on the job. Under current law (5 U.S.C. Sect. 8147), the direct costs of these benefits are reimbursed via transfers from the budgets of each Federal agency to the Labor Department, which administers the program and disburses the benefits. The costs of administration are covered by appropriation directly to the Labor Department.

The Administration is again proposing various changes in FECA that it broached in the 107th Congress. The aspect that would affect agency budgets government-wide is to charge administrative costs in the same manner as benefit costs, i.e. through the appropriation of each employing agency. The stated intention is to make each agency explicitly bear the full cost of their employees' claims, thus "bolstering their incentive to improve workplace safety." The administrative surcharge would be around 3.5% of benefit costs (calculated from the Administration budget for FY2004, which contemplates \$88 million in administrative costs to service \$2,532 million in program benefits). Most of the surcharge would be paid by the two agencies that account for more than 60% of

⁵¹ See also, CRS Report RL30014, *Salaries of Members of Congress: Current Procedures and Recent Adjustments* and CRS Report 97-1011, *Salaries of Members of Congress: Payable Rates and Effective Dates, 1789-2001*, both by Paul E. Dwyer. Also see, CRS Report RS20388, *Salary Linkage: Members of Congress and Other Federal Officials*; CRS Report RS20278, *Judicial Salaries: Current Situation*; and CRS Report 98-53, *Salaries of Federal Officials*, by Sharon S. Gressle.

⁵² P.L. 108-6; H.R. 16; February 13, 2003; 117 Stat. 10.

⁵³ See CRS Report RS20114, *Salary of the President Compared with That of Other Federal Officials*, by Sharon S. Gressle.

FECA claims: the U.S. Postal Service and the Defense Department. (However, the Postal Service already pays its share pursuant to 5 U.S.C. 8147(c).)

List of Transportation Acronyms

ARC: Amtrak Reform Council

AIP: Airport Improvement Program (FAA)

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

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

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

BRR: Bridge Replacement and Rehabilitation program (FHWA)

BTS: Bureau of Transportation Statistics

CG: Coast Guard

CMAQ: Congestion Mitigation and Air Quality program (FHWA)

DOT: Department of Transportation

EAS: Essential Air Service (FAA)

F&E: Facilities and Equipment program (FAA)

FAA: Federal Aviation Administration

FAHP: Federal-Aid Highway Program (FHWA)

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

FHWA: Federal Highway Administration

FRA: Federal Railroad Administration

FTA: Federal Transit Administration

Hazmat: Hazardous materials (safety program in RSPA)

HPP: High Priority Projects (FHWA)

HTF: Highway Trust Fund

IM: Interstate Maintenance program (FHWA)

ITS: Intelligent Transportation Systems (FHWA)

MCSAP: Motor Carrier Safety Assistance Program (FMCSA)

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

NHS: National Highway System; also a program within FHWA

NHTSA: National Highway Traffic Safety Administration

NMCSA: National Motor Carrier Safety Administration

O&M: Operations and Maintenance program (FAA)

OIG: Office of the Inspector General of the DOT

OST: Office of the Secretary of Transportation

RABA: Revenue-Aligned Budget Authority

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

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

RSPA: Research and Special Projects Administration

SCASD: Small Community Air Service Development program (FAA)

STB: Surface Transportation Board

STP: Surface Transportation Program (FHWA)

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

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

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

TSA: Transportation Security Administration

For Additional Reading

CRS Products

CRS Report RS20177. *Airport and Airway Trust Fund Issues in the 106th Congress*, by John W. Fischer.

CRS Issue Brief IB10026. *Airport Improvement Program*, by Robert S. Kirk.

CRS Report RL30659. *Amtrak: Overview and Options*, by David Randall Peterman.

CRS Report RL31743. *Amtrak Issues in the 108th Congress*, by David Randall Peterman.

CRS Issue Brief IB90122. *Automobile and Light Truck Fuel Economy: The CAFÉ Standards*, by Rob Bamberger.

CRS Report RS21321. *Aviation Taxes and Fees: Major Issues*, by John W. Fischer.

CRS Report RS20469. *Bicycle and Pedestrian Transportation Policies*, by William Lipford and Glennon J. Harrison.

CRS Report RS20790. *The Coordinated Border Infrastructure Program: Issues for Congress*, by Robert S. Kirk.

CRS Report RS20841. *Environmental Streamlining Provisions in the Transportation Equity Act for the 21st Century: Status of Implementation*, by David M. Bearden and Linda G. Luther.

CRS Issue Brief IB10030. *Federal Railroad Safety Program and Reauthorization Issues*, by Paul F. Rothberg and John Williamson.

CRS Report RL31027. *High-Speed Rail: Development and Investment Issues in the 107th Congress*, by David Randall Peterman and Steven Maguire.

CRS Report RL31665. *Highway and Transit Program Reauthorization*, by John W. Fischer, Coordinator.

CRS Report RS21164. *Highway Finance: RABA's Double-edged Sword*, by John W. Fischer.

CRS Report RL31150. *Selected Aviation Security Legislation in the Aftermath of the September 11 Attack*, by Robert S. Kirk.

CRS Report RL31854. *Transit Program Reauthorization in the 108th Congress*, by David Randall Peterman.

CRS Report 98-646 ENR. *Transportation Equity Act for the 21st Century (P.L. 105-178): An Overview of Environmental Protection Provisions*, by David M. Bearden.

CRS Issue Brief IB10032. *Transportation Issues in the 108th Congress*, coordinated by Glennon J. Harrison.

Selected World Wide Web Sites

Department of Transportation Budget in Brief FY2003
[<http://www.dot.gov/bib/bibindex.html>]

Department of Transportation, Chief Financial Officer
[<http://ostpxweb.dot.gov/budget/>]

House Appropriations Committee
[<http://www.house.gov/appropriations>]

Interactive Budget Web Site
[<http://ibert.org/civix.html>]

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

National Highway Traffic Safety Administration (budget & planning)
[<http://www.nhtsa.dot.gov/nhtsa/whatis/planning/perf-plans/gpra-96.pln.html>]

Office of Management and Budget
[http://www.gpo.gov/usbudget/fy1998/fy1998_srch.html]

Senate Appropriations Committee
[http://www.senate.gov/committees/committee_detail.cfm?COMMITTEE_ID=405]

Appendix 1: The Transportation Appropriations Framework

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

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

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

Transportation Equity Act for the 21st Century (TEA-21)

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

TEA-21 changed the role of the House and Senate appropriations and budget committees in determining annual spending levels for highway and transit programs.

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

Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (FAIR21 or AIR21)

The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (FAIR21 or AIR21)(P.L. 106-181) provides a so-called “guarantee” for Federal Aviation Administration (FAA) program spending. The guarantee for aviation spending, however, is significantly different from that provided by TEA-21. Instead of creating new budget categories, the FAIR21 guarantee rests on adoption of two point-of-order rules for the House and the Senate. Supporters of FAIR21 believe the new law requires significant new spending on aviation programs; and, for at least the FY2001 and FY2002 appropriations cycles, spending grew significantly. Most observers view the FAIR21 guarantees, however, as being somewhat weaker than those provided by TEA-21. Congress can, and sometimes does, waive points-of-order during consideration of legislation.

Enactment of TEA-21 and FAIR21 means that transportation appropriators have total control over spending only for the TSA, the Coast Guard, the Federal Railroad Administration (including Amtrak), and a number of smaller DOT agencies. All of these agencies are concerned about their funding prospects in any year where it is believed that there is a constrained budgetary environment.

Appendix 2: Transportation Budget Terminology

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

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

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

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

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