

Department of Homeland Security Appropriations: FY2024 Provisions

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Department of Homeland Security Appropriations: FY2024 Provisions

Through appropriations legislation, Congress provides not only budget authority for federal agencies and departments to operate, but also legally binding direction on how that budget authority can (or cannot) be used. Sometimes enacted appropriations measures include authorizing (or “legislative”) provisions as well.

These directions may appear in three places in an appropriations act:

1. in the language of individual appropriations;
2. in administrative provisions at the end of a title; and
3. in general provisions at the end of a bill (or division, in the case of a consolidated measure).

Some of these directions directly relate to the management of budget authority enacted in the measure, while others relate to policy or operational matters. As with any facet of legislation, these provisions are not constant. Due to the passage of time or other legislative developments, a provision may require adjustment or lose its relevance. Provisions enacted in appropriations legislation are also a focus of negotiations between the parties and between the chambers during the appropriations process, so provisions can evolve through negotiations until a compromise is worked out in the final measure.

Rather than reciting the entire catalog of more than 100 administrative and general provisions in the Department of Homeland Security (DHS) Appropriations Act, 2024, this report focuses on the substantive changes in directions provided from FY2023 to FY2024. It includes changes from the provisions in the DHS Appropriations Act, 2023, reflected in

- the detailed proposals for administrative and general provisions made in the Administration’s FY2024 appropriations request for DHS;
- the administrative and general provisions in House Appropriations Committee-reported H.R. 4367, as well as amendments approved by the House of Representatives during floor consideration;
- the administrative and general provisions in Senate Appropriations Committee-reported S. 2625; and
- those enacted in P.L. 118-47, Division C.

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Introduction

Through appropriations legislation, Congress provides not only budget authority for federal agencies and departments to operate, but also legally binding direction on how that budget authority can (or cannot) be used. Sometimes enacted appropriations measures include authorizing (or “legislative”) provisions as well.

These directions may appear in three places in an appropriations act:

1. in the language of individual appropriations;
2. in administrative provisions at the end of a title; and
3. in general provisions at the end of a bill (or division, in the case of a consolidated measure).

Some of these directions directly relate to the management of budget authority enacted in the measure, while others relate to policy or operational matters. As with any facet of legislation, these provisions are not constant. Due to the passage of time or other legislative developments, a provision may require adjustment or lose its relevance. Provisions are also a focus of negotiations between the parties and between the chambers during the appropriations process, so provisions will evolve through negotiations until a compromise is reached and included in the final measure.

While other appropriations reports focus on funding levels provided in the bill, this report focuses on these administrative and general provisions under consideration in the FY2024 appropriations process for the Department of Homeland Security (DHS). It describes the substantive changes in administrative and general provisions from those enacted in FY2023 reflected in the Administration’s FY2024 budget request for DHS, and in the House-passed and Senate committee-reported FY2024 DHS appropriations bills.

- For more information on the President’s DHS budget request for FY2024, see CRS Report R47496, *DHS Budget Request Analysis: FY2024*.
- For more information on the funding levels proposed in the DHS appropriations measures for FY2024, see CRS Report R47678, *Comparing DHS Component Funding, FY2024: In Brief*.
- For more information on the current status of DHS appropriations for FY2024, see CRS Report R47688, *Department of Homeland Security Appropriations: FY2024 State of Play*.
- For information on DHS structure, component missions, and longer-term staffing and funding history, see CRS Report R47446, *The Department of Homeland Security: A Primer*.

Scope and Methodology

This report focuses on administrative and general provisions included in:

- the detailed proposals for administrative and general provisions made in the Administration’s FY2024 appropriations request for DHS;
- the administrative and general provisions in House Appropriations Committee-reported H.R. 4367, as well as amendments approved by the House of Representatives during floor consideration;

- the administrative and general provisions in Senate Appropriations Committee-reported S. 2625; and
- those enacted in P.L. 118-47, Division C.

Rather than listing all the administrative and general provisions considered, this report uses the administrative and general provisions of the enacted DHS Appropriations Act, 2023,¹ as a basis for comparison, and notes changes from that starting point.

For each title of the bill, a list of the components funded in the title and a tally of provisions included in the DHS Appropriations Act, 2023 is provided. This is followed by sections analyzing the Administration, House Appropriations Committee, and Senate Appropriations Committee proposals for FY2024, with subsections describing proposals to not include prior-year provisions, substantive changes to provisions being carried forward from FY2023 (ones that would alter the practical effects of the prior year's provisions), and new provisions. It also notes provisions added during consideration of the bill on the House floor in September 2023.

Given the amount of funding provided in the title and the number of administrative provisions, the report starts with Title II, then moves to the other operational components in Title III, the support components in Title IV, and the headquarters components in Title I. The final section in the report deals with general provisions in Title V.

To avoid confusion between differing section numbers in various versions of acts and bills, sections of the FY2023 act are referred to as “FY2023 Sections,” those of H.R. 4367 are referred to as “HAC Sections” or “House Sections,” those of S. 2625 are referred to as “SAC Sections,” and those of P.L. 118-47, “FY2024 Sections.”

Appendices include a glossary of abbreviations, notes on other language changes from FY2023 to FY2024, and a brief discussion of the longer-term history of the general and administrative provisions in the DHS appropriations act.

Security, Enforcement, and Investigations

Administrative Provisions (Title II)

Title II of the annual DHS appropriations measures typically covers appropriations for

- U.S. Customs and Border Protection (CBP);
- U.S. Immigration and Customs Enforcement (ICE);
- the Transportation Security Administration (TSA);
- U.S. Coast Guard (USCG); and
- U.S. Secret Service (USSS).

There were 36 administrative provisions included at the end of Title II of the FY2023 act.² The FY2024 act includes 31: six provisions from FY2023 were not included, two were substantively

¹ P.L. 107-328, Div. F.

² Descriptions of these provisions can be found in the FY2023 consolidated appropriations measure's explanatory statement, as printed in “Explanatory Statement Submitted by Mr. Leahy, Chair of the Senate Committee on Appropriations, Regarding H.R. 2617, Consolidated Appropriations Act, 2023,” Senate, *Congressional Record*, vol. 168, no. 198, Book II (December 20, 2022), pp. S8564-S8565. (Hereinafter, “FY2023 Explanatory Statement.”)

changed, and one that had not appeared in FY2023 was added. The other 28 remained essentially unchanged.³

Administration-Proposed Changes⁴

Administration-Proposed Deletions

The Administration had proposed deleting five provisions that had been included in the FY2023 enacted measure:

- **FY2023 Section 211:** This one-time administrative provision provided for a transfer of up to \$785 million from CBP's Operations and Support appropriation to FEMA's Federal Assistance appropriation for a new Shelter and Services Grant program.
 - Neither committee-reported bill included the provision.
 - This provision was not included in the FY2024 enacted measure.
- **FY2023 Section 212:** Included since FY2018 in annual appropriations,⁵ this administrative provision delimited the use of part of CBP's Procurement, Construction and Improvements appropriation.
 - This provision was included as FY2024 Section 211, and the changes are described in the "Modifications" subsection on page 5 of this report.
- **FY2023 Section 222:** This one-time administrative provision extended by two years the authority for a pilot program for screening of passengers outside of an existing primary passenger terminal screening area.
 - Neither committee-reported bill included the provision.
 - This provision was not included in the FY2024 enacted measure.
- **FY2023 Section 231:** Included since FY2022,⁶ this administrative provision restricted the USCG from charging a fee for inspecting certain towing vessels until the USCG determines whether the costs of towing vessel inspections done by the USCG differ from those of third-party inspectors, and adjusts its fees to reflect its costs.⁷
 - House-passed H.R. 4367 included the provision as Section 236.
 - SAC-reported S. 2625 included the provision as Section 228.
 - This provision was included as FY2024 Section 227.

³ The text of these provisions and their descriptions can be found in the committee print of the Further Consolidated Appropriations Act, 2024. (U.S. Congress, House Appropriations Committee, *Further Consolidated Appropriations Act, 2024 [Legislative Text and Explanatory Statement]*, committee print, prepared by Committee on Appropriations, U.S. House of Representatives, 118th Cong., 2nd sess., May 6, 2024, 55-008 (Hereinafter, "FY2024 Committee Print"); provisions on pp. 527-532, descriptions on pp. 580-582.

⁴ CRS analysis of Office of Management and Budget, *Fiscal Year 2024 Budget of the U.S. Government: Appendix*, March 11, 2024, pp. 533-534, <https://www.govinfo.gov/content/pkg/BUDGET-2024-APP/pdf/BUDGET-2024-APP.pdf> (hereinafter, *FY2024 Appendix*); and P.L. 117-328, Division F.

⁵ P.L. 115-141, Div. F, Section 230. A variant of this provision was carried in P.L. 115-31, Div. F, Title VI, where direction was provided in a supplemental appropriation for CBP's Procurement, Construction, and Improvements account (131 Stat. 433).

⁶ P.L. 107-103, Div. F, Section 231.

⁷ P.L. 115-282.

- **FY2023 Section 236:** This one-time administrative provision authorized the USSS to make a \$23 million grant or cooperative agreement from its Operations and Support appropriation for existing National Computer Forensics Institute Facilities used for cybersecurity incident and threat investigation and training.
 - Neither committee-reported bill included the provision.
 - This provision was not included in the FY2024 enacted measure.

Administration-Proposed Modifications

The Administration proposed alterations to two provisions, neither of which was included in any of the FY2024 measures:

- **FY2023 Section 210:** Included since FY2020, this provision has restricted the ability to reduce CBP’s “anticipated or planned” vetting operations at existing locations unless specifically authorized by statute. The Administration has proposed dropping “anticipated or” from the provision, a request they first made in FY2023.
- **FY2023 Section 221:** Included since FY2020, this provision required the Administrator of the TSA to submit to certain congressional committees a single report that fulfils the requirements of a Capital Investment Plan, a five-year technology investment plan, and an Advanced Integrated Passenger Screening Technologies report within a certain amount of time. The Administration proposed dropping language that had been added to the description of the Capital Investment Plan in the FY2023 act that required it to be “both constrained and unconstrained.”⁸

Administration-Proposed Additions

The Administration proposed three new administrative provisions in the budget request for FY2024. All three had been proposed by the Administration for FY2023 and were not enacted at that time:

- authorization for CBP to use unobligated balances of its Procurement, Construction, and Improvement appropriations from FY2020-FY2021 for other specified border management purposes;
- removal of previously enacted restrictions on the types of border barrier that could be constructed that had been carried in the FY2020 DHS appropriations act; and
- authorization for DHS to transfer up to \$225 million in unobligated CBP Procurement Construction, and Improvement appropriations from prior years to the Department of the Interior (including any agency or bureau within the Department of the Interior) or the Forest Service “for the execution of environmental and other mitigation projects or activities ... related to the construction of border barriers on the southwest border.”

⁸ TSA Administrator David P. Pekoske, in testimony before the House Appropriations Committee, described an unconstrained capital investment plan as one “that describes an ideal future state in which TSA is able to buy down more risk to the transportation sector with additional resources.” The text of his full testimony is available at <https://www.tsa.gov/news/press/testimony/2023/03/29/fiscal-year-2024-presidents-budget-request-transportation-security>.

None of these proposed new provisions were included in any of the FY2024 measures, either.

Other Changes⁹

Deletions

The FY2024 measure did not include three provisions from FY2023 that the Administration had proposed carrying forward:

- **FY2023 Section 219:** This provision, first carried in FY2009 as a direction within the TSA Aviation Security appropriation, required TSA to award grants for deployment of explosive detection systems on the basis of “risk, the airport’s current reliance on other solutions, lobby congestion resulting in increased security concerns, high injury rates, airport readiness and increased cost effectiveness.”
- **FY2023 Section 224:** This provision allowed greater flexibility for the USCG to reprogram up to \$10 million in its Operations and Support appropriation to or from its Military Personnel funding category and between its Field Operations funding subcategories. The former flexibility was first provided in FY2014, and the latter was added in FY2022.
- **FY2023 Section 226:** This provision, included in some form since FY2010,¹⁰ initially allowed the USCG to allocate funding within its operations appropriation designated as being for “Overseas Contingency Operations / Global War on Terror” (a special budgetary designation that made it easier to provide under budget limitations) to be allocated among various activities without regard to the reprogramming¹¹ restrictions in the bill’s general provisions. Although the special designation fell out of use, this flexibility was maintained over the years, most recently for funding “for defense-related activities ... that are used for enduring overseas missions in support of the global fight against terrorism.”

Modifications

- **FY2024 Section 211:** Included in annual DHS appropriations measures since FY2018, this administrative provision has delimited the use of CBP’s annual Procurement, Construction, and Improvements (PC&I) appropriation. The provision distributes the \$850 million appropriation as follows:

⁹ CRS analysis of P.L. 117-328, Division F; H.R. 4367; S. 2625, and P.L. 118-47, Division C.

¹⁰ Prior to FY2018, this flexibility was included in the language of USCG’s Operating Expenses appropriation.

¹¹ Reprogramming is the action of shifting budget authority from one program, project, or activity to another.

Table I. CBP PC&I Appropriations Allocation in Administrative Provisions

Program, Project, or Activity	FY2024 Request	House-Passed H.R. 4367	SAC-Reported S. 2625	P.L. 118-47, Division C
Acquisition and deployment of physical barriers	\$0	\$2,104,000,000	\$0	\$0
Acquisition and deployment of border technologies	229,568,000	276,000,000	263,300,000	283,500,000
Trade and travel assets and infrastructure	305,400,000	305,400,000	644,296,000	380,900,000
Facility construction and improvements	83,768,000	119,768,000	69,654,000	92,114,000
Integrated operations assets and infrastructure	82,732,000	123,232,000 ^a	134,100,000	75,983,000
Mission support and infrastructure	17,673,000	37,253,000	41,179,000	17,673,000
Total	\$719,141,000	\$2,965,653,000	\$1,152,529,000	\$850,170,000

Sources: CRS analysis of U.S. Customs and Border Protection FY2024 Congressional Justification; House-passed H.R. 4367, Section 211; SAC-reported S. 2625, Section 211; and P.L. 118-47, Division C, Section 211.

- a. An amendment by Representative Houlahan to this amount to raise the issue of reforms of programs to counter Unmanned Aircraft Systems was included in an *en bloc* amendment that passed by voice vote, but it did not change the overall amount for this activity.
- **FY2024 Section 218:** This provision, first carried as a proviso in the TSA Aviation Security appropriation in FY2006, blocked certain senior government officials from being exempted from passenger and baggage screening. In the FY2024 measure, it was modified to add a subsection barring the use of funds to carry out legislation modifying those passenger and screening requirements.

Additions

P.L. 118-47 included one new administrative provision:

- **FY2024 Section 217:** This new administrative provision requires the ICE Chief Financial Officer to submit to the appropriations committees an obligation plan for the component within 45 days of enactment.

Protection, Preparedness, Response, and Recovery Administrative Provisions (Title III)

Title III of annual DHS appropriations measures currently covers appropriations for

- the Cybersecurity and Infrastructure Security Agency (CISA); and
- Federal Emergency Management Agency (FEMA).

There were 11 administrative provisions included at the end of Title III of the DHS Appropriations Act, 2023.¹² The FY2024 act included 11 provisions as well: two from FY2023

¹² Descriptions of these provisions can be found in “FY2023 Explanatory Statement,” p. S8679.

were not included, and two that did not appear in FY2023 were added. The other nine provisions remained essentially unchanged.¹³

Administration-Proposed Changes¹⁴

The Administration proposed 13 Title III administrative provisions for the FY2024 act: not including one provision enacted for FY2023, substantively changing six others, and including three that had not appeared in the FY2023 act. The other four provisions remained essentially unchanged in the request.¹⁵

Administration-Proposed Deletions

The one FY2023 provision not included in the request was FY2023 Section 302, a new statutory provision¹⁶ that required the Director of CISA to provide quarterly budget and staffing briefings to the appropriations committees.

- Neither committee-reported bill included the provision.
- This provision was not included in the FY2024 enacted measure.

Administration-Proposed Modifications

The Administration proposed alterations to five provisions:

- **FY2023 Section 301:** Included since FY2022, this provision allowed CISA Operations and Support appropriations to be used to provide cybersecurity threat feeds to a broader range of CISA's various partners, fusion centers, and Information and Analysis Organizations. The Administration proposed reducing the scope of allowable uses of funds from "procuring or providing access to cybersecurity threat feeds" to simply "providing access" to such feeds.
 - House-passed H.R. 4367 did not include the entire provision. SAC-reported S. 2625 did not include the modification, but included the base provision as Section 301.
 - The modification was not included in the FY2024 enacted measure.
- **FY2023 Sections 303, 304, and 305:** The Administration modified these administrative provisions to reflect its preferred structuring of the grant programs, presenting the Nonprofit Security Grant Program as a carveout within the State Homeland Security Grant Program and Urban Area Security Initiative, rather than as a separate program. The Administration thus proposed dropping language in the first section that specified that the restriction also applied to state recipients for the administration of Nonprofit Security Grants, and renumbered paragraph references in the other two.

¹³ The text of these provisions and their descriptions can be found in "FY2024 Committee Print"; provisions on pp. 536-537, descriptions on pp. 588-589.

¹⁴ CRS analysis of *Appendix*, pp. 518-520; and P.L. 117-328, Division F.

¹⁵ Office of Management and Budget, *Fiscal Year 2025 Budget of the U.S. Government: Appendix*, March 11, 2024 (Washington, DC: GPO, 2024), pp. 533-534. (Hereinafter, "Appendix.")

¹⁶ The requirement had originally been laid out in the explanatory statement accompanying the FY2022 DHS Appropriations Act. The administrative provision put the requirement in law, and curtailed certain CISA funding unless the briefings were provided within a certain time frame.

- Neither the House-passed nor Senate committee-reported bill included these modifications.
- These modifications were not included in the FY2024 enacted measure.
- **FY2023 Section 306:** Included since FY2017, this administrative provision required FEMA to brief the appropriations committees on the award of certain preparedness grants at least five business days prior to the public announcement of the award. In FY2023, the provision was modified to add a reduction of the FEMA Operations and Support appropriation should FEMA announce such grant awards without meeting that requirement. In addition to paragraph renumbering similar to Sections 304 and 305 above, the Administration proposed not including the reduction in the FY2024 act.
- Neither the House-passed nor Senate committee-reported bill included these modifications.
- These modifications were not included in the FY2024 enacted measure.

Administration-Proposed Additions

The Administration proposed three new administrative provisions in the budget request for FY2024:

- A provision authorizing CISA to use certain funds for a cybersecurity competition.¹⁷
 - Neither committee-reported bill included the provision.
 - This provision was not included in the FY2024 enacted measure.
- A provision allowing any prior-year unobligated balances in the Pre-disaster Mitigation Fund to be merged with funding for the Building Resilient Infrastructure and Communities (BRIC) grant program.¹⁸
 - House-passed H.R. 4367 did not include this provision, but S. 2625 included it as SAC Section 312.
 - This provision was included in the FY2024 enacted measure as Section 310.
- A provision allowing prior-year separate appropriations for the FEMA “Flood Hazard Mapping and Risk Analysis” account to be transferred to and merged with the FEMA Federal Assistance appropriation to carry out the purposes of the program.
 - House-passed H.R. 4367 did not include this provision, but S. 2625 included it as SAC Section 313.
 - This provision was included in the FY2024 enacted measure as Section 311.

¹⁷ A similar provision was included in the FY2022 act (P.L. 117-328, Div. F, Section 301).

¹⁸ This had been proposed in the FY2023 budget request as well.

Other Changes¹⁹

Deletions

The FY2024 measure did not include one provision from FY2023 that the Administration had proposed carrying forward:

- **FY2023 Section 304:** This new Administrative provision, carried only in FY2023, allowed funds provided for the Nonprofit Security Grant program not to be included in total SHSGP grant funding. This was important in the calculations of allocations, and because states have to make available 80% of their total SHSGP grant to state and local governments within 45 days of receiving it.
 - House-passed H.R. 4367 did not include this provision, but S. 2625 included it as SAC Section 304.
 - This provision was not included in the FY2024 enacted measure.

Research, Development, Training, and Services Administrative Provisions (Title IV)

Title IV of annual DHS appropriations measures currently covers appropriations for

- U.S. Citizenship and Immigration Services;
- Federal Law Enforcement Training Centers (FLETC);
- the Science and Technology Directorate (S&T); and
- the Countering Weapons of Mass Destruction Office.

There were seven administrative provisions included at the end of Title IV of the DHS Appropriations Act, 2023.²⁰ Likewise, the FY2024 act also included seven provisions at the end of Title IV, with no additions, deletions, or substantive changes.²¹

Administration-Proposed Changes²²

The Administration requested a single additional provision: an administrative provision repealing the termination date for the DHS Countering Weapons of Mass Destruction Office.²³

- Neither committee-reported bill included this provision.
- The provision was not included in the FY2024 enacted measure.

¹⁹ CRS analysis of P.L. 117-328, Division F; H.R. 4367; S. 2625, and P.L. 118-47, Division C.

²⁰ Descriptions of these provisions can be found in the “FY2023 Explanatory Statement,” p. S8582.

²¹ The text of these provisions and their descriptions can be found in the “FY2024 Committee Print”; provisions on pp. 590-540, descriptions on p. 594.

²² CRS analysis of *Appendix*, p. 544; and P.L. 117-328, Division F.

²³ See 6 U.S.C. §591(e).

Departmental Management, Intelligence, Situational Awareness and Oversight Administrative Provisions (Title I)

Title I of annual DHS appropriations measures currently covers appropriations for

- the Office of the Secretary and Executive Management;
- the Management Directorate;
- Intelligence, Analysis, and Situational Awareness; and
- the Office of Inspector General.

There were eight administrative provisions included at the end of Title I of the FY2023 act.²⁴ The FY2024 enacted measure included six provisions, as two provisions from FY2023 were not carried forward into FY2024.²⁵

Administration-Proposed Changes²⁶

The Administration proposed six administrative provisions: not including three provisions, substantively changing none, and including one provision that had not appeared in FY2023. The other five provisions remained essentially unchanged in the request.

Administration-Proposed Deletions

The Administration proposed not including three provisions:

- **FY2023 Section 106:** Carried since FY2022, this administrative provision required the Under Secretary for Management to provide quarterly a briefing to the appropriations committees on DHS's major acquisition programs,²⁷ as well as copies of each acquisition memorandum as they are approved. The requirement would have covered all acquisition programs costing more than \$300 million over their lifecycle on the DHS Master Acquisition Oversight List.²⁸ All such programs from the point that a program manager had begun to review approaches to meeting a capability need to full operational capability were to be included, including those programs removed from the list in the preceding quarter. In FY2023, additional parameters were added for the cost estimates.
- Both the House-passed and Senate committee-reported bills included the provision without substantive changes as Section 105.

²⁴ Descriptions of these provisions can be found in "FY2023 Explanatory Statement," p. S8556.

²⁵ The text of these provisions and their descriptions can be found in the "FY2024 Committee Print"; provisions on pp. 520-523, descriptions on p. 566.

²⁶ CRS analysis of *FY2024 Appendix*, pp. 494-495, and P.L. 117-328, Division F.

²⁷ The Office of Management and Budget (OMB) defines a major acquisition as "a capital project that requires special management attention because of its: (1) importance to an agency's mission; (2) high development, operating, or maintenance costs; (3) high risk; (4) high return; or (5) significant role in the administration of an agency's programs, finances, property, or other resources."

²⁸ A list of all DHS major acquisitions developed by the DHS Office of Program Accountability and Risk Management.

- This provision was included in the FY2024 enacted measure as Section 105 as well.
- **FY2023 Section 107:** Carried since FY2022, this administrative provision required reporting from the DHS Under Secretary for Management to the appropriations committees before DHS could obligate money from the act for pilot or demonstration programs. To trigger the reporting, the program would need to use more than 10 full-time equivalents (FTE) or \$5 million, with some exceptions provided for IT contract work and programs specifically directed by Congress.
 - Both the House-passed and Senate committee-reported bills included the provision without substantive changes as Section 106.
 - This provision was included in the FY2024 enacted measure as Section 106 as well.
- **FY2023 Section 108:** This provision allowed \$14 million to be transferred from the supplemental appropriation provided for the Disaster Relief Fund to the DHS Office of Inspector General for oversight of that appropriation.
 - Neither the House-passed nor Senate committee-reported bills included the provision.
 - The provision was not included in the FY2024 enacted measure.

Administration-Proposed Additions

The Administration also proposed a new general provision to establish a “Department of Homeland Security Southwest Border Contingency Operations Fund,” through which the Secretary could provide CBP, ICE, and FEMA up to \$4.7 billion in total emergency-designated appropriations, contingent on the cumulative number of migrant encounters at the border each quarter.²⁹

- Neither the House-passed nor Senate committee-reported bills included the provision.
- The provision was not included in the FY2024 enacted measure.

Other Changes³⁰

Deletions

The FY2024 measure did not include one provision from FY2023 that the Administration had proposed carrying forward:

- **FY2023 Section 103:** This provision, carried since a FY2007 supplemental appropriations measure,³¹ required DHS to link any and all award fees in their contracts to specific successful acquisition outcomes.

²⁹ For more details on this proposal, see CRS Report R47496, *DHS Budget Request Analysis: FY2024*, p. 2 on the type of appropriation, and pp. 9-10 on the triggers.

³⁰ CRS analysis of P.L. 117-328, Division F; H.R. 4367; S. 2625, and P.L. 118-47, Division C.

³¹ P.L. 110-28, §3502, after which it was picked up as a general provision in FY2008 annual appropriations measure (P.L. 110-161, §556) and moved to an administrative provision in FY2017 (P.L. 115-31, §104).

- Neither the House-passed nor Senate committee-reported bills included the provision.
- The provision was not included in the FY2024 enacted measure.

General Provisions (Title V)

As noted earlier, Title V of the annual DHS appropriations act has historically contained general provisions, the impact of which may reach across the government, apply to the entire department, affect multiple components, or focus on a single activity. Title V often includes provisions that make additional appropriations and others that make rescissions—cancellations of previously provided budget authority.

Some Provisions Are More General Than Others

There are general provisions not included in this report that affect DHS; their effect is so broad they cover the entire federal government. Title VII of the Financial Services and General Government Appropriations Act includes these broadest general provisions, which address a range of issues.

There were 49 general provisions included in Title V of the DHS Appropriations Act, 2023.³² The FY2024 enacted measure included 51 provisions: nine provisions from FY2023 were not included, four were substantively changed, and 11 that had not appeared in FY2023 were added—four of which did not pertain to DHS, but provided modifications to previously enacted appropriations measures. The other 36 remained essentially unchanged.³³

Rescissions are cancellations of previously appropriated but unobligated budget authority. They reduce the net budget authority provided by the bill, lowering its “score” against budget allocations and statutory budget limits. Traditionally, they are found at the end of Title V of the DHS Appropriations Act. As they are distinct in form and function from the policy provisions of Title V, those five FY2024 provisions (two of which appeared in the FY2023 bill, and three of which did not) are addressed separately at the end of the section.

Administration-Proposed Changes³⁴

The Administration proposed 37 general provisions for the DHS Appropriations Act, 2024: it proposed not including 13 provisions (one of which was a rescissions provision), substantively changing one (another rescissions provision), and including one that had not appeared in FY2023. The other 36 provisions remained essentially unchanged.

Administration-Proposed Deletions

The Administration’s FY2024 request did not carry forward the following provisions that had been included in the FY2023 act:

- **FY2023 Section 530:** This general provision included grant funding for FEMA to reimburse extraordinary law enforcement or other emergency personnel costs directly related to any residence of the President that is secured by the U.S.

³² Descriptions of these provisions can be found in the “FY2023 Explanatory Statement,” pp. S8582-S8584.

³³ The text of these provisions and their descriptions can be found in the “FY2024 Committee Print”; provisions on pp. 540-555, descriptions on pp. 594-599.

³⁴ CRS analysis of *FY2024 Appendix*, pp. 544-549; and P.L. 117-328, Division F.

Secret Service. Similar general provisions have been included in the DHS annual appropriations acts beginning in FY2017.³⁵

- The House-passed bill included this as Section 528; the SAC-reported bill did not include it.
- The provision was not included in the FY2024 enacted measure.
- **FY2023 Section 534:** This general provision required the DHS Under Secretary for Management to submit an unfunded requirements list to the appropriations committees for any activities funded as a part of the defense budget function. A similar general provision has appeared in DHS annual appropriations acts beginning in FY2021.³⁶ Both committee-reported bills retained this provision.
 - Both the House-passed and Senate committee-reported bills included the provision without substantive changes.
 - The provision was included in the FY2024 enacted measure as Section 531.
- **FY2023 Section 535:** This general provision required reporting to certain congressional committees and leadership on providing, extending, or terminating protection under any authority for former or retired federal officials or employees. A similar general provision has appeared in DHS annual appropriations acts beginning in FY2021.³⁷
 - Both committee-reported bills retained this provision.
 - The provision was included in the FY2024 enacted measure as Section 532.
- **FY2023 Section 537:** This general provision required the Administration to identify discretionary offsets when legislatively unauthorized fee increase proposals are made in the budget request to support current activities, despite the prospective nature of those additional revenue sources. A similar general provision has appeared in DHS annual appropriations acts beginning in FY2017.³⁸
 - Both committee-reported bills retained this provision.
 - The provision was included in the FY2024 enacted measure as Section 534.
- **FY2023 Section 540:** This one-time general provision made technical corrections to Section 205 of the Stafford Act, which allows the FEMA Administrator to make capitalization grants to states or tribal entities to establish hazard mitigation revolving loan funds.
 - Neither the House-passed nor Senate committee-reported bills included the provision.
 - The provision was not included in the FY2024 enacted measure.
- **FY2023 Sections 541 and 542:** These two one-time general provisions made technical corrections to a Community Funding Project and a Congressionally Direct Spending grant, respectively, both of which had been funded in FY2022.
 - Neither the House-passed nor Senate committee-reported bills included the provisions.

³⁵ P.L. 115-31, Div. F, Section 544.

³⁶ P.L. 116-260, Div. F, Section 537.

³⁷ P.L. 116-260, Div. F, Section 542.

³⁸ P.L. 115-31, Div. F, Section 532.

- The provisions were not included in the FY2024 enacted measure.
- **FY2023 Section 543:** This general provision extended flexibility provided in the CARES Act³⁹ for DHS employees, detailees, or contractors who are licensed to perform health care services as part of their duties and can carry out their duties in any U.S. jurisdiction they are assigned to, unless they are affirmatively excluded from doing so in any U.S. jurisdiction. A similar general provision has appeared in DHS annual appropriations acts beginning in FY2022.
 - Neither the House-passed nor Senate committee-reported bills included the provision.
 - The provision was not included in the FY2024 enacted measure.
- **FY2023 Section 544:** This general provision prohibited the use of funds for the transfer or release of certain individuals detained at U.S. Naval Station Guantanamo Bay, Cuba into or within the United States. A similar general provision has appeared in DHS annual appropriations acts beginning in FY2012.⁴⁰
 - The House-passed and Senate committee-reported bills included this provision as Section 538 and Section 537, respectively.
 - The provision was included in the FY2024 enacted measure as Section 537.
- **FY2023 Section 545:** This general provision, new in FY2023, required the Secretary to develop and share bimonthly estimates on noncitizens anticipated to arrive at the U.S.-Mexico border, and use those estimates to inform policymaking and budget processes.
 - The House-passed and Senate committee-reported bills included this provision as Section 539 and Section 538, respectively, with the Senate broadening the requirement for estimates to be provided with the annual budget request to include supplemental appropriations and reprogramming requests.
 - The FY2024 enacted measure included this provision as Section 538, adding that those estimates should be included in supplemental appropriations requests, not just annual appropriations requests, and that if they were not included, transfer and reprogramming authority would be restricted until such estimates are provided to the appropriations committees.
- **FY2023 Section 546:** This general provision provided emergency-designated funding for CBP and ICE to address the situation at the U.S.-Mexico Border.⁴¹
 - Neither the House-passed nor Senate committee-reported bills included the provision.
 - The provision was not included in the FY2024 enacted measure.
- **FY2023 Section 547:** This general provision, new in FY2023, extended through the end of FY2023 the authority for the Secretary and the Attorney General to take steps to mitigate threats posed by unmanned aerial vehicles.

³⁹ P.L. 116-136, Div. B, Title VI, Section 16005.

⁴⁰ P.L. 112-74, Div. D, Section 541. The provision was also carried in the Full-Year Continuing Appropriations Act, 2010 (P.L. 112-10, Div. B) as Section 1112.

⁴¹ A related general provision, which also included funding for FEMA, was first included in the FY2022 act: P.L. 117-103, Div. F, Section 543.

- The HAC-reported bill did not include this provision, while the SAC-reported bill included the provision as Section 539.
- The provision was not included in the FY2024 enacted measure.

Administration-Proposed Additions

The Administration proposed one new general provision: The Administration sought the ability to transfer up to 5% of any appropriation into the “Information Technology Modernization Fund” for DHS that was authorized under the National Defense Authorization Act for Fiscal Year 2018.⁴² The Biden Administration first proposed this provision in its FY2022 budget request.

- Neither the House-passed nor Senate committee-reported bills included the provision.
- The provision was not included in the FY2024 enacted measure.

Other Changes⁴³

Deletions

Two general provisions were not carried forward from the FY2023 to the FY2024 enacted measure. Neither had been included in the House-passed or the Senate-reported FY2024 bill:

- **FY2023 Section 510:** In FY2023, this section was an explicit inclusion of a restriction on the use of funds to pay the salary of a person acting as a contracting officer’s representative or in a similar role if they have not completed training for said role. In prior years, this had been included by reference to a prior appropriations act.⁴⁴
- **FY2023 Section 521:** This general provision, carried in the DHS annual appropriations act since FY2010,⁴⁵ barred DHS from entering into a contract if it did not meet the requirements of the Federal Property and Administrative Services Act of 1949, 10 U.S.C. Chapter 137, and the Federal Acquisition Regulation, unless it was authorized in statute.

Modifications

Other than rescissions provisions, the FY2024 measure made substantive changes to two general provisions carried forward from the FY2023 act:

- **FY2024 Section 503:** The FY2024 measure made a modification to this general provision, which has regulated the transfer and reprogramming of DHS appropriations since the FY2004 act. Additions to subsection (d) restrict the Administration’s ability to reprogram or transfer funds between appropriations for the purpose of changing funding levels for grant programs or creating a program, project, or activity not approved by Congress in the enactment of the annual appropriations act.

⁴² P.L. 115-91, Div. A, Title X, Section 1077(b)(1).

⁴³ CRS analysis of P.L. 117-328, Division F; H.R. 4367; S. 2625, and P.L. 118-47, Division C.

⁴⁴ P.L. 110-161, Div. E, Section 520.

⁴⁵ P.L. 111-83, Section 570.

- Neither the House-passed nor Senate committee-reported bills included the modification.
- **FY2024 Section 538:** See “FY2023 Section 545” above.

Additions

Four non-rescissions provisions affecting DHS that had not been included in the FY2023 measure were added to the FY2024 act:

- **FY2024 Section 539:** This new general provision would modify the authorization for the DHS Nonrecurring Expenses Fund, which had been established in the FY2022 act to help fund DHS information technology and facilities improvements through reuse of unobligated balances of expired appropriations.⁴⁶ It would require the passage of the full-year appropriation measure for DHS before resources in the fund could be used in a given year, and require advance notification to the appropriations committees for the use of fund resources.
 - This provision is a portion of House Section 548, which had been added in the manager’s amendment in full committee markup.
 - No similar provision was included in the Senate-reported bill.
- **FY2024 Section 540:** This new general provision requires the Secretary of Homeland Security to make an alternatives analysis and a cost-benefit analysis before requesting assistance from the Department of Defense for border security operations, and a report to the appropriations committees on the same. It also requires quarterly reports on the assistance provided and operational impacts.
- **FY2024 Section 541:** This new general provision allows Operations and Support appropriations to DHS components to be used for necessary expenses of providing an employee emergency back-up care program.
- **FY2024 Section 542:** This new general provision directs the transfer of not less than \$5 million in FY2024 DHS appropriations to ICE operations and support for the Blue Campaign—DHS’s public awareness campaign on human trafficking—for FY2024.

Added Provisions Unrelated to DHS

Four other new general provisions were added to provide corrections for measures in P.L. 118-42 and P.L. 117-328. FY2024 Section 548 corrects a subappropriation in Division E, and Sections 549-551 make corrections to Community Project Funding / Congressionally Directed Spending projects in P.L. 118-42, Division F and P.L. 117-328, Division L.

Rescission Provisions (and Others Reducing the Score of the Act)

Five separate general provisions are included in the FY2024 appropriations measure that reduce the overall discretionary “score” of the act, compared to two in FY2023. In all, these provisions reduced the overall discretionary score of the FY2024 act by almost \$1.7 billion. By comparison, the FY2023 act had \$394 million in rescissions.

⁴⁶ P.L. 107-103, Div. F, Section 538.

The Administration proposed one such general provision, canceling \$56 million in current unobligated appropriations from previously provided appropriations in 18 different DHS accounts. A parallel provision in the FY2024 act rescinds \$239 million from 22 different DHS accounts.

Table 2 includes a comparison of the rescission proposal made by the Administration in March 2023, passed by the House in September 2023, made by the Senate Appropriations Committee in July 2023, and ultimately enacted in March 2024 as FY2024 Section 543.

Table 2. FY2024 DHS Rescission Proposals
(Thousands of dollars of discretionary budget authority)

Designation	Request	House-Passed H.R. 4367, Sec. 553	SAC-Reported S. 2625, Sec. 545	P.L. 118-47, Div. C, Sec. 543
OSEM O&S	800	800	—	800
Management Directorate	4,100	4,100	—	4,100
CBP PC&I	1,473	1,473	1,473	1,473
CBP BSFIT	1,842	1,842	1,842	1,842
CBP Air and Marine Interdiction	452	452	452	450
CBP PC&I FY2020	—	1,159,000	—	—
CBP PC&I FY2021	—	945,000	—	—
ICE O&S (expiring in FY2024)	3,000	3,000	1,000	3,000
ICE O&S (not expiring)	2,093	2,093	2,093	782
ICE Automation Modernization	10	10	10	10
TSA O&S	—	154,515	—	—
TSA O&S (not expiring)	—	—	63,591	—
USCG AC&I	22,600	22,600	22,600	22,600
USCG PC&I	—	—	—	150,000
USSS O&S	2,400	—	2,400	2,400
USSS PC&I	4,000	—	4,000	4,000
CISA PC&I	3,500	3,500	3,500	3,500
CISA R&D	2,000	2,000	—	2,000
FEMA PDM Fund	5,821	5,821	—	5,821
USCIS O&S	—	—	—	40
FLETC PC&I	800	800	800	47
S&T O&S	900	900	900	900
CWMD R&D (expiring in FY2024)	389	389	389	2,000
CWMD PC&I (expiring in FY2024)	—	—	—	2,900
CWMD PC&I (expiring in FY2025)	—	—	—	19,700

Designation	Request	House-Passed H.R. 4367, Sec. 553	SAC-Reported S. 2625, Sec. 545	P.L. 118-47, Div. C, Sec. 543
CWMD R&D (expiring in FY2024)	—	—	—	11,208
CWMD (not expiring)	11	11	11	11
Total Rescissions	56,191	2,308,306	105,061	238,802

Source: CRS analysis of H.Rept. 118-123, S.Rept. 118-72, and P.L. 118-47.

Note: Abbreviations available in **Appendix A**.

Two more enacted provisions rescinded DHS resources to offset the overall discretionary cost of the FY2024 act:

- **FY2024 Section 544:** This general provision, unrequested by the administration, but similar to ones provided in FY2023 and in previous years, rescinds unobligated Operations and Support appropriations from DHS components that were renewed under Section 505. That section allows components to continue to use 50% of unobligated Operations and Support appropriations from the previous fiscal year, which would otherwise have expired. FY2024 Section 544 rescinded \$56 million from 13 components. The FY2023 version of the provision rescinded \$46 million from 12 components.
- **FY2024 Section 545:** This new general provision rescinds \$0.7 million from the DHS Nonrecurring Expenses Fund. As noted above, the fund was established in the FY2022 act as a means of funding DHS information technology and facilities improvements through expired appropriations. Although this is the first rescission from the DHS instance of such a fund, rescissions from similar funds in other departments are not uncommon.

Two other new enacted provisions used rescissions from *other* departments and transfers to accomplish the same kind of reduction:

- **FY2024 Section 546:** This new general provision rescinds funds provided in four separate measures for other departments, and directs that two DHS appropriations be partially funded from unobligated balances in other accounts, rather than the general fund of the treasury, from which most other appropriations are drawn. Rescissions included:
 - \$30 million from an emergency capital investment fund for neighborhoods impacted by the COVID-19 pandemic.
 - \$88 million from the Department of Health and Human Services Nonrecurring Expenses Fund.
 - \$239 million from supplemental appropriations provided in the American Rescue Plan Act (P.L. 117-2) for:
 - various vaccine, testing, treatment, and mitigation activities for COVID-19 and other emerging infectious diseases;
 - support of the public health workforce;
 - acquisition of emergency medical supplies under the Defense Production Act; and

- funding for health care providers for medical services and lost revenues related to COVID-19.
- \$75 million from the Department of Justice Working Capital Fund.

\$320 million of the U.S. Secret Service Operations and Support appropriation was to be funded from the Presidential Election Campaign Fund, and \$364 million in the FEMA Federal Assistance appropriations was to be derived from a transfer from unobligated FEMA grant funding in the Infrastructure Investment and Jobs Act (IIJA) for dam safety grants.

- **FY2024 Section 547:** This new general provision rescinds \$287 million from Department of Education rehabilitation services provided in Division D of P.L. 118-47.

Appendix A. Glossary of Abbreviations

Acronym	Meaning
BRIC	Building Resilient Infrastructure and Communities
CBP	U.S. Customs and Border Protection
CISA	Cybersecurity and Infrastructure Security Agency
CRS	Congressional Research Service
DHS	U.S. Department of Homeland Security
DRF	Disaster Relief Fund
FEMA	Federal Emergency Management Agency
FLETC	Federal Law Enforcement Training Centers
HAC	House Appropriations Committee
ICE	U.S. Immigration and Customs Enforcement
OIG	Office of Inspector General
OMB	Office of Management and Budget
OSEM	Office of the Secretary and Executive Management
O&S	Operations and Support
PC&I	Procurement, Construction, and Improvements
R&D	Research and Development
S&T	Science and Technology Directorate
SAC	Senate Appropriations Committee
TSA	Transportation Security Administration
USCG	U.S. Coast Guard
USSS	U.S. Secret Service

Appendix B. Changes to Appropriations Language in P.L. 118-47

Occasionally, the language of the appropriations changes, either for technical reasons, or to reinforce a message to an agency. From FY2023 to FY2024, a handful of such changes were made:

- In CBP and ICE Operations and Support appropriations, provisions that incurred a withholding of \$5 million from the Executive Leadership and Oversight program until certain reports were submitted to the appropriations committee were not included in the FY2024 enacted measure.
- In CBP's Operations and Support appropriation, language specifically including "facility improvements and construction" in the allowable uses of Shelter and Services Program grant funding was not included in the FY2024 measure.
- In FEMA's Federal Assistance appropriation, new citations were made for the Nonprofit Security Grant Program (reflecting its new authorization) and Congressionally Directed Spending / Community Project Funding. In addition, a separate subappropriation was no longer made for management and administration costs of those particular grants.
- In FEMA's Disaster Relief Fund appropriation, a new citation was used for the allowable adjustment for disaster relief, reflecting the new budget legislation.

Appendix C. Evolution of Administrative and General Provisions in the DHS Appropriations Act

The structure of the annual DHS appropriations act has evolved significantly since its initial development in the FY2004 cycle.

Initial appropriations structures were not consistent across the bill, and departmental reorganizations shifted parts and responsibilities across the department. Even so, some of the original general provisions from the FY2004 act are included in the current annual appropriations act.

The overall structure of the department stabilized with the FY2008 act, and for a decade, the structure of the bill was relatively stable from year to year. With the enactment of the FY2017 act, two major changes occurred: a common appropriations structure was applied over almost all of the DHS components; and directive language was shifted from individual appropriations provisos and some Title V General Provisions into groups of “administrative provisions” at the end of each title. The structure of the bill has remained relatively consistent since.

The following appendix looks at each of these years—FY2004, as the first year; FY2008, as the year of significant reorganization; and FY2017, as the first year of the Common Appropriations Structure and administrative provisions—to highlight where many of the long-standing provisions of the DHS appropriations act originated.

The First DHS Appropriations Act: FY2004

The first annual appropriations measure for DHS was passed by Congress a week before the beginning of its fiscal year. Initial budget justification materials presented to Congress were minimal, but the bill moved relatively quickly and passed with near-unanimity.

While the titles of the DHS appropriations measure have changed slightly, and several components have been reorganized, the general structure of the titles of the measure has remained consistent:

- **Title I – Departmental Management and Operations**—headquarters functions;
- **Title II – Security, Enforcement, and Investigations**—law enforcement operational components;
- **Title III – Preparedness and Recovery**—FEMA and related functions;
- **Title IV – Research and Development, Training, Assessments, and Services**—specialized components; and
- **Title V – General Provisions.**

Appropriations Titles I-IV

Within the first four titles, however, component appropriations were structured differently. New components, like DHS headquarters and management functions, and the U.S. Visitor and Immigrant Status Indicator Technology project received single appropriations. Others, like the U.S. Coast Guard, received appropriations in structures paralleling what they had received in FY2003. New major components—U.S. Customs and Border Protection and Immigration and Customs Enforcement—generally followed the structure of legacy Customs Service appropriations.

These appropriations included direction to the individual components through provisos within the statement of appropriations themselves, rather than as administrative or general provisions. Some of these were statutory directions to use certain amounts for certain activities, such as facilities improvements, while others were prohibitions on the use of funds, such as prohibitions on construction of border checkpoints. Some appropriations were withheld until certain conditions were met, such as providing a spend plan to the appropriations committees that met certain parameters. Administrative provisions were included in some appropriations measures at the time, often providing direction across multiple appropriations, but no such provisions appeared in the initial DHS appropriations act.

In what was standard practice for the time, rescissions, or cancellation of previously appropriated budget authority, were included immediately after the statement of appropriations for the target account.

General Provisions

Twenty-one general provisions were included in the initial DHS appropriations act, and eight continue to be carried forward each year as general provisions in the annual act:

- **FY2004 Section 501**—Budget authority provided by the act is not available after the fiscal year unless the bill specifically provides for it (FY2024 Section 501);
- **FY2004 Section 502**—Budget authority provided in prior acts for activities funded in this act may be transferred to and merged with funds in the applicable accounts (FY2024 Section 502);
- **FY2004 Section 503**—Establishes parameters for reprogrammings and transfers of budget authority in the bill (a modified version continued as FY2024 Section 503);
- **FY2004 Section 504**—Authorizes continued availability of up to 50% of unobligated salaries and expenses balances at the end of the fiscal year to be used in the following fiscal year (FY2024 Section 505);
- **FY2004 Section 508**—Deems funding for intelligence programs to be authorized until an intelligence authorization act for the fiscal year was signed into law (a modified version continued as FY2024 Section 506);
- **FY2004 Section 510**—Requires advance notice of grant awards (an expanded version continued as FY2024 Section 507);
- **FY2004 Section 511**—Blocks other agencies from building new federal law enforcement training facilities separate from existing ones without prior approval of the appropriations committees (FY2024 Section 508);
- **FY2004 Section 516**—Requires certain construction projects to have an approved prospectus to be funded (FY2024 Section 509); and
- **FY2004 Section 518**—No funds in the bill may be used in contravention of the Buy American Act (a modified version continued as FY2024 Section 511).

Several of these general provisions were one-time provisions that provided authorizations or restrictions beyond FY2004, or converted structure and functions of formerly independent components into DHS functions.

- **FY2004 Section 505**—Provided flexibility for DHS to use certain funds for specific types of purchases “in fiscal year 2004 and thereafter, unless otherwise provided”;⁴⁷
- **FY2004 Section 506**—Made the FEMA “Working Capital Fund” account available to DHS, and renamed it as “Department of Homeland Security Working Capital Fund”;
- **FY2004 Section 507**—Made the FEMA “Bequests and Gifts” account available to DHS, and renamed it as “Department of Homeland Security, Gifts and Donations”;
- **FY2004 Section 513**—Required customs declarations to ask “whether the passenger had been in the proximity of livestock”;
- **FY2004 Sections 514 and 515**—Blocked funding for certain DHS actions that would prevent enforcement of certain laws against forced child labor,⁴⁸ or allow goods made with such labor to be brought into the country; and
- **FY2004 Section 520**—Authorized the Secretary to charge fees to pay for credentialing transportation workers.

Others provided direction to the department or its components:

- **FY2004 Section 509**—Directed FLETC to establish an accrediting body for assessing federal law enforcement training programs, facilities, and instructors;⁴⁹
- **FY2004 Section 512**—Required the Director of FLETC to ensure all its facilities are operated at optimal capacity;
- **FY2004 Section 517**—Blocked regulations requiring airport sponsors to provide space or services to TSA without compensation other than for security checkpoints;
- **FY2004 Section 519**—Blocked deployment of a particular passenger prescreening system until GAO reported to Congress that the system met certain thresholds; and
- **FY2004 Section 521**—Directed the Secretary to get certified systems to inspect and screen air cargo on passenger aircraft, and until it is online, to use the known shipper program to prevent high-risk cargo from being carried on passenger planes.

The Post-Katrina DHS Appropriations Act: FY2008

After several years of reorganization, and the refocusing of departmental priorities through the Post Katrina Emergency Management Reform Act (PKEMRA), the structure of DHS and its funding had shifted.

The DHS Appropriations Act, 2008, was enacted in a different fashion than its predecessors. The FY2004 act was a stand-alone measure, signed into law on the first day of the fiscal year. Each of

⁴⁷ Future appropriations measures restated some of these authorities in different fashions: therefore, these should not be considered enduring authorities.

⁴⁸ As defined under section 307 of the Tariff Act of 1930 (19 U.S.C. §1307).

⁴⁹ This body, the Federal Law Enforcement Training Accrediting Board, was established, and has continued to receive direction from the administrative provisions under Title IV in the Department of Homeland Security Appropriations Act.

the next three years, the bill was enacted as a stand-alone measure within the first month of the fiscal year. The FY2008 act was signed into law as a division of a consolidated appropriations measure almost three months into the fiscal year. Some observers note this as an indicator of increasing challenges in passing the measure.

Appropriations Titles I-IV

The FY2008 Act included several components that had not appeared in the first DHS appropriations act, as well as a reconstituted FEMA. New components are noted below, but the general structure of the titles of the measure remained, with slight changes to the names of Titles III and IV:

- **Title I – Departmental Management and Operations**—headquarters functions, now including specific appropriations for the Office of the Chief Financial Officer, the Office of the Chief Information Officer, Analysis and Operations, and Office of the Federal Coordinator of Gulf Coast Rebuilding;
- **Title II – Security, Enforcement, and Investigations**—law enforcement operational components;
- **Title III – Protection, Preparedness, Response and Recovery**—the new National Protection and Programs Directorate, the Office of Health Affairs, and the reconstituted FEMA;
- **Title IV – Research and Development, Training, and Services**—specialized components, including the Domestic Nuclear Detection Office;⁵⁰ and
- **Title V – General Provisions**

The structure of direction through appropriations provisos remained unchanged. However, rescissions now were included in the general provisions in Title V, in part because the evolved structure of the appropriations themselves did not necessarily align with the desired rescissions, which by their nature, come from prior year accounts.

General Provisions—Title V

Seventy-three general provisions were included in the FY2008 DHS appropriations act. They included several sections of significant length making changes to the *U.S. Code*, including legislation on the secure handling of ammonium nitrate (Section 563), modifications to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Section 564), and modifications to the International Registered Traveler Program (Section 565). In addition, a sixth title was included in the act, containing the “Border Infrastructure and Technology Modernization Act of 2007.”

Several other general provisions that are still part of the current structure of the DHS appropriations act appeared in FY2008:

- **FY2008 Section 514**—Barred funding in the bill from being used to amend the Oath of Allegiance (FY2024 Section 512);
- **FY2008 Section 515**—Blocked funding for privatization of certain jobs at USCIS (a modified version appears in the FY2024 act as Section 402);

⁵⁰ The Information Analysis and Infrastructure Protection Directorate, which had appeared in this title in FY2004, was reorganized into Analysis and Operations and the National Protection and Programs Directorate, and no longer appeared in this title in the FY2008 Act.

- **FY2008 Section 526**—Required a monthly budget and staffing report (a modified version appears in the FY2024 act as Section 102);
- **FY2008 Section 529**—Classifies FLETC instructor staff positions as inherently governmental functions (FY2024 Section 407);
- **FY2008 Section 537**—Blocks alteration of operations withing the Civil Engineering Program of the Coast Guard absent prior legislative authorization (a modified version appears in the FY2024 act as Section 225);
- **FY2008 Section 539**—Blocked obligation of funding from DHS headquarters accounts for grants or contracts not awarded under full and open competition, with some exceptions, which require reporting (a modified version appears in the FY2024 act as Section 101, requiring reporting on such contract awards);
- **FY2008 Section 541**—Blocked the use of funding for “any position designated as a Principal Federal Official” for Stafford Act-declared incidents (a modified version appears in the FY2024 act as Section 530);
- **FY2008 Section 546**—Blocked the Secretary’s authority to reorganize the Department under Section 872 of the Homeland Security Act (FY2024 Section 513);
- **FY2008 Section 548**—Blocked reductions of the Coast Guard’s Operations Systems Center mission or its staffing levels (a modified version appears in the FY2024 act as Section 223);
- **FY2008 Section 549**—Blocked funding for privatization of certain jobs at USCG National Vessel Documentation Center (FY2024 Section 224);
- **FY2008 Section 558**—Blocked CBP from preventing private individuals from importing certain prescription drugs for their personal use (FY2024 Section 205); and
- **FY2008 Section 567**—Blocked the use of funds “for planning, testing, piloting, or developing a national identification card” (FY2024 Section 514).

The Common Appropriations Structure DHS Appropriations Act: FY2017

When DHS was established in 2003, components of other agencies were brought together over a matter of months, in the midst of ongoing budget cycles. Rather than developing a new structure of appropriations for the entire department, Congress and the Administration continued to provide resources through existing account structures when possible.

At the direction of Congress, in 2014 DHS began to work on a new Common Appropriations Structure (CAS), which would standardize the format of DHS appropriations across components. This would be the most significant restructuring of DHS appropriations since its establishment. In an interim report in 2015, DHS noted that operating with “over 70 different appropriations and over 100 Programs, Projects, and Activities ... has contributed to a lack of transparency, inhibited comparisons between programs, and complicated spending decisions and other managerial decision-making.”⁵¹

⁵¹ Office of the Chief Financial Officer, *A Common Appropriations Structure for DHS: FY2016 Crosswalk*, U.S. Department of Homeland Security, February 2, 2015, p. 2.

After several years of work and negotiations with Congress, DHS made its first budget request in the CAS for FY2017, and implemented it while operating under the continuing resolutions funding the department in October 2016.⁵² Part of the restructuring of the appropriations included the addition of administrative provisions, shifting instructions that had been included in language of specific appropriations or in general provisions into sections at the end of each title. **Table C-1** shows total general provisions and administrative provisions for the last ten enacted DHS appropriations acts.

Table C-1. Tally of General and Administrative Provisions, FY2015-FY2024
(Annual appropriations measures)

Fiscal Year	General Provisions	Administrative Provisions				Total
	Title V	Title I	Title II	Title III	Title IV	
2015	78					78
2016	75					75
2017	44	8	28	12	9	101
2018	45	7	31	8	8	99
2019	40	6	31	9	8	94
2020	40	5	36	7	7	95
2021	42	6	35	11	7	101
2022	48	8	36	11	8	111
2023	49	8	36	11	7	111
2024	51	6	31	11	7	106

Source: CRS analysis of enacted DHS appropriations.

Note: Administrative provisions first appeared in DHS annual appropriations in the FY2017 act (P.L. 115-56, Division F).

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⁵² The Coast Guard, due to limitations of its financial management system, did not implement the system until FY2019.

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