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Report RL34461

*Interior, Environment, and Related Agencies: FY2009
Appropriations*

Carol Hardy Vincent, Coordinator, Resources Science, and Industry Division

November 12, 2008

Abstract. This report is a guide to one of the regular appropriations bills that Congress considers each year. It is designed to supplement the information provided by the House and Senate Subcommittees on Interior, Environment, and Related Agencies. It summarizes the status of the Interior, Environment, and Related Agencies appropriations bill, its scope, major issues, funding levels, and related congressional activity.

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CRS Report for Congress

Interior, Environment, and Related Agencies: FY2009 Appropriations

Updated November 12, 2008

Carol Hardy Vincent, Coordinator,
Robert Bamberger, David M. Bearden, M. Lynne Corn,
Robert Esworthy, Ross W. Gorte, Marc Humphries,
Pervaze A. Sheikh, and David L. Whiteman
Resources, Science, and Industry Division

Roger Walke, Domestic Social Policy Division,
R. Sam Garrett, Government and Finance Division,
Shannon S. Loane,
Knowledge Services Group

<http://wikileaks.org/wiki/CRS-RL34461>



**Prepared for Members and
Committees of Congress**

The annual consideration of appropriations bills (regular, continuing, and supplemental) by Congress is part of a complex set of budget processes that also encompasses the consideration of budget resolutions, revenue and debt-limit legislation, other spending measures, and reconciliation bills. In addition, the operation of programs and the spending of appropriated funds are subject to constraints established in authorizing statutes. Congressional action on the budget for a fiscal year usually begins following the submission of the President's budget at the beginning of the session. Congressional practices governing the consideration of appropriations and other budgetary measures are rooted in the Constitution, the standing rules of the House and Senate, and statutes, such as the Congressional Budget and Impoundment Control Act of 1974.

This report is a guide to one of the regular appropriations bills that Congress considers each year. It is designed to supplement the information provided by the House and Senate Subcommittees on Interior, Environment, and Related Agencies. It summarizes the status of the Interior, Environment, and Related Agencies appropriations bill, its scope, major issues, funding levels, and related congressional activity, and is updated as events warrant. The report lists the key CRS staff relevant to the issues covered and related CRS products.

Interior, Environment, and Related Agencies: FY2009 Appropriations

Summary

The Interior, Environment, and Related Agencies appropriations bill includes funding for the Department of the Interior (DOI), except for the Bureau of Reclamation, and for two agencies within other departments — the Forest Service within the Department of Agriculture and the Indian Health Service (IHS) within the Department of Health and Human Services. It also includes funding for arts and cultural agencies, the Environmental Protection Agency, and numerous other entities.

On September 30, 2008, the President signed the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (FY2009 CR, P.L. 110-329). Division A, Continuing Appropriations Resolution, 2009, generally extended funding for accounts in the Interior, Environment, and Related Agencies Appropriations bill at the amounts provided in the FY2008 regular appropriations law. Funds are available under the terms and conditions provided in that FY2008 law, except where otherwise specified. A notable exception is that the FY2009 CR removed the prohibitions on spending funds for oil and gas leasing activities in certain regions of the Outer Continental Shelf. The FY2009 CR provides appropriations from October 1, 2008, through March 6, 2009, unless a regular appropriation bill for Interior, Environment, and Related Agencies is enacted earlier. Continuing funding was needed because a regular FY2009 appropriations bill was not enacted before the start of the fiscal year (October 1, 2008).

The President had requested \$25.81 billion for FY2009 Interior, Environment, and Related Agencies, a \$2.61 billion (9%) reduction from the FY2008 level of \$28.42 (including emergency appropriations). While the President sought to increase funds for some agencies, he requested reduced funds for most agencies.

No bills providing regular appropriations for FY2009 for Interior, Environment, and Related Agencies were reported by the House or Senate Appropriations Committees or considered on the House or Senate floor. Perhaps the biggest impediment to developing and considering an Interior bill was divisiveness over whether to retain long-standing prohibitions on funding for oil and gas leasing in the OCS. Other issues that have been controversial in Interior deliberations have included funding for Bureau of Indian Affairs construction, education, and housing; Indian Health Service construction and urban Indian health; wastewater/drinking water needs; land acquisition; the Payments in Lieu of Taxes program; the Superfund program; and wildland fire fighting, in addition to Indian trust fund management and royalty relief.

This report will be updated to reflect major congressional action.

Key Policy Staff

Area of Expertise	Name	CRS Division ^a	Tel.	E-mail
Interior Budget Data/Coordinator	Carol Hardy Vincent	RSI	7-8651	chvincent@crs.loc.gov
Arts, Humanities, Smithsonian	Shannon Loane	KSG	7-6223	sloane@crs.loc.gov
Bureau of Land Management	Carol Hardy Vincent	RSI	7-8651	chvincent@crs.loc.gov
Environmental Protection Agency	David Bearden Robert Esworthy	RSI RSI	7-2390 7-7236	dbearden@crs.loc.gov resworthy@crs.loc.gov
Everglades Restoration	Pervaze A. Sheikh	RSI	7-6070	psheikh@crs.loc.gov
Fish and Wildlife Service	M. Lynne Corn	RSI	7-7267	lcorn@crs.loc.gov
Forest Service	Ross W. Gorte	RSI	7-7266	rgorte@crs.loc.gov
Indian Affairs Indian Health Service	Roger Walke	DSP	7-8641	rwalke@crs.loc.gov
Insular Affairs	R. Sam Garrett	G&F	7-6443	rgarrett@crs.loc.gov
Land Acquisition	Carol Hardy Vincent	RSI	7-8651	chvincent@crs.loc.gov
Minerals Management Service	Marc Humphries	RSI	7-7264	mhumphries@crs.loc.gov
National Park Service	David Whiteman	RSI	7-7786	dwhiteman@crs.loc.gov
Payments in Lieu of Taxes Program (PILT)	M. Lynne Corn	RSI	7-7267	lcorn@crs.loc.gov
Surface Mining and Reclamation	Robert Bamberger	RSI	7-7240	rbamberger@crs.loc.gov
U.S. Geological Survey	Pervaze A. Sheikh	RSI	7-6070	psheikh@crs.loc.gov
Wildland Fire Management	Ross W. Gorte	RSI	7-7266	rgorte@crs.loc.gov

- a. Division abbreviations: DSP = Domestic Social Policy; G&F = Government and Finance; KSG = Knowledge Services Group; RSI = Resources, Science, and Industry.

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Interior, Environment, and Related Agencies: FY2009 Appropriations

Most Recent Developments

On September 30, 2008, the President signed the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (FY2009 CR, P.L. 110-329). Division A, Continuing Appropriations Resolution, 2009, generally extended funding for accounts in the Interior, Environment, and Related Agencies Appropriations bill at the amounts provided in the FY2008 regular appropriations act. Funds are available under the terms and conditions provided in the FY2008 law, except where otherwise specified. The FY2009 CR provides appropriations through March 6, 2009.

Introduction

The annual Interior, Environment, and Related Agencies appropriations bill includes funding for agencies and programs in three separate federal departments, as well as numerous related agencies and bureaus. It provides funding for Department of the Interior (DOI) agencies (except for the Bureau of Reclamation, funded in Energy and Water Development appropriations laws), many of which manage land and other natural resource or regulatory programs. The bill also provides funds for agencies in two other departments — the Forest Service in the Department of Agriculture, and the Indian Health Service (IHS) in the Department of Health and Human Services — as well as funds for the Environmental Protection Agency (EPA). Further, the annual bill includes funding for arts and cultural agencies, such as the Smithsonian Institution, National Gallery of Art, National Endowment for the Arts, and National Endowment for the Humanities, and for numerous other entities and agencies.

In former years, the appropriations laws for Interior and Related Agencies provided funds for several activities within the Department of Energy (DOE), including research, development, and conservation programs; the Naval Petroleum Reserves; and the Strategic Petroleum Reserve. However, at the outset of the 109th Congress, these DOE programs were transferred to the House and Senate Appropriations subcommittees covering energy and water, to consolidate jurisdiction over DOE.¹ At the same time, jurisdiction over the EPA and several smaller entities was moved to the House and Senate Appropriations subcommittees covering Interior

¹ These panels are now called the Subcommittees on Energy and Water Development.

and Related Agencies.² This change resulted from the abolition of the House and Senate Appropriations Subcommittees on Veterans Affairs, Housing and Urban Development, and Independent Agencies, which previously had jurisdiction over EPA.

Since FY2006, appropriations laws for Interior, Environment, and Related Agencies have contained three primary titles providing funding. This report is organized along these lines. Accordingly, the first section (Title I) provides information on Interior agencies; the second section (Title II) discusses EPA; and the third section (Title III) addresses other agencies, programs, and entities. A fourth section of this report discusses cross-cutting topics that encompass more than one agency.

Entries in this report are for major agencies (e.g., the National Park Service) and cross-cutting issues (e.g., Everglades restoration) that receive funding in the Interior, Environment, and Related Agencies appropriations bill. For each such agency or issue, we discuss some of the key funding changes proposed for FY2009 that are likely to be of interest to Congress. We also address related policy issues that tend to occur in the context of considering appropriations legislation. Presenting such information in summary form is a challenge given that budget submissions for some agencies number several hundred pages and contain innumerable funding, programmatic, and legislative changes for congressional consideration. For information on programs funded in the bill but not directly discussed in this report, please contact the key policy staff members listed at the beginning of the report.

This report contains final FY2008 enacted levels for agencies, programs, and activities. In general, in this report the term *appropriations* represents total funds available, including regular annual and supplemental appropriations, as well as rescissions, transfers, and deferrals, but excludes permanent mandatory budget authorities. Increases and decreases generally are calculated on comparisons between the funding levels enacted for FY2008 and those requested by the President for FY2009. The House Committee on Appropriations is the primary source of the funding figures used throughout the report. Other sources of information include the Senate Committee on Appropriations, agency budget justifications, and the *Congressional Record*. References to the “Explanatory Statement” refer to the statement on the FY2008 appropriations bill published in the December 17, 2007, *Congressional Record*. That bill, H.R. 2764, was enacted as P.L. 110-161, the Consolidated Appropriations Act for FY2008. In the tables throughout this report, some columns of funding figures do not add to the precise totals provided due to rounding.

FY2004-FY2009

Table 1, below, shows appropriations for Interior, Environment, and Related Agencies for FY2004-FY2009. Funding for earlier years is not readily available due to the changes in the makeup of the Interior appropriations bill. If enacted, the

² These panels are now called the Subcommittees on Interior, Environment, and Related Agencies.

President's request for FY2009 (shown below) would be the lowest level since at least FY2004. It would be a \$1.52 billion (6%) decrease in funds from the FY2004 level in current dollars, or an 18% decrease in constant dollars (assuming the Congressional Budget Office's inflation projections of 2.3% for 2008 and 2.6% for 2009). See **Table 25** for a budgetary history of each agency for FY2004-FY2009.

Table 1. Interior, Environment, and Related Agencies Appropriations, FY2004 to FY2009
(in billions of current dollars)

FY2004	FY2005	FY2006	FY2007	FY2008	FY2009
\$27.33	\$27.02	\$25.94	\$27.40	\$28.42	25.81

Note: These figures exclude permanent budget authorities, and generally do not reflect scorekeeping adjustments. They generally reflect rescissions and supplemental appropriations to date, except that the FY2006 figure does not reflect supplementals. The FY2007 figure includes \$425.0 million for Secure Rural Schools. The FY2009 figure is the Administration's request.

FY2009 Budget and Appropriations

Current Overview

On September 30, 2008, the President signed the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (FY2009 CR, P.L. 110-329).³ Division A, Continuing Appropriations Resolution, 2009, generally extended funding for accounts in the Interior, Environment, and Related Agencies Appropriations bill at the amounts provided in the FY2008 regular appropriations law. Funds are available under the terms and conditions provided in the FY2008 law, except where otherwise specified. The FY2009 CR provides appropriations from October 1, 2008 through March 6, 2009, unless a regular appropriations bill for Interior, Environment, and Related Agencies is enacted earlier. Continuing funding was needed because a regular FY2009 appropriations bill was not enacted before the start of the fiscal year (October 1, 2008).⁴

The FY2009 CR contained additional provisions related to Interior, Environment, and Related Agencies. For instance, the law provided an additional \$2.0 million to the National Park Service for Inaugural security (see the "National Park Service" section). It removed the prohibitions on spending funds for oil and gas leasing activities in certain regions of the Outer Continental Shelf (OCS), which had been controversial (see the "Minerals Management Service" section). The law also

³ Information on the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, is contained in CRS Report RL34711, *Consolidated Appropriations Act for FY2009 (P.L. 110-329): An Overview*, by Robert Keith.

⁴ Information on continuing resolutions is contained in CRS reports including the following: CRS Report RL30343, *Continuing Resolutions: Latest Action and Brief Overview of Recent Practices*, by Sandy Streeter; CRS Report RL32614, *Duration of Continuing Resolutions in Recent Years*, by Robert Keith; and CRS Report RL34700, *Interim Continuing Resolutions (CRs): Potential Impacts on Agency Operations*, by Clinton T. Brass.

removed the prohibition on using funds to prepare final regulations regarding a commercial leasing program for oil shale or to conduct a commercial oil shale lease sale (see the “Bureau of Land Management” section). Further, the law contained provisions on funding for the Modified Water Deliveries Project, which pertains to water deliveries to Everglades National Park (see the “Everglades Restoration” section).

The President had requested \$25.81 billion for Interior, Environment, and Related Agencies, a \$2.61 billion (9%) reduction from the FY2008 level of \$28.42 billion (including emergency appropriations). While the President sought to increase funds for some agencies, he requested reduced funds for most agencies. Among the proposed increases for FY2009, from FY2008, were the following:

- \$42.3 million (36%) for the Minerals Management Service (MMS);
and
- \$33.8 million (5%) for the Smithsonian Institution (SI).

Among the proposed decreases were the following:

- -\$1.69 billion (29%) for the Forest Service (FS);
- -\$341.9 million (29%) for DOI Wildland Fire Management;
- -\$284.2 million (4%) for the Environmental Protection Agency (EPA);
- -\$139.6 million (10%) for the Fish and Wildlife Service (FWS); and
- -\$99.9 million (4%) for the Bureau of Indian Affairs (BIA).

The House and Senate Appropriations Subcommittees on Interior, Environment, and Related Agencies held hearings on agency budget requests, and the House Subcommittee marked up a draft appropriations bill. However, no bills providing regular appropriations for FY2009 for Interior, Environment, and Related Agencies were reported by the House or Senate Appropriations Committees or considered on the House or Senate floor. Divisiveness over whether to retain long-standing prohibitions on funding for oil and gas leasing in regions of the Outer Continental Shelf was perhaps the biggest impediment to developing and considering an Interior appropriations bill.

Major Issues

Controversial funding and policy issues typically have been debated during consideration of the annual Interior, Environment, and Related Agencies Appropriations bill. Issues that have tended to be controversial include those listed below.

- *Clean Water and Drinking Water State Revolving Funds*, especially the adequacy of funding to meet state and local wastewater and drinking water needs. These state revolving funds provide seed money for state loans to communities for wastewater and drinking water infrastructure projects. (For more information, see the “Environmental Protection Agency” section in this report.)

- *Construction of BIA Schools and IHS Health Facilities*, particularly whether to enact funding cuts proposed in the President's FY2008 budget. (For more information, see the "Bureau of Indian Affairs" and the "Indian Health Service" sections in this report.)
- *Indian Trust Funds*, especially whether to enact reductions proposed in the President's FY2009 request and the method by which a historical accounting will be conducted of Individual Indian Money (IIM) accounts to determine correct balances in the class-action lawsuit against the government. (For more information, see the "Office of Special Trustee for American Indians" section in this report.)
- *Land Acquisition*, including the appropriate level of funding for the Land and Water Conservation Fund for federal land acquisition and the state grant program, and extent to which the fund should be used for activities not involving land acquisition. (For more information, see "The Land and Water Conservation Fund (LWCF)" section in this report.)
- *Outer Continental Shelf Leasing*, particularly preleasing and leasing activities in offshore areas, and oil and gas leases in offshore California. (For more information, see the "Minerals Management Service" section in this report.)
- *Payments in Lieu of Taxes Program (PILT)*, primarily the appropriate level of funding for compensating local governments for federal land within their jurisdictions. (For more information, see the "Payments in Lieu of Taxes Program (PILT)" section in this report.)
- *Royalty Relief*, especially the extent to which oil and natural gas companies receive royalty relief for production of oil and natural gas on federal lands. (For more information see the "Minerals Management Service" section of this report.)
- *Superfund*, notably the adequacy of proposed funding to meet hazardous waste cleanup needs, and whether to continue using general Treasury revenues to fund the account or reinstate a tax on industry that originally paid for most of the program. (For more information, see the "Environmental Protection Agency" section in this report.)
- *Termination of BIA Education and Housing and IHS Urban Health Programs*, particularly whether to end funding for BIA's Johnson-O'Malley grants to schools and the Housing Improvement Program and for IHS's urban Indian health projects. (For more information, see the "Bureau of Indian Affairs" and the "Indian Health Service" sections in this report.)

- *Wildland Fire Fighting*, involving questions about the appropriate level of funding to fight fires on agency lands; advisability of borrowing funds from other agency programs to fight wildfires; implementation of a program for wildland fire protection and locations for fire protection treatments; and impact of environmental analysis, public involvement, and challenges to agency decisions on fuel reduction activities. (For more information, see the “Wildland Fire Management” section in this report.)

Status of Bill

Table 2, below, will contain information on congressional consideration of the FY2009 Interior appropriations bill as it occurs.

Table 2. Status of Interior, Environment, and Related Agencies Appropriations, FY2009

Subcommittee Markup		H. Comm. Report	House Passage	S. Comm. Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
6/11/08	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

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Note: The Continuing Appropriations Resolution, 2009 (Division A of P.L. 110-329), generally extended funding for accounts in the Interior, Environment, and Related Agencies appropriations bill (among other appropriations bills) at the amounts provided in the FY2008 regular appropriations law.

Title I: Department of the Interior

Bureau of Land Management⁵

Overview. The Bureau of Land Management (BLM) manages approximately 258 million acres of public land for diverse and sometimes conflicting uses, such as energy and minerals development, livestock grazing, recreation, and preservation. The agency also is responsible for about 700 million acres of federal subsurface mineral resources throughout the nation, and supervises the mineral operations on an estimated 56 million acres of Indian Trust lands. Another key BLM function is wildland fire management on about 370 million acres of DOI, other federal, and certain nonfederal land.

The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for BLM accounts, through March 6, 2009, at the amounts provided in the FY2008 regular appropriations act. The Administration had

⁵ For more information on BLM funding, contact Carol Hardy Vincent at 7-8651.

requested a total of \$999.1 million for BLM for FY2009. This would be a reduction of \$8.8 million (1%) from the FY2008 level of \$1.01 billion. See **Table 3**. These figures do not include funds for DOI wildland fire management. In the past, wildland fire funds have been appropriated to BLM for fire fighting on all DOI lands. However, for FY2009, the Administration proposed funding for DOI fire fighting as a department-wide program, rather than through the BLM. The Administration sought \$850.1 million for DOI wildland fire management, a reduction of \$341.9 million (29%) from the \$1.19 billion appropriated to the BLM for FY2008. (For more information, see the “Wildland Fire Management” section in this report.) Proposed funding for several key activities is discussed below.

The Administration’s FY2009 budget included several suggested changes in law. For instance, the Administration suggested amending the Federal Land Transaction Facilitation Act (FLTFA) in part to alter the distribution of proceeds from land sales. Under current law, proceeds are deposited into a separate Treasury account and are available primarily for land acquisition. The President’s proposal would direct 70% of the proceeds to the general fund of the Treasury. It would cap receipts retained by the DOI at \$60 million annually, and direct using updated land management plans to determine which lands to sell or exchange. The Administration supports these changes to reduce the amount of money not subject to oversight during the appropriations process and to enhance the public benefits from land sales, according to the BLM budget justification. Legislation would be needed to make these changes. The Administration made similar proposals in earlier budget requests, which were not enacted.

The Administration also proposed to eliminate the Range Improvements Fund, and consequently did not request an appropriation from the fund. The Administration seeks a legislative change to direct that the grazing fee receipts that are deposited into the fund instead be deposited in the general fund of the Treasury. Range improvements include vegetation projects, fencing, and water developments. The Administration advocates the change so that construction and maintenance of public land projects is the responsibility of public land users and interest groups, while allowing that BLM funds from other accounts could be used for range improvements. The Administration proposed similar changes in earlier budget requests, but they have not been enacted. While the Administration did not request funds for Range Improvements for FY2009, **Table 3**, below, shows a request of \$10.0 million because under current law a portion of the grazing fees collected are deposited in the fund.

Management of Lands and Resources. Management of Lands and Resources includes funds for an array of BLM land programs, including protection, recreational use, improvement, development, disposal, and general BLM administration. For this line item, the Administration requested \$864.8 million, an increase of \$10.9 million (1%) over the FY2008 level of \$853.9 million. The FY2009 request specified \$21.8 million from this account for the National Landscape Conservation System (NLCS). This system consists of 26 million acres of BLM’s protected conservation areas. Overall, the Administration sought \$49.9 million for the NLCS, from multiple accounts, compared with an appropriation of \$54.2 million for FY2008.

Table 3. Appropriations for the Bureau of Land Management, FY2008-FY2009
(\$ in millions)

Bureau of Land Management	FY2008 Approp.	FY2009 Request
Management of Lands and Resources	853.9	864.8
Construction	6.4	4.5
Land Acquisition	8.9	4.5
Oregon and California Grant Lands	108.5	108.3
Range Improvements	10.0	10.0
Service Charges, Deposits, and Forfeitures ^b	0.0	0.0
Miscellaneous Trust Funds and Permanent Operating Funds	20.1	7.1
— <i>Current Appropriations</i>	20.1	20.1
— <i>Naval Oil Shale Reserves, Mineral Leasing Receipts</i>	—	-13.0
Total Appropriations^a	1,007.9	999.1

a. The figures do not reflect funds for DOI wildland fire management. For FY2008, \$1.19 billion was appropriated to the BLM for DOI wildland fire management. For FY2009, the Administration sought to fund wildland fire management as a department-wide program, with a request for \$850.1 million.

b. The figures of “0” are a result of an appropriation matched by offsetting fees.

In general, the Administration sought reduced funds for FY2009 for activities funded by this account. This is due in part to the separate identification of funds for the NLCS in FY2009, which in the past were included as part of other activities. Proposed reductions for FY2009 from the FY2008 levels include the following:

- range management: \$2.3 million, from \$73.0 million to \$70.7 million;
- cultural resources: \$2.6 million, from \$16.1 million to \$13.5 million;
- threatened and endangered species: \$1.7 million, from \$22.3 million to \$20.6 million;
- recreation management: \$8.8 million, from \$67.9 million to \$59.1 million;
- resource management planning: \$4.1 million, from \$47.5 million to \$43.4 million; and
- deferred maintenance: \$10.2 million, from \$36.5 million to \$26.3 million.

The FY2009 request included an increase in appropriations of \$22.1 million for oil and gas management, from \$109.9 million in FY2008 to \$132.0 million in FY2009. The lower amount for FY2008 was primarily the result of \$25.5 million in offsetting fees. These revenues were expected to be derived through a program for FY2008 requiring payment of \$4,000 for each application for a permit to drill oil and gas wells. Including these revenues, the amount available for FY2008 was \$135.4 million. The Administration sought a legislative change to make permanent the cost recovery fee, with the hope of generating \$34.0 million for FY2009.

The Continuing Appropriations Resolution, 2009, removed the prohibition on using funds to prepare final regulations regarding a commercial leasing program for oil shale or to conduct a commercial oil shale lease sale. According to the Department of the Interior and the oil industry, final regulations are important for giving the industry greater certainty, regarding access to federal lands, for near-term investment decisions. The Administration has expressed interest in writing the final regulations before the end of the 2008 calendar year. The funding prohibition had been included in the FY2008 appropriations law. In the explanatory statement on that legislation, the Appropriations Committees had expressed that while oil shale has the potential to be an important energy resource, there is concern that DOI “may be moving ahead before the full impacts of such a program are known, and without full and complete cooperation of the affected States ... Colorado, Utah, and Wyoming.”⁶ Current law (P.L. 109-58) requires BLM to issue the regulations and to move to a commercial leasing program.

For the healthy lands initiative for FY2009, the Administration requested \$14.9 million, an increase above the \$4.9 million appropriated for FY2008. The Administration anticipated using another \$8.2 million in existing funds for the initiative for both FY2009 and FY2008, while raising \$10.0 million in contributions from partners in FY2009 and \$3.4 million in FY2008. The initiative consists of vegetation resources enhancements to restore and improve the health and productivity of western public lands across large areas of land. It currently focuses on six areas located in Utah, New Mexico, southwest Wyoming, southeast Oregon-southwest Idaho-northern Nevada, south-central Idaho, and western Colorado. In its FY2009 budget justification, BLM stated that these areas were selected due to an “urgent” need to maintain, improve, and restore wildlife habitat to help preclude the need to list species under the Endangered Species Act. With the additional funds in FY2009, the Administration is seeking to expand the Colorado initiative to include the northwest portion of Colorado, and to add a seventh area — California — which will incorporate three smaller initiatives.

Construction. For FY2009, the Administration requested \$4.5 million for BLM Construction, including funds for two specified projects. This was a decrease of \$1.9 million from the FY2008 level of \$6.4 million, and would be the lowest appropriation in at least a decade. The BLM’s multi-year construction plan similarly anticipates a request of \$4.5 million for each of FY2010 through FY2013, according to the FY2009 budget justification. In its report on the FY2008 Interior appropriations bill, the Senate Appropriations Committee had supported funding of \$11.5 million, nearly the FY2007 level, to avoid an increase in the construction backlog. The Committee had expressed “disapproval” regarding DOI’s “lack of commitment to its infrastructure” (S.Rept. 110-91, p. 15-16).

Land Acquisition. For Land Acquisition for FY2009, the Administration sought \$4.5 million, including funds for four specified acquisitions. This would be a decrease of \$4.5 million from the FY2008 level of \$8.9 million. The appropriation

⁶ *Congressional Record*, v. 153, December 17, 2007, Book II, Explanatory Statement, Division F, Sec. 433, p. H16141-H16142. Hereafter cited as “Explanatory Statement,” with the *Congressional Record* page number.

for BLM acquisitions had fallen steadily from \$49.9 million in FY2002 to \$8.9 million for FY2008. Money for land acquisition is appropriated from the Land and Water Conservation Fund. (For more information, see the “Land and Water Conservation Fund (LWCF)” section in this report.)

For further information on the *Bureau of Land Management*, see its website at [<http://www.blm.gov/nhp/index.htm>].

CRS Report RL33792. *Federal Lands Managed by the Bureau of Land Management (BLM) and the Forest Service: Issues for the 110th Congress*, by Ross W. Gorte, Carol Hardy Vincent, and Marc Humphries.

Fish and Wildlife Service⁷

The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for Fish and Wildlife Service (FWS) accounts, through March 6, 2009, at the amounts provided in the FY2008 regular appropriations act. For FY2009, the President had requested \$1.30 billion for FWS, down 10% from the FY2008 level of \$1.44 billion. By far the largest portion of the FWS annual appropriation is for the Resource Management account. The FY2009 request for this account was \$1.07 billion, down 1% from FY2008. Among the programs included in Resources Management are the Endangered Species program, the Refuge System, and Law Enforcement.

Endangered Species Funding. Funding for the Endangered Species program is one of the perennially controversial portions of the FWS budget. The FY2009 request is \$146.8 million, down 2% from the FY2008 level of \$150.5 million. See **Table 4**.

A number of related programs also benefit conservation of species that are listed, or proposed for listing, under the Endangered Species Act. For FY2008, the President proposed, and Congress approved, ending the Landowner Incentive Program (\$23.7 million in FY2007) as well as Stewardship Grants (\$7.3 million in FY2007). No funding was sought for either program for FY2009. This year, the President proposed to increase the Cooperative Endangered Species Conservation Fund (for grants to states and territories to conserve threatened and endangered species) from \$73.8 million to \$75.5 million. The request included a proposal to cancel \$4.5 million in prior year balances. Without the cancellation, the proposal would provide for \$80.0 million, slightly below the FY2007 funding level of \$81.0 million. See **Table 4**.

In total, the FY2009 request contained \$222.3 million for endangered species and related programs, down 1% from the FY2008 level of \$224.3 million and 13% below the FY2007 level of \$256.6 million.

⁷ For more information on FWS funding, contact M. Lynne Corn at 7-7267.

Table 4. Appropriations for Endangered Species and Related Programs, FY2008-FY2009

(\$ in thousands)

Endangered Species and Related Programs	FY2008 Approp.	FY2009 Request
Endangered Species Program		
— <i>Candidate Conservation</i>	9,731	8,659
— <i>Listing</i>	17,978	18,188
— <i>Consultation</i>	51,758	51,577
— <i>Recovery</i>	71,041	68,417
Subtotal, Endangered Species Program	150,508	146,841
Related Programs		
— <i>Landowner Incentive Program</i>	0	0
— <i>Private Stewardship Grants</i>	0	0
— <i>Cooperative Endangered Species Conservation Fund</i>	73,831	75,501 ^a
Subtotal, Related Programs	73,831	75,501 ^a
Total Appropriations	224,339	222,342

a. Reflects a cancellation of \$4.5 million in prior year balances.

National Wildlife Refuge System (NWRS) and Law Enforcement. For refuge operations and maintenance, the FY2008 appropriation was \$434.1 million; the President proposed the same level for FY2009. Within refuge funding, modest cuts in visitor services, conservation planning, and refuge maintenance were balanced by increases in refuge-based law enforcement, and in wildlife and habitat management. A portion of the wildlife and habitat management spending is proposed to be charged to the Land and Water Conservation Fund.

Costs of operation have increased on many refuges, partly due to special problems such as hurricane damage and more aggressive border enforcement, but also due to increased use, invasive species control, and other demands. Refuge funding has not kept pace with new demands, and these demands, combined with the rising costs of rent, salaries, fuel, and utilities, have led to cuts in funding for programs to aid endangered species, reduce infestation by invasive species, protect water supplies, address habitat restoration, and ensure staffing at the less popular refuges. The Northeast Region (roughly Virginia to Maine, with 71 refuges) took the lead in addressing this issue by attempting to consolidate management at refuges, and increasing the number of refuges which are not staffed on a regular basis (termed “de-staffing”). This region also attempted to consolidate some services in order to spread remaining resources more effectively. Other regions began their own plans to address reduced operating budgets. Congress responded to funding shortfalls with additional appropriations for refuge operations for FY2008, increasing funds for that purpose from \$264.0 million in FY2007 to \$296.6 million in FY2008. In the Explanatory Statement for the FY2008 appropriation, FWS was directed to use the additional FY2008 funding to reestablish basic operations nationwide. FWS was further directed to report back to the Appropriations Committees on allocation of the increased funding within 60 days.

The FY2009 request included \$57.4 million for Law Enforcement nationwide, covering border inspections, investigations of violations of endangered species or waterfowl hunting laws, etc. This would be a decrease of 4% from the FY2008 level of \$59.6 million.

Avian Flu. For FY2009, the President's request would fund avian flu research and monitoring at \$4.9 million, down 33% from the FY2008 level of \$7.3 million for the study, monitoring, and early detection of highly pathogenic avian flu. In addition, the President proposed to transfer the program from General Administration to the Migratory Bird Management Program. Under the FY2008 program, FWS cooperates with other federal and nonfederal agencies in studying the spread of the virus through wild birds. Attention is on North American species whose migratory patterns make them likely to come into contact with infected Asian birds. The geographic focus is on Alaska, the Pacific Flyway (along the west coast), and Pacific islands, with smaller samples in other areas. (See CRS Report RL33795, *Avian Influenza in Poultry and Wild Birds*, by Jim Monke and M. Lynne Corn.)

Land Acquisition. For FY2009, the President's budget included \$10.2 million for Land Acquisition, down 71% from the FY2008 level of \$34.6 million. The Administration proposed that \$0.9 million be allocated to Refuge Acquisition, down \$19.8 million (96%) from FY2008. The Administration asserted that the proposed reduction would allow the agency to better focus on management of lands currently in the refuge system, by not adding to operations and maintenance costs through additional acquisitions.⁸ See **Table 5**. In the past, the bulk of this FWS program has been for acquisitions of land for specified federal refuges, but a portion was used for closely related functions such as acquisition management, land exchanges, emergency acquisitions, purchase of inholdings, and general overhead. In recent years, less of the funding has been reserved for traditional land acquisition. This program is funded with appropriations from LWCF. (For more information, see the "Land and Water Conservation Fund (LWCF)" in this report.)

Table 5. Appropriations for FWS Land Acquisition Program, FY2008-FY2009
(\$ in thousands)

FWS Land Acquisition	FY2008 Approp.	FY2009 Request
Acquisitions — Federal Refuge Lands	20,676	900
Inholdings	2,953	1,500
Emergencies & Hardships	0	1,500
Exchanges	1,477	1,537
Acquisition Management	8,013	3,240
Cost Allocation Methodology	1,477	1,494
Total Appropriations	34,596	10,171

⁸ U.S. Dept. of the Interior, *Fiscal Year FY2009: The Interior Budget in Brief*, February 2008, p. DO-21.

Under the Migratory Bird Conservation Account (MBCA), FWS has a source of mandatory spending for land acquisition. The account is permanently appropriated, with funds derived from the sale of duck stamps to hunters and import duties on certain arms and ammunition. For FY2009, the President proposed to increase the price of a duck stamp from the current \$15 to \$25, with a further increase to \$35 beginning in FY2013. As annual appropriations for acquisitions under LWCF have declined, the MBCA (\$43.7 million in FY2007, and an estimated \$40.0 million for FY2008) has become increasingly used to protect habitat for migratory birds, especially waterfowl. Other species in these habitats benefit incidentally. The President's budget assumes that Congress will enact an increase in the price of duck stamps, and that as a result MBCA revenues for FY2009 will increase 35% to \$54.0 million. The MBCA would rise from 54% of the agency's land acquisition budget to 84%, if both the reduction in the basic land acquisition account and the increase in the duck stamp price are enacted.

Wildlife Refuge Fund. The National Wildlife Refuge Fund (also called the Refuge Revenue Sharing Fund) compensates counties for the presence of the non-taxable federal lands of the National Wildlife Refuge System (NWRS). A portion of the fund is supported by the permanent appropriation of receipts from various activities carried out on the NWRS. However, these receipts are not sufficient for full funding of amounts authorized in the formula, and county governments have long urged additional appropriations to make up the difference. Congress generally has provided additional appropriations. For FY2009, the President requested \$10.8 million, down 23% from the FY2008 level of \$14.0 million. With refuge receipts, the FY2009 level would fund about 40% of the authorized payment level, down from 51% in FY2008.

Multinational Species and Neotropical Migrants. The Multinational Species Conservation Fund (MSCF) has generated considerable constituent interest despite the small size of the program. It benefits Asian and African elephants, tigers, rhinoceroses, great apes, and marine turtles. For FY2009, the President requested \$4.3 million for MSCF, down 46% from the FY2008 level of \$7.9 million. The request also included \$4.0 million for the Neotropical Migratory Bird Conservation Fund (NMBCF), down 11% from the FY2008 level of \$4.4 million. See **Table 6**.

Table 6. Appropriations for Multinational Species Conservation Fund and Neotropical Migratory Bird Conservation Fund, FY2008-FY2009
(\$ in thousands)

Multinational Species Conservation Fund	FY2008 Approp.	FY2009 Request
African Elephant	1,477	990
Tiger and Rhinos	1,969	990
Asian Elephant	1,477	990
Great Apes	1,969	990
Marine Turtles	983	296
Total MSCF Appropriations	7,875	4,256
Neotropical Migratory Birds	4,430	3,960

State and Tribal Wildlife Grants. State and Tribal Wildlife Grants help fund efforts to conserve species (including nongame species) of concern to states, territories, and tribes. The grants have generated considerable support from these governments. The program was created in the FY2001 Interior appropriations law (P.L. 106-291) and further detailed in subsequent Interior appropriations bills. (It does not have any separate authorizing statute.) Funds may be used to develop state conservation plans as well as to support specific practical conservation projects. A portion of the funding is set aside for competitive grants to tribal governments or tribal wildlife agencies. The remaining portion is for matching grants to states. A state's allocation is determined by formula. The appropriation for FY2008 was \$73.8 million, and the FY2009 request was identical. See **Table 7**.

Table 7. Appropriations for State and Tribal Wildlife Grants, FY2008-FY2009
(\$ in thousands)

State and Tribal Wildlife Grants	FY2008 Approp.	FY2009 Request
State Grants	62,724	62,724
Competitive Grants for States, Territories, & Other Jurisdictions	4,922	4,922
Tribal Grants	6,184	6,184
Total Appropriations	73,830	73,830

For further information on the *Fish and Wildlife Service*, see its website at [<http://www.fws.gov/>].

CRS Report RL33872. *Arctic National Wildlife Refuge (ANWR): New Directions in the 110th Congress*, by M. Lynne Corn, Bernard A. Gelb, and Pamela Baldwin.

CRS Report RL33795. *Avian Influenza in Poultry and Wild Birds*, by Jim Monke and M. Lynne Corn.

CRS Report RL33779. *The Endangered Species Act (ESA) in the 110th Congress: Conflicting Values and Difficult Choices*, by Eugene H. Buck, M. Lynne Corn, Pervaze A. Sheikh, Robert Meltz, and Kristina Alexander.

CRS Report RS21157. *Multinational Species Conservation Fund*, by Pervaze A. Sheikh and M. Lynne Corn.

National Park Service⁹

The National Park Service (NPS) is responsible for the National Park System, currently comprising 391 separate and diverse park units covering 85 million acres. The NPS and its more than 20,000 permanent, temporary, and seasonal employees

⁹ For more information on NPS funding in general, contact David Whiteman at 7-7786. For more information on funding for historic preservation, contact Blake Alan Naughton at 7-0376.

protect, preserve, interpret, and administer the park system's diverse natural and historic areas representing the cultural identity of the American people. The NPS mission is to protect park resources and values, unimpaired, while making them accessible to the public. After nearly a decade of generally flat or declining numbers and an abrupt disruption of tourism following the September 11, 2001 terrorist attacks, park visits increased by 3 million (1%) in 2007, to nearly 276 million visits.

The Park System has roughly 20 types of area designations, including national parks, monuments, memorials, historic sites, battlefields, seashores, recreational areas, and other classifications. The NPS also supports and promotes some resource conservation activities outside the Park System through limited grant and technical assistance programs and cooperation with partners.

The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for NPS accounts, through March 6, 2009, at the amounts provided in the FY2008 regular appropriations act. However, §151 added \$2.0 million to NPS operations for "security and visitor safety activities related to the Presidential Inaugural Ceremonies" in January 2009.

For FY2009, the President had proposed a budget of \$2.40 billion for the NPS, \$13.9 million (less than 1%) more than the FY2008 enacted level of \$2.39 billion. See **Table 8**. The request would have provided a major boost in funding for the park operations account, but sought to reduce the recreation and preservation, construction, and land acquisition line items.

The condition of the parks and the adequacy of their care and operating capacity continues to be a congressional focus. Some advocacy groups claim that the park system has long experienced chronic budget shortfalls. By one estimate, the national parks operate with two-thirds of needed funding — a budget shortfall of more than \$600 million annually.¹⁰

To be ready for the NPS's 100th anniversary in 2016, the Administration proposed a multi-year initiative, to begin in FY2008, to strengthen visitor services and other park programs. The National Parks Centennial Initiative, announced by President Bush in August 2006, seeks to add up to \$3 billion in new funds for the parks over the next 10 years through a public/private joint effort. The initiative has three components: (1) a commitment to add \$100.0 million annually in discretionary funds; (2) a challenge for the public to donate \$100.0 million annually; and (3) a request that legislation be enacted to establish a mandatory fund with \$100.0 million annually to match the public donations. The second part of the initiative — the proposed \$1 billion "Centennial Challenge" — would rely on corporate, foundation, and other private donations, raising concerns among some park supporters about potential commercialization and privatization influence on the parks. (See the "Centennial Challenge" section, below.)

¹⁰ See the website of the National Parks Conservation Association at [http://www.npca.org/media_center/reports/analysis.html].

**Table 8. Appropriations for the National Park Service,
FY2008-FY2009**
(\$ in millions)

National Park Service	FY2008 Approp.	FY2009 Request^a
Operation of the National Park System	1,970.6	2,130.7
— <i>Park Management</i>	1,744.5	1,889.1
— <i>Administrative Costs</i>	139.4	148.1
— <i>U.S. Park Police</i>	86.7	93.6
Centennial Challenge (Matching Program) ^b	24.6	0.0
National Recreation and Preservation ^c	67.4	45.5
Historic Preservation Fund ^c	70.4	66.1
Construction	218.5	172.5
Land and Water Conservation Fund ^d	-30.0	-30.0
Land Acquisition and State Assistance	69.0	20.8
— <i>Assistance to States</i>	24.6	-1.0
— <i>NPS Acquisition</i>	44.4	21.8
Total Appropriations	2,390.5	2,404.3

- a. Includes cancellation of \$4.3 million of prior-year funds: \$0.8 for U.S. Park Police, \$0.5 million for Historic Preservation, \$0.6 million for Construction, \$1.0 million for Assistance to States, and \$1.3 million for Urban Parks and Recreation.
- b. The FY2009 figure reflects that the Administration did not seek funding for the matching program through annual appropriations.
- c. Preserve America funding requested for FY2009 (\$10.0 million) is included in the Historic Preservation Fund. For FY2008, funds were included (\$7.4 million) in National Recreation and Preservation.
- d. Figures reflect a rescission of contract authority.

Operation of the National Park System. The park operations line item is the primary source of funding for the national parks, accounting for more than 80% of the total NPS budget. The FY2009 request targeted \$2.13 billion to support overall park operations, \$160.9 million (8%) above the FY2008 enacted level. The FY2008 law incorporated the U.S. Park Police account into the operations line item. See **Table 8**. The majority of operations funding is provided directly to park managers. It supports the activities, programs, and services essential to the day-to-day operations of the park system, and covers resource protection, visitors' services, facility operations and maintenance, and park support programs, as well as such administrative expenses as employee pay, benefits, and other fixed costs.

United States Park Police (USPP). The U.S. Park Police is an urban-oriented, full-service, uniformed law enforcement entity with primary jurisdiction at park sites within the metropolitan areas of Washington, DC, New York City, and San Francisco. USPP law enforcement authority extends to all NPS units and to certain other federal and state lands. The park police support the approximately 1,500 law enforcement trained and commissioned park rangers and 400 seasonal law enforcement rangers working in park units system-wide.

The FY2009 request was \$93.6 million (including a cancellation of \$0.8 million in prior year funds). This would have been an increase of \$6.8 million (8%) above

the FY2008 enacted level. The proposed increase was intended to address a perceived under-staffing issue by raising the number of sworn officers, which had fallen to a 20-year low of 576 at the end of January 2008.

A report by the DOI Inspector General cited serious deficiencies in USPP leadership, staffing, training, and equipment.¹¹ The report charged that the force was failing to adequately perform its expanded security duties for the icon parks and monuments as well as other law enforcement obligations, including patrol functions, dignitary protection, and special events and crowd management. Following release of the OIG report, the USPP Chief was detailed to DOI headquarters to be part of a team addressing program reforms for the force, according to the Park Service.

Centennial Challenge. As discussed above, the Administration proposed a three-part National Parks Centennial Initiative, with additional discretionary funding for park operations, and a Centennial Challenge program consisting of public donations and federal funds to match the donations. The President's FY2009 budget proposed to establish \$100.0 million in mandatory spending to provide the federal match. Related legislative proposals were introduced in the House and Senate.

Congress provided \$24.6 million as seed money for the Centennial Challenge in the FY2008 appropriations law, to be matched by equal private contributions. The FY2008 appropriations law, and language in the House Appropriations Committee report on the FY2008 Interior Appropriations bill (H.Rept. 110-187), directed that the Challenge money be used for signature projects, not for core operations or for projects that commercialize parks, and that the NPS must control all projects. The Park Service has announced the first projects funded through the Centennial Challenge.

National Recreation and Preservation. This line item funds a variety of park system recreation, natural and cultural resource protection programs, and an international park affairs office, as well as programs connected with state and local community efforts to preserve natural, historic, and cultural resources. The request for FY2009 of \$45.5 million was \$21.9 million (33%) less than the FY2008 appropriation of \$67.4 million. The proposed reduction in funding drew criticism from some Members of Congress and some park support organizations.

The proposed decrease was partly the result of moving funding for Preserve America (\$7.4 million) from this line item to Historic Preservation, where it was funded in FY2007. (See the "Historic Preservation" section below.) However, the request also sought to reduce funding for the heritage partnerships program that supports the national heritage areas, from \$15.3 million in FY2008 to \$7.1 million in FY2009. Also, as in recent budget requests, the Administration again proposed discontinuing statutory and contractual aid; the program was funded at \$7.5 million in FY2008.

¹¹ U.S. Dept. of the Interior, Office of Inspector General, *Assessment of the United States Park Police*, PI-EV-NPS-0001-2007 (Washington, DC: February 2008).

Historic Preservation. The Historic Preservation Fund (HPF), administered by the NPS, provides grants-in-aid for activities specified in the National Historic Preservation Act (NHPA; 16 U.S.C. §470), such as restoring historic districts, sites, buildings, and objects significant in American history and culture. NHPA was reauthorized (P.L. 109-235) on December 22, 2006, extending the funding authority through 2015. The Fund's preservation grants are normally funded on a 60% federal/40% state matching share basis. The HPF also includes funding for the *Save America's Treasures* grant program.

For FY2009, the Administration requested \$66.1 million for the HPF, a decrease of \$4.2 million (6%) from the funding level for FY2008. See **Table 8**. The request proposed canceling \$0.5 million in unobligated balances appropriated in prior years. The request would have reduced funding for state and tribal historic preservation grants by \$3.7 million (9%) and \$2.5 million (38%) respectively. The NPS request for *Save America's Treasures* was \$15.0 million, down 39% from the \$24.6 million appropriated in FY2008. The Administration's request for the *Preserve America* grant programs — traditionally funded through the HPF but funded through National Recreation and Preservation in FY2008 — moved *Preserve America* grant programs back to the HPF, and proposed funding of \$10.0 million, an increase of \$2.6 million (35%) over FY2008.

For FY2009, the NPS proposed a \$3.0 million program to help states and tribal governments create an integrated inventory of historic properties. Of that amount, \$2.0 million would have funded grants through the HPF and the balance would have been provided through the National Recreation and Preservation account. A \$5.0 million proposal for a similar program was included in the Administration's FY2008 request, but was not funded.

Construction. The Construction line item funds new construction projects, as well as improvements, repair, rehabilitation, and replacement of park facilities. The FY2009 request would have reduced the Park Service's construction budget by \$46.1 million to \$172.5 million for FY2009, a 21% decrease compared to FY2008. Such a reduction in construction funding could have affected the Park Service's ability to address its maintenance backlog. DOI data (March 2007) show an NPS deferred maintenance backlog of \$7.9 billion, of which \$4.3 billion is park roads, while another DOI source estimates an NPS backlog (mid-range) of \$9.1 billion for FY2006. (For information on NPS maintenance, see CRS Report RL33484, *National Park Management*, coordinated by Carol Hardy Vincent.)

Land Acquisition and State Assistance. The FY2009 request for the Land and Water Conservation Fund (LWCF) was \$20.8 million, comprised of \$21.8 million for NPS land acquisition and -\$1.0 million for state assistance programs by cancelling state assistance balances. This would have reduced funding by \$48.1 million (70%) from FY2008 appropriations of \$69.0 million (\$44.4 million for NPS land acquisition and \$24.6 million for state assistance). Land acquisition funds are used to acquire lands, or interests in lands, for inclusion within the National Park System. This account also includes money to buy inholdings — the private lands within park boundaries. State assistance is for recreation-related land acquisition and recreation planning and development by the states, with the appropriated funds allocated by formula and states determining their spending priorities.

The \$21.8 million proposed for NPS land acquisition was \$22.5 million (51%) below the FY2008 level. The Administration again requested no funds for LWCF state assistance; for FY2008 Congress provided \$24.6 million. (For more information, see the “Land and Water Conservation Fund (LWCF)” section in this report.)

For further information on the *National Park Service*, see its website at [<http://www.nps.gov/>].

For further information on *Historic Preservation*, see its website at [<http://www.cr.nps.gov/hps/>].

CRS Report RL33617. *Historic Preservation: Background and Funding*, by Susan Boren.

CRS Report RL33484. *National Park Management*, by Carol Hardy Vincent, Ross W. Gorte, Sandra L. Johnson, and Susan Boren.

CRS Report RL33525. *Recreation on Federal Lands*, coordinated by Kori Calvert and Carol Hardy Vincent.

U.S. Geological Survey¹²

The U.S. Geological Survey (USGS) is the nation’s premier science agency in providing physical and biological information related to natural hazards; certain aspects of the environment; and energy, mineral, water, and biological sciences. In addition, it is the federal government’s principal civilian mapping agency and a primary source of data on the quality of the nation’s water resources.

Funds for the USGS are provided in the line item *Surveys, Investigations, and Research*, for eight activities: Geographic Research, Investigations, and Remote Sensing; Geologic Hazards, Resources, and Processes; Water Resources Investigations; Biological Research; Enterprise Information; Science Support; Facilities; and Global Climate Change Research. The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for USGS accounts, through March 6, 2009, at the amounts provided in the FY2008 regular appropriations act. The FY2009 request for the USGS was \$968.5 million, a \$38.0 million decrease from the FY2008 level of \$1.01 billion. With the exception of Global Climate Change Research and Enterprise Information activities, funding for all other USGS programs would either remain about the same or decrease according to the FY2009 request. See **Table 9**.

¹² For more information on USGS funding, contact Pervaze A. Sheikh at 7-6070.

**Table 9. Appropriations for the U.S. Geological Survey,
FY2008-FY2009**
(\$ in millions)

U.S. Geological Survey	FY2008 Approp.	FY2009 Request
Enterprise Information	110.4	112.1
Geographic Research, Investigations, and Remote Sensing	77.7	73.1
Geologic Hazards, Resources, and Processes	243.5	208.0
Water Resources Investigations	220.5	203.0
Biological Research	179.9	180.3
Science Support	67.2	67.2
Facilities	100.0	98.1
Global Climate Change Research	7.4	26.6
Total Appropriations	1,006.5	968.5

The FY2009 budget request for USGS contained approximately \$34.9 million in program increases and \$87.8 million in program reductions, according to the agency.¹³ The budget contained an \$8.2 million increase to support a water census component of the Water for America Initiative with the Bureau of Reclamation, and a \$3.7 million increase to upgrade 350 streamgages in the National Streamflow Information Program. The request also contained \$26.6 million to continue global climate change research, a \$19.2 million increase. (See the “Global Climate Change Research” section below.) The FY2009 request proposed to eliminate funding for the Water Resources Research Institutes, which the Administration contends have been generally self-supporting. In FY2008, the Institutes were appropriated \$6.3 million. The FY2009 request also had a net reduction of \$24.6 million for mineral resource assessments, a scaling back to focus on the needs of federal land management programs, according to the Administration.

Enterprise Information. The Enterprise Information Program consolidates funding of all USGS information needs including information technology, security, services, and resources management, as well as capital asset planning. The FY2009 request recommended \$112.1 million for this program, \$1.8 million above the FY2008 level.

There are three primary programs within Enterprise Information: (1) enterprise information security and technology, which supports management and operations of USGS telecommunications (e.g., computing infrastructure and email); (2) enterprise information resources, which provides policy support, information management, and oversight over information services; and (3) national geospatial program, which provides operational support and management for the Federal Geographic Data

¹³ U.S. Geological Survey, *The President’s FY 2009 Request for USGS*, accessed March 20, 2008 at [<http://www.usgs.gov/newsroom/article.asp?ID=1867>].

Committee (FGDC). The FGDC is an interagency, intergovernmental committee that encourages collaboration to make geospatial data available to state, local, and tribal governments, as well as communities.

Geographic Research, Investigations, and Remote Sensing. This program aims to provide access to high quality geospatial information to the public. The FY2009 request would provide \$73.1 million to this program, \$4.6 million below the FY2008 level.

The Administration's request would provide a programmatic increase of \$2.0 million to develop a National Land Imaging Program. This program will plan the collection of remotely sensed imagery of the Earth's land surfaces, and assess the societal and economic benefits of satellite land imaging. Under the Land Remote Sensing subheading, the Landsat Data Continuity Mission, also known as Landsat 8, was proposed to be continued in FY2009. Landsat 8 is an upcoming satellite that is to take remotely sensed images of the Earth's land surface and surrounding coastal areas primarily for environmental monitoring.

Geologic Hazards, Resources, and Processes. For Geologic Hazards, Resources, and Processes activities, the FY2009 request was \$208.0 million, \$35.5 million below the FY2008 level. This line item covers programs in three activities: Hazard Assessments, Landscape and Coastal Assessments, and Resource Assessments.

The primary reduction sought by the Administration was a \$24.6 million net reduction to mineral resource assessments, which would result in \$26.3 million for the mineral resources program. According to the Administration, universities or other entities will undertake assessments and research that support nonfederal needs. In previous years, the Administration requested similar cuts in this program, which Congress rejected. The Appropriations Committees expressed full support for the program for FY2008, and referred to the Administration's requested cut for FY2008 as "irresponsible" (Explanatory Statement, H16128).

Under this activity, for FY2009 there was a requested increase of \$7.0 million for ocean science in support of the DOI initiative on Oceans and Coastal Frontiers. The funds would be used to conserve coral reefs, improve ocean science, and map areas of the U.S. extended continental shelf. This is one component of DOI's overall contribution of \$956 million to implement the Ocean Action Plan in 2009.¹⁴

Water Resources Investigations. For this program, the Administration requested \$203.0 million for FY2009, \$17.5 million below the FY2008 level. As with the Bush Administration's FY2002-FY2008 budget requests, the FY2009 request sought to discontinue USGS support for water resources research institutes because, according to the Administration, most institutes have succeeded in leveraging sufficient funding for program activities from non-USGS sources. Each year the program has been funded; in FY2008, \$6.3 million was provided.

¹⁴ For more information see [<http://www.doi.gov/initiatives/oceanfr.html>], accessed March 13, 2008.

The FY2009 request would reduce funding for the National Water Quality Assessment by \$9.8 million from the FY2008 level of \$63.9 million. The reduction would result in the suspension of source-water and ground-water monitoring studies and affect data collection in 28 states. Further, work on topical studies would be reduced. These studies address issues such as the sources and transport of contaminants, and the effect of contaminants on human and natural systems. There was an increase of \$3.0 million requested for the Ground Water Resources Program, which brings its total requested funding to \$10.6 million. This program will support the DOI's Water for America Initiative by helping to assess water availability and water quality, and conducting region-specific assessments of ground water.

Biological Research. The Biological Research Program under the USGS generates and distributes information related to conserving and managing the nation's biological resources. The FY2009 request for this program was \$180.3 million, a \$0.5 million increase over FY2008. The Biological Research Program would fund work in five focal areas that will support DOI's science strategies. These areas include research on effects of climate change on wildfires and ecosystems, large river ecosystem processes and habitat, vertebrate diseases and impacts, gap analysis¹⁵ and taxonomic research, and adaptive management.

Under this program, \$8.0 million was requested for studies on priority ecosystems located in the Greater Everglades, Chesapeake Bay, San Francisco Bay, and Mojave Desert. The total requested funding for this program under USGS was \$10.4 million, with \$2.4 million requested under the Water Resources Program. Under DOI's Birds Forever Initiative, there was a \$1.0 million increase for USGS to extend monitoring and surveillance of migratory birds. The USGS will expand both the number of migration routes surveyed annually and the geographic scope of monitoring into Mexico. In cooperation with the FWS and other federal and state agencies, the USGS is surveying for the early detection of avian flu in wild birds, and collecting samples from birds that are known to migrate through the Russian Far East and Southeast Asia. In 2009, the USGS will continue sampling birds for avian flu and coordinate with other agencies to address the potential for avian flu in North America.

Science Support and Facilities. Science Support focuses on those costs associated with modernizing the infrastructure for managing and disseminating scientific information. The FY2009 request would provide \$67.2 million, similar to the FY2008 enacted level. Facilities focuses on the costs for maintenance and repair. The FY2009 request would provide \$98.1 million, approximately \$1.8 million below the FY2008 level.

Global Climate Change Research. The FY2009 request combined most of the climate change activities of the USGS into one integrated program. It provided \$26.6 million for this program, an increase of \$19.2 million over FY2008.

¹⁵ Gap analysis identifies the degree to which native animal species and plant communities are represented in federal lands.

Work under this program seeks to provide science, monitoring, and predictive modeling to generate information on climate changes and their effect on the resources and landscape of the United States. Specifically, scientists will continue to track indicators of climate change and link them to effects. Further, work is planned to develop decision support tools for policy makers and resource managers to develop and implement adaptation strategies. Some specific projects will concentrate on the effects of climate change on forest carbon storage, the use of glaciers as indicators of climate change, ecosystem modeling, and the effects of climate change on the Yukon River Basin.

For further information on the *U.S. Geological Survey*, see its website at [<http://www.usgs.gov/>].

Minerals Management Service¹⁶

The Minerals Management Service (MMS) administers two programs: the Offshore Energy and Minerals Management (OEMM) Program and the Minerals Revenue Management (MRM) Program. OEMM administers competitive leasing on Outer Continental Shelf (OCS) lands and oversees production of offshore oil, gas, other minerals, and offshore alternative energy. MMS recently published its proposed regulations for the administration of alternative energy leases in the OCS (73 *Fed. Reg.* 39376, July 9, 2008). MRM collects and disburses bonuses, rents, and royalties paid on federal onshore and OCS leases and Indian mineral leases. Revenues from onshore leases are distributed to states in which they were collected, the general fund of the U.S. Treasury, and designated programs. Revenues from the offshore leases are allocated among the coastal states, the Land and Water Conservation Fund, the Historic Preservation Fund, and the U.S. Treasury.

MMS collected and disbursed about \$11.5 billion in revenue in FY2007 from mineral leases on federal and Indian lands. This amount fluctuates annually based primarily on the prices of oil and natural gas. Over the past decade, royalties from natural gas production have accounted for 40% to 45% of annual MMS receipts, while oil royalties have been not more than 25%. However, in FY2007, oil royalties accounted for about 38.5% of MMS receipts. Other sources of MMS receipts include rents and bonuses for all leaseable minerals and royalties from coal and other minerals.

Budget and Appropriations. The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for MMS accounts, through March 6, 2009, at the amounts provided in the FY2008 regular appropriations act. The Administration had submitted an FY2009 total MMS budget of \$307.1 million. See **Table 10**. This included \$6.1 million for Oil Spill Research and \$301.0 million for Royalty and Offshore Minerals Management. The total FY2009 request reflected \$160.4 million in appropriations and an additional \$146.7 million from offsetting collections. MMS has been retaining a portion of the OCS revenues and using them as offsetting collections since 1994. The Administration's total request was \$10.3 million (3%) above the \$296.8 million enacted for FY2008.

¹⁶ For more information on MMS funding, contact Marc Humphries at 7-7264.

The net appropriation request for FY2009, of \$160.4 million, was significantly higher than the \$118.1 million enacted for FY2008. This was because of the \$43.0 million deduction for royalty cost-sharing with the states for FY2008.

Table 10. Appropriations for the Minerals Management Service, FY2008-FY2009

(\$ in millions)

Minerals Management Service	FY2008 Approp.	FY2009 Request
Royalty and Offshore Minerals Management		
— <i>OCS Lands (OEMM)</i>	161.3	164.0
— <i>Royalty Management (MRM)</i>	81.7	86.0
— <i>General Administration</i>	47.5	51.0
— <i>Gross, Royalty and Offshore Minerals Management</i>	290.5	301.0
— <i>Use of Receipts and Cost Recovery Fees</i>	-135.7	-146.7
Total, Royalty and Offshore Minerals Management Appropriations	154.8	154.3
Oil Spill Research	6.3	6.1
Administrative Provisions		
— State Royalty Administrative Cost Deduction	-43.0	
Total Appropriations	118.1	160.4

Oil and Gas Leasing Offshore. Issues not directly tied to specific funding accounts remain controversial. Oil and gas development moratoria in the OCS along the Atlantic and Pacific Coasts, parts of Alaska, and the Gulf of Mexico had been in place since 1982, as a result of public laws and executive orders of the President. On July 14, 2008, President Bush lifted the executive moratoria, which included MMS Planning areas along the Atlantic and Pacific coasts. In the Continuing Appropriations Resolution, 2009, Congress removed its annual moratoria provisions that included the Atlantic and Pacific coasts; these coastal areas could now be made available for future oil and gas development. Whether to remove the moratoria has been highly controversial. Their removal was supported in an attempt to increase domestic oil and gas supply. Others favored continuing the moratoria due to concerns about adverse economic and environmental impacts of development. In earlier action, Congress enacted legislation (P.L. 109-432) to open part of the Gulf of Mexico (about 5.8 million acres), but the law placed nearly all of the eastern Gulf under a leasing moratorium until 2022. The law also contained revenue sharing provisions for selected coastal states. The MMS's new five-year leasing program took effect July 1, 2007. (For more information, see CRS Report RL33493, *Outer Continental Shelf: Debate Over Oil and Gas Leasing and Revenue Sharing*, by Marc Humphries.)

Royalty relief for OCS oil and gas producers has been debated during consideration of Interior appropriations bills. On February 13, 2006, the *New York Times* reported that the MMS would not collect royalties on leases awarded in 1998 and 1999 because no price threshold was included in the lease agreements during those two years. Without the price thresholds, producers may produce oil and gas up to specified volumes without paying royalties no matter what the price. The MMS asserts that placing price thresholds in the lease agreements is at the discretion of the

Secretary of the Interior. However, according to the MMS, the price thresholds were omitted by mistake during 1998 and 1999.¹⁷

The 110th Congress considered, but has not enacted, royalty relief legislation. On September 16, 2008, the House passed H.R. 6899, the Comprehensive American Energy Security and Consumer Protection Act. Under Title I, this legislation would require the Secretary of the Interior to accept a lessee's request to modify those leases without price thresholds ("covered leases") to include price thresholds. The bill would not make available to lessees holding "covered leases" new oil and gas leases in the Gulf of Mexico unless current leases include price thresholds or the lessee pays a proposed "conservation of resources fee"¹⁸ or enters an agreement to pay such fees. The bill also would reaffirm the Secretary's authority to impose a price threshold in certain leases. Earlier in the 110th Congress, the House had passed H.R. 6 with similar language on royalty relief, but the provisions were not enacted as part of P.L. 110-140.

In addition, the authority of the Secretary to impose price thresholds has come into question in a lawsuit filed by Kerr-McGee.¹⁹ The U.S. District Court, Western District of Louisiana issued a ruling on October 18, 2007, in favor of Kerr-McGee,²⁰ meaning that the Secretary of the Interior did not have authority to impose price threshold levels in leases issued under DWRRA (1996-2000). The ruling could apply to potentially \$23-\$31 billion in future OCS royalties according to the MMS, but may not affect congressional efforts to impose new fees or establish new lease eligibility criteria discussed above.²¹

Another challenge confronting the MMS is to ensure that its audit and compliance program is consistently effective. Critics contend that less auditing and more focus on compliance review has led to a less rigorous royalty collection system and thus a loss of revenue to the federal Treasury. DOI's Inspector General (IG) has made recommendations to strengthen and improve administrative controls of the Compliance and Asset Management Program (CAM). Further, DOI established an independent panel (the Royalty Policy Committee — RPC) to review the MMS Mineral Leasing Program. The RPC offered over 100 recommendations to the MMS for improving its leasing program and auditing function. The review included an examination of the Royalty-in-Kind Program which has grown significantly over the past three years — from 41.5 million barrels of oil equivalent (BOE) sold in 2004 to

¹⁷ This information is from discussions with Walter Cruickshank, Deputy Director of MMS, during April 2006.

¹⁸ The fee would be \$9/barrel oil and \$1.25/million Btu natural gas on covered producing leases and \$3.75/acre annually on non-producing leases.

¹⁹ For more details on this case, see CRS Report RL33404, *Offshore Oil and Gas Development: Legal Framework*, by Adam Vann.

²⁰ *Kerr-McGee Oil & Gas Corp. v. Allred*, No. 2:06-CV-0439 (W.D. La. October 30, 2007).

²¹ See CRS Report RL33974, *Legal Issues Raised by Provision in House Energy Bill (H.R. 6) Creating Incentives for Certain OCS Leaseholders to Accept Price Thresholds*, by Robert Meltz and Adam Vann and CRS Congressional Distribution Memorandum: *Impact of the Kerr-McGee Oil and Gas Corp. v. Allred Ruling on the Proposed Royalty Relief for American Consumers Act of 2007*, by Adam Vann.

112 million BOE sold in 2007.²² The Government Accountability Office (GAO) issued a report on September 26, 2008, concluding that the Royalty-in-Kind Program could be improved.²³

Oil and gas leasing in offshore California also has continued to be a controversial issue. Under the Coastal Zone Management Act of 1972, as amended (16 U.S.C. §1451-64) (CZMA), development of federal offshore leases must be consistent with state coastal zone management plans. In 1999, MMS extended the terms of 36 leases in offshore California by granting suspensions of the leases' five-year terms. A suspension extends the term of the lease, to allow the lessee to facilitate development.²⁴ The state of California sued, contending that MMS should have made a consistency determination showing that the lease suspensions were consistent with California's coastal management plan before issuing the suspensions. In June 2001, the U.S. Court for the Northern District of California agreed with the state of California and struck down the lease suspensions.²⁵ MMS appealed to the U.S. Court of Appeals for the Ninth Circuit. However, in December 2002, the Ninth Circuit upheld the District Court decision.²⁶

Following this ruling, nine oil company lessees brought breach of contract claims against MMS seeking restitution for "bonus payments" made to MMS in order to obtain and suspend their leases in offshore California. In November 2005, the U.S. Court of Federal Claims held that the federal government breached its contract with the lessees when it enacted the amendments to the CZMA in 1990 that, according to the decisions described above, required lease suspensions to be evaluated for consistency with a state's coastal management plan.²⁷ The Court reasoned that the lessees had not bargained for the more extensive consistency determination requirements to be applied to suspension requests when the leases were signed, and that therefore the legislation creating these new requirements amounted to breach of the leases.²⁸ The government was ordered to repay the lessees for all so-called "bonus payments" (about \$1.1 billion) made to the government in exchange for the leases.²⁹

²² The report of the panel, *Mineral Revenue Collection from Federal and Indian Lands and the Outer Continental Shelf*, is available on the MMS website at [http://www.mrm.mms.gov/Laws_R_D/RoyPC/PdFDocs/RPCRMS1207.pdf].

²³ The report is available at U.S. Government Accountability Office, *Oil and Gas Royalties: MMS's Oversight of Its Royalty-in-Kind Program Can Be Improved through Additional Use of Production Verification Data and Enhanced Reporting of Financial Benefits and Costs*, GAO-08-942R, September 26, 2008.

²⁴ The regulations on suspension are at 30 C.F.R §250.168.

²⁵ *California v. Norton*, 150 F.Supp.2d 1046 (N.D. Cal. 2001).

²⁶ *California v. Norton*, 311 F.3d 1162 (9th Cir. 2002).

²⁷ *Amber Resources Co. v. U.S.*, 68 Fed. Cl. 535 (2005).

²⁸ *Id.* at 546-48.

²⁹ *Id.* at 560. The lessees continued to pursue further recovery under other breach of contract theories. These matters remain unsettled. *See Amber Resources Corp. v. United States*, 73 Fed. Cl. 738 (2006).

For further information on the *Minerals Management Service*, see its website at [<http://www.mms.gov>].

CRS Report RL33974. *Legal Issues Raised by Provision in House Energy Bill (H.R. 6) Creating Incentives for Certain OCS Leaseholders to Accept Price Thresholds*, by Robert Meltz and Adam Vann.

CRS Report RL33493. *Outer Continental Shelf: Debate Over Oil and Gas Leasing and Revenue Sharing*, by Marc Humphries.

CRS Report RS22567. *Royalty Relief for U.S. Deepwater Oil and Gas Leases*, by Marc Humphries.

Office of Surface Mining Reclamation and Enforcement³⁰

The Surface Mining Control and Reclamation Act of 1977 (SMCRA, P.L. 95-87; 30 U.S.C. §1201 note) established the Office of Surface Mining Reclamation and Enforcement (OSM) to ensure that land mined for coal would be returned to a condition capable of supporting its pre-mining land use. However, coal mining is an old activity in the United States, and at the time SMCRA was enacted there was a large inventory of abandoned mine sites that no company could be held accountable to reclaim. To address this problem, SMCRA established an Abandoned Mine Reclamation Fund,³¹ with fees levied on coal production, to reclaim abandoned sites that posed serious health or safety hazards. Until FY2008, disbursements from the AML fund were determined strictly by annual appropriations. The law provided that individual states and Indian tribes would develop their own regulatory programs incorporating minimum standards established by law and regulations. Reclamation in states with no approved programs is directed by OSM.

Historically, AML collections were divided up and assigned to different accounts, some of which were designated to a federal share account that partly funded reclamation based upon a state's historical coal production. A portion of fee collections also was also credited to a state share account. Application of a complex formula — and other considerations — determined what portion of the annual appropriation each state with an approved program would receive. Grants from the appropriation to a state or tribe were drawn on both a state's federal-share and state-share accounts.

Fee collections have exceeded appropriations for a number of years. The total unappropriated balance — including both federal and state share accounts in the AML fund — was over \$2.07 billion by the end of FY2007, of which approximately \$1.3 billion was in the state-share accounts.

The Tax Relief and Health Care Act (P.L. 109-432) reauthorized AML fee collections through FY2021, and also made significant changes in the procedures for disbursing grants. As coal production has shifted westward, western states have paid more into the fund. These states contended that they are shouldering a

³⁰ For more information on OSM funding, contact Robert Bamberger at 7-7240.

³¹ Hereafter this fund is referred to as the AML fund.

disproportionate share of the reclamation burden because the great majority of the sites requiring remediation are in the East.³² Noting, in particular, the steadily increasing unappropriated balances in their state share accounts, Western states pressed for increases in the annual AML appropriations to return more of the unappropriated balances to them.

These concerns were addressed by several changes to the program included in P.L. 109-432. Beginning in FY2008, state and tribal grants are funded by mandatory appropriation from general U.S. Treasury funds. Only discretionary programs, including funding OSM operations, and federally managed reclamation programs, are funded by annual appropriations in Interior appropriations bills.³³

Annual collections deposited to the AML fund will be included in the calculation of total funds to be distributed to states and tribes during the fiscal year that follows.³⁴ Additionally, under the restructuring, the balances in the state- and tribal-share accounts of states and tribes that have completed remediation of the highest priority sites, are to be returned to the states or tribes in seven annual installments paid from general Treasury funds.³⁵ These states and tribes, referred to as “certified,” will also receive whatever grants they would be entitled to based upon application of the distribution formula to both prior year collections and the entitlement based upon its historic coal production.

Other changes enacted in P.L. 109-432 are designed to make more funds available on an annual basis to states with significant reclamation work yet to be done. The portion of AML collections from certified states that, under the old program, would have been deposited to those states’ state-share accounts will instead be credited to the federal-share account, the state balances of which represented historical coal production. The allocation of a portion of AML fee collections under the old program to the Rural Abandoned Mine Program (RAMP) was also discontinued by P.L. 109-432. The unappropriated balances in the RAMP account were also transferred to the pool of funds representing state historical coal production. These changes were made with the intention of increasing the pool of money available for distribution to “uncertified states” (those states that have not reclaimed the most serious sites). Disbursements to uncertified states will be based upon their proportionate entitlement from the historical coal production account as

³² Interest generated by unappropriated balances in the AML fund is transferred to the United Mine Workers of America Combined Benefit Fund, established by P.L. 102-486 to cover the unreimbursed health cost requirements of retired miners.

³³ As is subsequently discussed in greater detail, on August 1, 2008, the President submitted an amendment to his FY2009 budget request to cancel \$11.7 million of AML funds that otherwise would have been available for discretionary and federally managed programs.

³⁴ The permanent appropriation has a ceiling of \$490 million annually. If demands on that money would exceed the cap, distributions will be proportional.

³⁵ Added to these totals will be any money needed to fund minimum program states. These states have sites remaining with serious problems. However, these states also have insufficient levels of current coal production to generate significant fees to the AML fund. Each minimum program state is to receive \$1.5 million annually.

well as the amount that otherwise would have been deposited to the state-share account.³⁶

Under P.L. 109-432, distributions to uncertified states will be 50% of the designated amount in FY2009, and 75% in FY2010 and FY2011, before reaching 100% beginning FY2012. Certified states will receive 50% of their designated amount in FY2009, 75% in FY2010, and the full amount beginning in FY2011. Once fully in place, OSM estimates that 83% of annual fee collections will be distributed to states and tribes outside the appropriation process.³⁷

Some activities remain subject to annual appropriations. Among these are the expenses of federal AML programs in states with no OSM-approved reclamation programs, an emergency reclamation program, OSM administrative expenses, and the Clean Streams program. However, the FY2009 request does not include new funding for State Emergency Grants and Federal Emergency Projects owing to a sufficient carryover of funds from FY2008. Funding of this program will cease when these funds are exhausted because the changes to the AML program are making additional funds available to states and tribes to manage their own AML emergency programs.³⁸ The agency budget also has an additional component — regulatory and technology programs.

Owing to the establishment of the permanent appropriation, the FY2008 OSM appropriation was sharply lower than the FY2007 level. It included a total of \$118.5 million for Regulation and Technology and \$52.0 million for the AML fund, for a total of \$170.4 million for FY2008. The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for OSM accounts, through March 6, 2009, at the amounts provided in the FY2008 regular appropriations act.

The Administration's original request for FY2009 had been \$118.5 million for Regulation and Technology, and \$30.8 million for the AML fund. Total spending under the original request for OSM would have been \$149.3 million for FY2009, a reduction of roughly \$21.1 million (12%) from FY2008. However, the reduction would have been more than offset by the permanent appropriation under the restructured AML program.

On August 1, 2008, the President submitted an amendment to his budget request to cancel \$11.7 million of unobligated balances in the Abandoned Mine Reclamation Fund. The effect of the amendment would be to reduce the President's request for AML funds to \$19.1 million. See **Table 11**. The Administration asserted that this level would be sufficient to meet the needs of discretionary reclamation as the discretionary grant program is phased out, and these needs are met by funds in the

³⁶ Whether or not fee collections are reauthorized beyond FY2021, mandatory distributions will continue as long as money remains in the AML fund.

³⁷ U.S. Dept. of the Interior, Office of Surface Mining Reclamation and Enforcement, *Budget Justifications and Performance Information, Fiscal Year 2009*, p. 148.

³⁸ Fifteen states manage their own emergency programs: Alabama, Alaska, Arkansas, Illinois, Indiana, Iowa, Kansas, Missouri, Montana, North Dakota, Ohio, Oklahoma, Texas, Virginia, and West Virginia.

mandatory appropriation. The reduction from the AML request was proposed as an offset to an increase for the Bureau of Land Management to fund the cost of environmental investigation and restoration at Naval Oil Shale Reserve Number 3 in Colorado.

Table 11. Appropriations for the Office of Surface Mining Reclamation and Enforcement, FY2008-FY2009
(\$ in millions)

Office of Surface Mining Reclamation and Enforcement	FY2008 Approp.	FY2009 Request
Regulation and Technology	118.5	118.5
— <i>Environmental Protection</i>	87.4	86.9
Abandoned Mine Reclamation Fund	52.0	19.1
Total Appropriations	170.4	137.6

For further information on the *Office of Surface Mining Reclamation and Enforcement*, see its website at [<http://www.osmre.gov/osm.htm>].

Bureau of Indian Affairs³⁹

The Bureau of Indian Affairs (BIA) provides a variety of services to federally recognized American Indian and Alaska Native tribes and their members, and historically has been the lead agency in federal dealings with tribes. Programs provided or funded through the BIA include government operations, courts, law enforcement, fire protection, social programs, education, roads, economic development, employment assistance, housing repair, dams, Indian rights protection, implementation of land and water settlements, and management of trust assets (real estate and natural resources).

BIA's direct appropriations were \$2.29 billion in FY2008. The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for BIA accounts, through March 6, 2009, at the amounts provided in the FY2008 regular appropriations act. For FY2009, the Administration had proposed \$2.19 billion, a decrease of \$99.9 million (4%) below FY2008. **Table 12** presents funding figures for FY2008 and FY2009. The percentages of change are from the appropriated levels for FY2008 to the requested levels for FY2009. Decreases are shown with minuses.

Key issues for BIA include education programs — such as the Administration's proposals to increase education management spending, reduce education construction funding, and eliminate funding for the Johnson-O'Malley program and for tribal technical colleges. Other key issues involve BIA's law enforcement, welfare assistance, housing, and road maintenance programs, and the Interior Department's process for acknowledging Indian tribes.

³⁹ For more information on BIA funding, contact Roger Walke at 7-8641.

**Table 12. Appropriations for the Bureau of Indian Affairs,
FY2008-FY2009**
(\$ in thousands)

Bureau of Indian Affairs	FY2008 Approp.	FY2009 Request		Percent Change FY08- FY09
		Total	TPA ^a	
Operation of Indian Programs				
<i>Tribal Government</i>	399,863	389,703	381,966	-3%
— <i>Johnson-O'Malley Grants^b</i>	7,565	0	0	-100%
— <i>Welfare Assistance^c</i>	7,549	0	0	-100%
— <i>Housing Improvement Program^d</i>	37	0	0	-100%
— <i>Contract Support Costs</i>	147,294	147,294	147,294	0%
<i>Human Services</i>	139,339	112,426	108,287	-19%
— <i>Welfare Assistance^c</i>	78,928	64,491	64,491	-18%
— <i>Housing Improvement Program^d</i>	13,614	0	0	-100%
<i>Trust - Natural Resources Management</i>	147,158	141,822	65,739	-4%
<i>Trust - Real Estate Services</i>	148,370	150,087	63,539	1%
— <i>Probate</i>	19,573	20,334	12,952	4%
— <i>Real Estate Services</i>	47,216	48,140	33,828	2%
— <i>Land Records Improvement</i>	15,814	15,659	0	-1%
<i>Bureau of Indian Education</i>	689,612	663,980	24,935	-4%
— <i>Elementary/ Secondary (Forward-Funded)</i>	479,895	475,594	0	-1%
— <i>ISEP Formula Funds</i>	358,341	364,556	0	2%
— <i>Elementary/ Secondary [Other]</i>	74,621	61,329	0	-18%
— <i>Johnson-O'Malley Grants^b</i>	13,782	0	0	-100%
— <i>Post Secondary Programs</i>	111,749	100,772	24,935	-10%
— <i>Tribal Colleges and Universities</i>	56,821	56,821	0	0%
— <i>Tribal Colls. and Univs. Supplements to Grants</i>	1,272	1,272	0	0%
— <i>Tribal Technical Colleges</i>	5,906	0	0	-100%
— <i>Education Management</i>	23,347	26,285	0	13%
<i>Public Safety and Justice</i>	243,656	242,774	13,197	<-1%
— <i>Law Enforcement</i>	228,137	229,577	0	1%
— <i>Detention/ Corrections</i>	64,023	64,648	0	1%
— <i>Tribal Courts</i>	14,338	12,047	12,047	-16%
<i>Community and Economic Development</i>	39,436	27,171	25,385	-31%
— <i>Road Maintenance</i>	25,576	13,028	13,028	-49%
<i>Executive Direction Administrative Services</i>	240,375	260,327	27,145	8%
— <i>Office of Federal Acknowledgment</i>	2,432	2,468	0	2%
— <i>Information Resources Technology</i>	52,866	59,735	0	13%
Subtotal, Operation of Indian Programs	2,047,809	1,988,290	710,193	-3%
Construction				

Bureau of Indian Affairs	FY2008 Approp.	FY2009 Request		Percent Change FY08- FY09
		Total	TPA ^a	
<i>Education Construction</i>	142,935	115,376	N/A	-19%
— <i>Replacement School Construction</i>	46,716	22,405	N/A	-52%
— <i>Replacement Facility Construction</i>	9,748	17,013	N/A	75%
— <i>Education Facilities Improvement and Repair</i>	84,529	74,363	N/A	-12%
<i>Public Safety and Justice Construction</i>	14,393	11,433	N/A	-21%
— <i>Law Enforcement Facilities Improvement and Repair</i>	10,938	7,975	N/A	-27%
<i>Resources Management Construction</i>	38,309	37,306	N/A	-3%
<i>General Administration Construction and Construction Management</i>	8,117	9,146	N/A	13%
Subtotal, Construction	203,754	173,261	N/A	-15%
Land and Water Claim Settlements and Miscellaneous Payments	33,538	21,627	N/A	-36%
Indian Guaranteed Loan Program	6,178	8,186	N/A	33%
Total Appropriations	2,291,279	2,191,364	710,193	-4%

- a. Tribal Priority Allocations (TPA) are a subset of funds for BIA Operation of Indian Programs. Thus, N/A is provided for other accounts where TPA does not apply. Further, the amounts in this column are included in the “FY2009 Request — Total” column in the table. Tribes may apply their own priorities to TPA programs, moving funds among programs without prior BIA approval and without triggering congressional Appropriation Committees’ requirements for approval of reprogramming.
- b. The Johnson O’Malley program is split between two budget activities, Tribal Government and Bureau of Indian Education.
- c. Welfare Assistance is split between two budget activities, Tribal Government and Human Services.
- d. The Housing Improvement Program is split between two budget activities, Tribal Government and Human Services.

Bureau of Indian Education (BIE) Programs.⁴⁰ BIE funds an elementary-secondary school system and higher education programs. The BIE school system comprises 184 BIE-funded schools and peripheral dormitories, with over 2,000 structures, educating about 44,000 students in 23 states. In school year 2006-2007, tribes and tribal organizations, under grants for tribally controlled schools and self-determination contracts, operated 123 of these institutions; BIE operated the remainder. BIE also operates two postsecondary schools and provides grants to 26 tribally controlled colleges and two tribally controlled technical colleges. Key problems for the BIE-funded school system are low student achievement and the high proportion of schools failing to make adequate yearly progress (AYP). Key appropriations issues include initiatives to meet AYP, the Johnson-O’Malley (JOM) program, tribal technical colleges, and the large number of inadequate school facilities.

⁴⁰ In August 2006, the BIA’s administrative office for its education programs was removed from the BIA, made a parallel agency under the Assistant Secretary — Indian Affairs, and renamed the Bureau of Indian Education (BIE). The BIE appropriations request remains within DOI’s Indian Affairs appropriations request.

Indian Education Initiative. In school years 2003-2006, 69%-70% of BIE-funded schools failed to make AYP, according to BIE. In FY2008, under a new “education program enhancements” initiative, BIE’s forward-funded elementary and secondary budget activity received \$12.1 million to improve instructional resources at BIE schools targeted for restructuring or corrective action to meet AYP goals. Among the activities funded are teacher development, principal training, intensive reading and math programs, and tutoring and mentoring for high school students. The Administration proposed \$5.2 million for education program enhancements for FY2009, a decrease of \$6.9 million (57%) from FY2008.

Johnson-O’Malley (JOM) Program. The JOM program provides supplementary education assistance grants for tribes and public schools to benefit the majority of Indian students who attend public schools. JOM is funded in two budget activities, Tribal Government and BIE. In FY2008, JOM was funded at \$7.6 million in the Tribal Government activity and \$13.8 million in the BIE activity, for a total of \$21.3 million. For several years, including FY2009, the Administration has proposed no funding for this program, contending that JOM’s funding of public school programs reduces BIE’s commitment to its school system, JOM does not address a focused academic achievement goal, and Department of Education programs under Title VII (Indian education) of the Elementary and Secondary Education Act⁴¹ provide funds for the same purposes. JOM proponents support continued JOM funding for FY2009. They assert that JOM serves students in tribally operated as well as public schools and that Education Department programs cannot replace what they see as JOM’s culturally relevant programs.

Tribal Technical Colleges. There are two tribal career and technical (or vocational) colleges, one in North Dakota (United Tribes Technical College, or UTTC) and one on the Navajo Reservation (Navajo Technical College, formerly Crownpoint Institute of Technology). Both colleges are statutorily excluded from the BIE tribal colleges and universities assistance program,⁴² but the two are the only colleges receiving grants under the Education Department’s Carl Perkins Act program for tribally controlled vocational colleges.⁴³ The tribal technical colleges received a total of \$5.9 million in FY2008. BIE has for several years, including FY2009, sought to end funding for the two technical colleges, asserting that they receive adequate funding from the Perkins Act and other Education Department higher education programs and that the funds are needed more at the 26 tribal colleges and universities. Tribal technical college proponents disagree, asserting that they provide unique culturally appropriate career and technical education programs and campus services, and that BIE funding provides a very large proportion of their operating budgets (over half at UTTC, for instance). The proponents also note that for FY2009 the Administration proposed no funding for the Perkins Act program and

⁴¹ This program is contained in 20 U.S.C. 7401 et seq.

⁴² The tribal colleges and universities assistance statute limits the number of eligible tribally controlled colleges to one per tribe (25 U.S.C. 1801(a)(4)).

⁴³ The provision for tribally controlled career and technical institutions is at 20 U.S.C. 2327.

reduced other Education Department higher education programs from which the tribal technical colleges benefit.⁴⁴

Education Construction. Many BIE school facilities are old and dilapidated, with health and safety deficiencies. BIA education construction covers replacement of all of a school's facilities, replacement of individual facilities at schools, improvement and repair of existing school facilities, and repair of education employee housing. School facilities are replaced or repaired according to priority lists. **Table 12** shows education construction funds. For FY2008, education construction appropriations totaled \$142.9 million. Congress approved BIA's FY2008 plan to complete existing replacement school construction projects.

For FY2009, the Administration proposed reducing the total education construction appropriation by 19%, to \$115.4 million. Included was a reduction of \$24.3 million (52%) for construction of replacement schools, leaving \$22.4 million to fund one replacement school construction project. The Administration asserted that construction and repairs since 2001 have reduced the proportion of BIE facilities in bad condition, and that the BIA needed to focus on completing replacement school construction projects funded in prior years. Opponents of reductions contend that a large proportion of BIE schools still need replacement or major repairs and thus funding should not be cut.

Law Enforcement Program. BIA and Justice Department figures show rising crime rates, methamphetamine use, and juvenile gang activity on some Indian reservations. The federal government has lead jurisdiction over major criminal offenses on most Indian reservations, although in some states federal law has transferred criminal jurisdiction to the state. Tribes share jurisdiction but under federal law tribal courts have limited sentencing options. In general, tribes have fewer law enforcement resources than state and local jurisdictions. BIA funds most law enforcement, jails, and courts in Indian country, whether operated by tribes or the BIA. For FY2008 law enforcement appropriations totaled \$228.1 million. Included was funding for the Administration's "Safe Indian Communities Initiative" to provide additional officers, equipment, and training; increase staffing at detention and corrections facilities (a need identified in a 2004 Interior Inspector General report); and provide specialized drug enforcement training, especially regarding methamphetamine. The House Appropriations Committee directed BIA to allocate the FY2008 funding increases for tribal law enforcement outside the usual methodology in order to serve areas with the greatest need, especially remote reservations (H.Rept. 110-187, p. 6). Currently, BIA is in the process of calculating tribes' law enforcement needs and anticipates allocating the funding increase in April 2008.⁴⁵

⁴⁴ For the FY2009 proposals for the Perkins Act and tribal college programs, see U.S. Department of Education, *FY2009 Department of Education Justifications of Appropriation Estimates to the Congress: Higher Education* ([Washington]: U.S. Department of Education, Feb. 2008), pp. S-12 — S-13, S-25 — S-31, and S-95 — S-S-99; available online at [<http://www.ed.gov/about/overview/budget/budget09/justifications/s-highered.pdf>].

⁴⁵ Information obtained from the BIA, personal communication, March 14, 2008.

For FY2009, the Administration proposed \$229.6 million for law enforcement, an increase of \$1.4 million (1%). Of the increase, \$1.0 million is part of a proposed Department-wide increase in law enforcement on tribal and Department lands on the southwest border. Indian tribes and supporters have suggested the Administration's initiatives were insufficient for adequate policing on reservations and may not be sufficient to handle the methamphetamine problem. One witness noted a BIA gap analysis conducted in 2006, which determined that there were 2,555 law enforcement officers on Indian lands although 4,409 would be needed, for a gap of 1,854 officers (42%).⁴⁶

For tribal courts, FY2008 appropriations were \$14.3 million. For FY2009, the Administration proposed a 16% decrease, to \$12.0 million. Proponents of tribal courts oppose the reduction, asserting that tribal courts are underfunded and necessary to law enforcement and justice on reservations.

Housing Improvement Program (HIP). The major federal Indian housing program is the Indian Housing Block Grant administered by the Department of Housing and Urban Development (HUD), which funds all types of housing. BIA's HIP, an older and much smaller program, focuses on urgently needed repairs, renovations, or modest new houses, on or near reservations, especially for the neediest families. BIA considers HIP a safety net for needy Indians who cannot meet criteria set by tribes administering the HUD program. Total HIP funding was \$13.7 million in FY2008, most in the Human Services budget activity (\$13.6 million) and a small amount in the Tribal Government activity (\$40,000).

For FY2009, as in FY2008, the Administration proposed eliminating HIP, contending that it is not cost effective and serves a limited number of tribes, that tribes administering the HUD program are not statutorily barred from altering criteria in order to serve HIP recipients, that the HUD program can meet the needs, and that other BIA programs are of higher priority. Indian tribes and supporters opposed the elimination of HIP. They asserted that HIP meets a great need for rehabilitation of substandard housing, and questioned whether the HUD program could fill the need for urgent housing repairs.

Road Maintenance. BIA's Road Maintenance program is the primary source of funds to maintain BIA-owned roads and bridges, including those constructed under the Indian Reservation Roads (IRR) program funded through the Highway Trust Fund in the Department of Transportation. The IRR program (authorized at \$410 million in FY2008 and \$450 million in FY2009) is the largest source of federal funds for design and construction of public roads and bridges within, or providing access to, Indian reservations and trust lands and Alaska Native villages. IRR funds are jointly managed by the Transportation Department and BIA, and are allocated both to BIA, for allocation to tribal projects, and to tribes directly. BIA-owned roads

⁴⁶ Testimony of Jefferson Keel, National Congress of American Indians, "NCAI Testimony on the Administration's Fiscal Year 2008 Budget Request for Indian Programs," presented at a hearing of the Senate Indian Affairs Committee, Feb. 15, 2007, p. 3; available at [http://indian.senate.gov/public/_files/Keel021507.pdf].

account for about half the total mileage of IRR roads. For FY2008, Road Maintenance appropriations were \$25.6 million.

For FY2009, the Administration proposed to reduce BIA Road Maintenance appropriations by 49%, to \$13.0 million. The Administration noted that tribes can use up to 25% of their IRR funds for maintenance activities. Tribes oppose the reduction, contending that funding for maintaining roads is inadequate even with 25% of IRR funds.

Federal Tribal Acknowledgment Process. Federal recognition brings an Indian tribe unique benefits, including partial sovereignty, jurisdictional powers, and eligibility for federal Indian programs. Tribes have been acknowledged in many ways, but it was not until 1978 that the Interior Department established a regulatory process for acknowledgment decisions (25 CFR 83).⁴⁷ First located within BIA, the recognition office is now in the office of the Assistant Secretary — Indian Affairs, as the Office of Federal Acknowledgment (OFA). OFA employs teams of expert ethnohistorians, genealogists, and anthropologists to consider recognition petitions. The OFA process has been criticized frequently for taking too long, one reason for which is a lack of resources.⁴⁸ For FY2008, OFA received \$2.4 million within the Executive Direction budget activity, which funds the Assistant Secretary's office. For FY2009, the Administration requested \$2.5 million, a 2% increase.

For further information on the *Bureau of Indian Affairs*, see its website at [<http://www.doi.gov/bureau-indian-affairs.html>].

For further information on education programs of the *Bureau of Indian Education*, see its website at [<http://www.oiep.bia.edu>].

Departmental Offices and Department-Wide Programs⁴⁹

Office of Insular Affairs.⁵⁰ OIA provides financial assistance to four insular areas — American Samoa, the Commonwealth of the Northern Mariana Islands (CNMI), Guam, and the U.S. Virgin Islands (USVI) — as well as three freely associated states in the Western Pacific — the Federated States of Micronesia (FSM),

⁴⁷ For further information on the BIA acknowledgment process, see CRS Report RS21109, *The Bureau of Indian Affairs's Process for Recognizing Groups as Indian Tribes*, by M. Maureen Murphy.

⁴⁸ See U.S. General Accounting Office, *Indian Issues: Improvements Needed in Tribal Recognition Process* (GAO-02-49, November 2001), and U.S. Government Accountability Office, *Indian Issues: Timeliness of the Tribal Recognition Process Has Improved, But It Will Take Years to Clear the Existing Backlog of Petitions* (GAO-05-347T, February 2005).

⁴⁹ This section addresses selected activities/offices that fall under *Departmental Offices* or *Department-Wide Programs*. Total funding for these entities is identified in **Table 25** at the end of this report.

⁵⁰ For more information on OIA funding, contact R. Sam Garrett at 7-6443.

the Republic of the Marshall Islands (RMI), and the Republic of Palau.⁵¹ OIA staff manage relations between each jurisdiction and the federal government and work to build the fiscal and governmental capacity of local governments. OIA aid may be particularly important for American Samoa, CNMI, and the USVI, all of which have experienced recent fiscal challenges.⁵²

OIA funding consists of two parts: (1) permanent and indefinite appropriations and (2) funds provided in the annual appropriations process (discretionary and current mandatory funds).⁵³ The latter comes from two accounts: Assistance to Territories (AT) and Compact of Free Association (CFA). AT funding provides grants for the operation of the government of American Samoa, infrastructure improvement projects on many of the insular area islands, and specified natural resource initiatives. The CFA account provides federal assistance to the freely associated states pursuant to compact agreements negotiated with the U.S. government. The AT and CFA accounts, however, provide a relatively small portion of the office's overall budget; permanent and indefinite funds provide the bulk of U.S. financial assistance to U.S. insular areas, FSM, RMI, and Palau.

The total OIA request (including permanent and indefinite annual appropriations) for FY2009 was \$401.6 million. Of the total request for FY2009, \$321.7 million (80.1%) in permanent and indefinite funding is required through statutes, as follows:

- \$208.7 million under conditions set forth in the respective Compacts of Free Association,⁵⁴ and
- \$113.0 million in fiscal assistance through payments to territories, divided between the USVI for estimated rum excise and income tax collections, and Guam for income tax collections.

Discretionary and current mandatory funds in the AT and CFA accounts require annual appropriations that constitute the remaining 19.9% of the OIA budget request. The FY2009 request included \$75.1 million in AT funding to provide technical assistance to territories (e.g., for water treatment projects and various environmental programs). That amount was 4% less than the FY2008 appropriation of \$77.8 million. The FY2009 CFA request, which provides funding for certain federal services, such as U.S. mail, was \$4.8 million. This was 9% below the FY2008

⁵¹ On behalf of the United Nations, the U.S. government formerly administered these areas as the Trust Territories of the Pacific Islands (TTPI).

⁵² U.S. Dept. of the Interior, *Budget Justifications and Performance Information, Fiscal Year 2009, Office of Insular Affairs*, p. 1. Hereafter referred to as OIA Budget Justification.

⁵³ On permanent funding, see U.S. Dept. of the Interior, *Fiscal Year FY2009: The Interior Budget in Brief*, February 2008, p. BH-91.

⁵⁴ Legislation to approve the amended compacts was enacted in the 108th Congress (P.L. 108-188). For additional information, see CRS Report RL31737, *The Marshall Islands and Micronesia: Amendments to the Compact of Free Association with the United States*, by Thomas Lum. The Compact with the Republic of Palau began in FY1994 and will terminate in FY2009.

appropriation of \$5.3 million.⁵⁵ Total requested appropriations for FY2009 (the aggregate of the AT and CFA requests) was \$79.9 million, 4% below the \$83.1 million appropriated for FY2008. The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for insular affairs accounts, through March 6, 2009, at the amounts provided in the FY2008 regular appropriations act.

For additional information on *Insular Affairs*, see its website at [<http://www.doi.gov/oia/index.html>].

Payments in Lieu of Taxes Program (PILT).⁵⁶ For FY2009, the President requested an appropriation of \$195.0 million for PILT. This would have been a decrease of 15% from the FY2008 enacted level of \$228.9 million, and would have constituted roughly 52% of the authorized amount. See **Table 13**. The Continuing Appropriations Act, 2009, provided the FY2008 level through March 6, 2009; if this were the full year appropriation, it would constitute roughly 61% of the estimated FY2009 level for full payment. However, §601(c) of Division C of P.L. 110-343 (the Emergency Economic Stabilization Act of 2008) provided for mandatory spending of the full authorized level for five years — FY2008-FY2012. This means that an additional payment is to be made to raise the FY2008 level to the fully authorized amount, and for FY2009-FY2012, the payments are to be at the fully authorized amount. Therefore, the table below shows the FY2009 enacted appropriation at the estimated authorized amount for that year.

Table 13. Authorized and Appropriated Levels for Payments in Lieu of Taxes, FY2000-FY2009
(\$ in millions)

Fiscal Year	Authorized Amount	Appropriated Amount	% of Authorized Amount
2000	317.6	134.0	42.2
2001	338.6	199.2	58.8
2002	350.8	210.0	59.9
2003	324.1	218.2	67.3
2004	331.3	224.3	67.7
2005	332.0	226.8	68.3
2006	344.4	232.5	67.5
2007	358.3	232.5	64.9
2008	367.2	228.9	62.3
2009 (requested approp.)	374.2	195.0	52.1
2009 (enacted approp.)	374.2	374.2	100.0

Notes: The FY2009 levels, in *italics*, are estimates. The actual amounts depend on (1) revenues from other payment programs that offset PILT payments; (2) the number of acres eligible for PILT payments; (3) the counties' populations; (4) state "pass-through" laws for granting federal funds to counties; and (5) changes in the Consumer Price Index. (See CRS Report RL31392, *PILT (Payments In Lieu of Taxes): Somewhat Simplified*, by M. Lynne Corn.)

⁵⁵ For additional information about the CFA account, see the OIA Budget Justification, pp. 79-91.

⁵⁶ For more information on PILT funding, contact M. Lynne Corn at 7-7267.

The PILT program compensates local governments for federal land within their jurisdictions which cannot be taxed. Since the beginning of the program in 1976, payments of more than \$3.8 billion have been made. The PILT program has been controversial, because the payment formula, which was indexed for inflation (as measured by the Consumer Price Index) in 1994, has increased authorization levels. However, in recent years appropriations have been substantially less than the authorized amounts, ranging from 42% to 68% of authorized levels between FY2000 and FY2008.⁵⁷ See **Table 13**. County governments claim that the program as a whole does not provide funding comparable to property taxes, and that rural areas in particular need additional PILT funds to provide the kinds of services that counties with more private land are able to provide. However, as noted above, mandatory spending of the fully authorized amount has been enacted for FY2008-FY2012.

For further information on the *Payments in Lieu of Taxes* program, see the DOI website at [<http://www.doi.gov/pilt/>].

CRS Report RL31392. *PILT (Payments in Lieu of Taxes): Somewhat Simplified*, by M. Lynne Corn.

CRS Report RL33822. *The Secure Rural Schools and Community Self-Determination Act of 2000: Forest Service Payments to Counties*, by Ross W. Gorte.

Office of Special Trustee for American Indians.⁵⁸ The Office of Special Trustee for American Indians (OST), in the Secretary of the Interior's office, was authorized by Title III of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. §§4001, et seq.). The OST generally oversees the reform of Interior Department management of Indian trust assets, establishment of an adequate trust fund management system, and support of department claims settlement activities related to the trust funds. OST also manages Indian funds directly. Indian trust funds formerly were managed by the BIA, but in 1996 the Secretary transferred trust fund management to the OST.

Indian trust funds managed by OST comprise two sets of funds: (1) tribal funds owned by about 300 tribes in approximately 1,800 accounts, with a total asset value over \$2.9 billion; and (2) individual Indians' funds, known as Individual Indian Money (IIM) accounts, in about 370,000 accounts with a current total asset value over \$420 million.⁵⁹ The funds include monies received from claims awards, land or water rights settlements, and other one-time payments, and from income from land-based trust assets (e.g., land, timber, minerals), as well as from investment income.

⁵⁷ Where appropriations were not sufficient to cover the authorization, each county was to receive a pro rata share of the authorized amount.

⁵⁸ For more information on OST funding, contact Roger Walke at 7-8641.

⁵⁹ Figures were taken from: U.S. Dept. of the Interior, *Budget Justifications and Performance Information, Fiscal Year 2009, Office of the Special Trustee for American Indians*.

OST's FY2008 appropriation was \$189.3 million. The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for OST accounts, through March 6, 2009, at the amounts provided in the FY2008 regular appropriations act. For FY2009, the Administration had proposed \$181.6 million. See **Table 14**. Key issues for OST are a historical accounting for tribal and IIM accounts, litigation involving IIM and tribal accounts, and proposed cessation of the Indian land consolidation program.

Table 14. Appropriations for the Office of Special Trustee for American Indians, FY2008-FY2009

(\$ in thousands)

Office of Special Trustee for American Indians	FY2008 Approp.	FY2009 Request	Percent Change FY08-FY09
Federal Trust Programs	179,487	181,648	1%
— <i>Historical Accounting Office</i>	55,504	56,445	2%
Indian Land Consolidation	9,844	0	-100%
Total Appropriations	189,331	181,648	-4%

Historical Accounting. The historical accounting effort seeks to assign correct balances to all tribal and IIM accounts, especially because of litigation. Historical accounting activities are carried out through the Office of Historical Trust Accounting, which was transferred from the Interior Secretary's office to OST in July 2007. Appropriations for historical accounting have usually been made through OST. For FY2008, Congress limited appropriations for historical accounting to no more than \$55.5 million. The Administration's request for FY2009 was \$56.4 million.

A historical accounting based on every single account transaction is expected to be large and time-consuming, because of the large number of IIM accounts, the long historical period to be covered (some accounts date well back into the 19th century), and the large number of missing account documents. IIM accounts are of three types: land-based (i.e., derived from real assets), judgment and per-capita accounts, and temporary special deposit accounts. In 2003, DOI proposed an extensive, five-year, \$335-million project to reconcile IIM accounts within the time period 1938-2000. The 2003 plan was to reconcile all transactions for the judgment and per-capita accounts, reconcile all transactions of \$5,000 and over for land-based accounts, and use statistical sampling techniques to reconcile land-based transactions of less than \$5,000. The plan was revised in 2007 to reflect ongoing experience (including a large increase in the estimated cost), reduce the number of transactions reconciled, and change sampling strategies. In addition, special deposit accounts were no longer included in the plan because they are being distributed to other accounts.

OST continues to follow its 2007 historical accounting plan, subject to court rulings (see the "Litigation" section, below) and congressional actions, and now estimates a total cost of \$271 million and completion in FY2011. Plaintiffs in the IIM litigation (discussed below) considered the statistical sampling technique invalid

and the time period too short. On January 30, 2008, the judge in the IIM litigation rejected the OST historical accounting plan, but ordered neither a new or revised historical accounting process nor a cessation of historical accounting. The effect of this decision on historical accounting activities is as yet unclear. At a hearing on BIA and OST appropriations, the chair of the House Interior Appropriations Subcommittee questioned why historical accounting should continue, in light of the judge's rejection. The Administration argued that historical accounting should continue, for purposes of tribal suits and other possible claims, as well as for its utility in IIM settlement discussions.⁶⁰

Tribal trust fund and accounting suits have been filed by over 100 tribes, in addition to the IIM suit. Further, one tribal suit seeks certification as a class action suit for over 250 tribes, according to OST. For FY2009, OST proposed to continue allocating about \$40 million of historical accounting expenditures to IIM accounts and the remainder to tribal accounts. In the past, the House Appropriations Committee has expressed its intent to limit expenditures for historical accounting, asserting it reduces spending on other Indian programs.

Litigation. An IIM trust funds class-action lawsuit (*Cobell v. Kempthorne*) was filed against the federal government in 1996, by IIM account holders, in the Federal District Court for the District of Columbia.⁶¹ Many OST activities are related to the *Cobell* case, including litigation support activities. The most significant issues for appropriations concern the methods for a historical accounting to estimate IIM accounts' proper balances, and the amount the federal government would need to pay to settle the litigation and bring IIM accounts to their proper balances. As mentioned above, in January 2003 DOI submitted a proposed historical accounting plan to the district court handling the *Cobell* case, and estimated it would cost \$335 million over five years. After the 2007 changes in methods (described above), DOI estimated the revised plan would cost \$271 million overall and be finished by the end of FY2011. DOI expected a historical accounting to show the total owed to IIM accounts to be in the low millions. The plaintiffs have advocated different methods, based on estimates of revenues produced from IIM lands, or on applying estimated error rates to an estimate for IIM throughput (i.e., the total amount that has passed through IIM accounts). Different methods produced varying estimates of a total owed to IIM accounts, the highest of which was \$176 billion.⁶²

⁶⁰ Testimony of Ross Swimmer, Special Trustee for American Indians, U.S. Dept. of the Interior, before the House Committee on Appropriations, Subcommittee on Interior, Environment, and Related Agencies, April 3, 2008.

⁶¹ *Cobell v. Kempthorne* (Civil No. 96-1285) (D.D.C.). Updated information is available on the websites of the plaintiffs at [<http://www.indiantrust.com>], the DOI at [<http://www.doi.gov/indiantrust/>], and of the Justice Department at [<http://www.usdoj.gov/civil/cases/cobell/index.htm>]. Note that the name of the defendant changes to match the current Secretary of the Interior.

⁶² Testimony of Eloise Cobell, in U.S. Congress, House Resources Committee, *H.R. 4322, the Indian Trust Reform Act of 2005*, hearing Dec. 8, 2005, 109th Congress, 1st session, Serial No. 109-38 (Washington: GPO, 2006), p. 39.

The *Cobell* district court held a lengthy trial on the question of correct historical accounting methods. The court in its September 2003 decision rejected both plaintiffs' and DOI's historical accounting plans and instead ordered DOI to account for all trust fund and asset transactions since 1887, without using statistical sampling. DOI estimated then that the court's order for historical accounting would cost \$6-\$12 billion and appealed the order. Following a stay and an appeals court ruling, the district court in February 2005 issued a new historical accounting order again requiring that the historical accounting cover all trust fund and asset transactions since 1887 and not use statistical sampling. DOI, which estimated that compliance with the new order would cost \$12-\$13 billion,⁶³ again appealed. The Appeals Court for the D.C. Circuit in November 2005 vacated the district court's February 2005 order, and in 2006 the Appeals Court assigned a new judge to the *Cobell* case. OST meanwhile continued its historical accounting under its 2003 (now 2007) plan. In October 2007 the new district court judge held hearings on DOI's historical accounting obligations, methodology, and results. On January 30, 2008, the district court rejected the OST historical accounting plan. The court found that the DOI was unable to perform an adequate historical accounting and that such an accounting was impossible, given the great expense and past congressional funding. Instead of ordering a new or revised historical accounting process, the district court ordered hearings on an appropriate remedy. On August 7, 2008, the court ruled that the remedy should be \$455.6 million in restitution to the plaintiffs. The plaintiffs, who had sought \$27-\$100 billion, appealed the decision on September 9, 2008.

Congress has long been concerned that the current and potential costs of the *Cobell* lawsuit may jeopardize DOI trust reform implementation, reduce spending on other Indian programs, and be difficult to fund. Besides the ongoing expenses of the litigation and of the historical accounting, possible costs for a *Cobell* settlement now might be as much as (1) the more than \$100 billion that *Cobell* plaintiffs have in the past estimated their IIM accounts are owed, (2) the \$27.5 billion that the *Cobell* plaintiffs proposed as a settlement amount in 2005, (3) the \$8 billion proposed by Members of Congress in the 109th Congress, (4) the \$58 billion that the plaintiffs asked from the district court in March 2008,⁶⁴ or (5) the \$46 billion plaintiffs sought in June 2008.⁶⁵ The addition of tribal trust fund and accounting suits may greatly enlarge the potential costs of a settlement, since tribes' funds are far larger in size than individuals' funds.

Also of concern to Congress at times is the source of funds for any large federal payments that might have to be made to IIM accounts. Among the funding sources for these costs discussed in a 2005 House Interior Appropriations Subcommittee hearing were discretionary appropriations and the Treasury Department's "Judgment

⁶³ See James Cason, Associate Deputy Secretary, U.S. Dept. of the Interior, Statement before the House Committee on Appropriations, Subcommittee on Interior, Environment, and Related Agencies, March 17, 2005.

⁶⁴ "Cobell Plaintiffs Seek \$58B for Indian Trust Beneficiaries," *Indianz.com* (March 21, 2008), available at [<http://www.indianz.com/News/2008/007757.asp>].

⁶⁵ "Cobell Headed to Resolution in Appeals Court," *Indianz.com* (Aug. 29, 2008), available at [<http://www.indianz.com/News/2008/010577.asp>].

Fund,”⁶⁶ but some senior appropriators considered the Judgment Fund insufficient for a settlement in the \$6-\$13 billion range.⁶⁷

The House Appropriations Committee has urged the parties to the litigation, and Congress, to settle trust litigation in its entirety (H.Rept. 110-187, p. 80). Settlement bills were introduced in the 109th Congress, and the Administration in March 2007 proposed a comprehensive settlement, but tribes and *Cobell* plaintiffs opposed the proposals.⁶⁸ No trust fund settlement legislation has been introduced thus far in the 110th Congress.

Indian Land Consolidation. The purpose of the Indian land consolidation program, first funded by Congress in FY1999, is to reduce the fractionation of ownership of individual Indian trust lands — and the consequent multiplication of IIM accounts that OST must administer — by purchasing small ownership interests in individual trust lands and transferring the interest to the relevant Indian tribe (or to a holder of a large interest in the land). For FY2008, appropriations for Indian land consolidation were \$9.8 million. The Administration requested no funds for this program for FY2009.

Fractionation results most frequently from the death of a holder of an ownership interest and inheritance of the interest by multiple heirs. The lands involved were allotted in trust to individual Indians, pursuant to various federal laws or treaties (mostly under the General Allotment Act of 1887), and have stayed in trust. At inheritance, the ownership interest, not the plot of allotted land, is subdivided (i.e., fractionated).

The Administration contended that the land consolidation program has reduced neither the fractionation of ownership nor the costs of trust management. Even though over 360,000 interests have been acquired since 1999, about 1.5 million new fractionated interests were created during the same time period, the Administration claimed.⁶⁹ The Administration said it is establishing a working group to explore other options for land consolidation. Opponents of the cut assert that the land consolidation program is necessary and fault the Administration for not consulting with tribes before requesting no funds for the program.

For further information on the *Office of Special Trustee for American Indians*, see its website at [<http://www.ost.doi.gov/>].

⁶⁶ The Judgment Fund is a permanent, indefinite appropriation for paying judgments against, and settlements by, the U.S. government. (See 31 U.S.C. §1304.)

⁶⁷ Matt Spangler, “Treasury Fund May Be Short of Cash Needed to Settle Indian Royalty Case,” *Inside Energy with Federal Lands* (March 21, 2005), p. 6.

⁶⁸ “Bush Administration Won’t Admit Liability on Indian Trust,” *Indianz.com* (March 30, 2007), available at [<http://www.indianz.com/News/2007/002150.asp>].

⁶⁹ “Bush Administration Seeks Another Cut in BIA Budget,” *Indianz.com* (Feb. 5, 2008), available at [<http://www.indianz.com/News/2008/006991.asp>].

CRS Report RS22343. *Indian Trust Fund Litigation: Legislation to Resolve Accounting Claims in Cobell v. Norton*, by M. Maureen Murphy.

CRS Report RL34628. *The Indian Trust Fund Litigation: An Overview of Cobell v. Kempthorne*, by M. Maureen Murphy.

National Indian Gaming Commission.⁷⁰ The National Indian Gaming Commission (NIGC) was established by the Indian Gaming Regulatory Act (IGRA) of 1988 (25 U.S.C. §§2701, et seq.) to oversee Indian tribal regulation of tribal bingo and other *Class II* operations, as well as aspects of *Class III* gaming (e.g., casinos and racing).⁷¹ The primary appropriations issue for NIGC is whether its funding is adequate for its regulatory responsibilities.

The NIGC is authorized to receive annual appropriations of \$2 million, but its budget authority consists chiefly of annual fees assessed on tribes' Class II and III operations. During FY1999-FY2008, all NIGC activities have been funded from fees, with no direct appropriations. The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), also provided no direct appropriations. Similarly, the Administration had not proposed a direct appropriation for the NIGC for FY2009.

IGRA as enacted in 1988 capped NIGC fees at \$1.5 million per year. In the 1990s, as Indian gaming grew rapidly, the NIGC began to express a need for additional funding because it was experiencing increased demand for its oversight resources, especially audits and field investigations. In 1998 Congress amended IGRA to raise the fee cap to \$8 million. For FY2004-FY2007, annual appropriations acts raised the ceiling for each fiscal year to \$12 million. Then, in the Native American Technical Corrections Act of 2006 (P.L. 109-221), Congress amended IGRA to create a formula-based fee ceiling — 0.08% of the gross gaming revenues of all gaming operations subject to regulation under IGRA. This new fee ceiling applied to FY2007 and subsequent fiscal years. The NIGC sets an annual fee rate, which can be less than the ceiling rate.

For FY2008, based on the preliminary fee rate for calendar year 2008 of 0.057%, NIGC anticipated fee revenues of \$15.5 million. This would be a 19% increase from its FY2007 fee revenues of \$13 million. NIGC anticipates FY2009 fee revenues of about \$17 million.

For further information on the *National Indian Gaming Commission*, see its website at [<http://www.nigc.gov>].

⁷⁰ For more information on NIGC funding, contact Roger Walke at 7-8641.

⁷¹ Classes of Indian gaming were established by the IGRA, and NIGC has different but overlapping regulatory responsibilities for each class.

Title II: Environmental Protection Agency⁷²

EPA was established in 1970 to consolidate federal pollution control responsibilities that had been divided among several federal agencies. EPA's responsibilities grew significantly as Congress enacted an increasing number of environmental laws as well as major amendments to these statutes. Among the agency's primary responsibilities are the regulation of air quality, water quality, pesticides, and toxic substances; the management and disposal of solid and hazardous wastes; and the cleanup of environmental contamination. EPA also awards grants to assist states and local governments in complying with federal requirements to control pollution. EPA's funding over time generally has reflected an increase in overall appropriations to fulfill a rising number of statutory responsibilities.⁷³ Without adjusting for inflation, appropriations for EPA have risen from about \$1.0 billion when the agency was established in FY1970 to a high of \$8.4 billion in FY2004. Funding for the agency has declined since then.

The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for EPA accounts, through March 6, 2009, at the amounts provided in the FY2008 regular appropriations act. As submitted on February 4, 2008, the President's initial FY2009 budget request had included \$7.14 billion for EPA. On August 1, 2008, the President submitted amendments to his original request affecting multiple agencies. Specific to EPA, the budget amendments proposed an additional \$10.6 million within the agency's Science and Technology account and a \$24.2 million increase within its Hazardous Substance Superfund account.⁷⁴ Including these additional funds, the President requested a total of \$7.18 billion for EPA for FY2009. The amended request was \$284.2 million less than the FY2008 enacted appropriation of \$7.46 billion. The proposed budget amendments for EPA would have increased funding for homeland security activities to enhance the agency's ability to respond to possible incidents involving anthrax. The President's budget amendments included offsets in the form of decreases for activities of other agencies that did not alter the President's original total discretionary budget request.

Most of the President's overall FY2009 requested decrease for EPA was for Clean Water State Revolving Fund (SRF) grants and congressionally designated "special project grants." The Clean Water SRF grants support state loan funds for local wastewater infrastructure projects. Special project grants support a greater

⁷² For more information on EPA funding, contact David Bearden at 7-2390 or Robert Esworthy at 7-7236.

⁷³ EPA's funding was moved to the jurisdiction of the Interior Appropriations Subcommittees beginning with the FY2006 appropriations. In the beginning of the first session of the 109th Congress, the House and Senate Appropriations Committees abolished their respective Subcommittees on Veterans Affairs, Housing and Urban Development, and Independent Agencies, which previously had jurisdiction over EPA.

⁷⁴ White House, Office of Management and Budget, *Estimate #7 — FY 2009 Budget Amendments: Departments of Agriculture, Commerce, Education, Health and Human Services, Homeland Security, the Interior, Labor, and State, and the Environmental Protection Agency*. [<http://www.whitehouse.gov/omb/budget/amendments.htm>]

variety of wastewater, drinking water, and storm water infrastructure projects. Although the President requested an overall reduction for EPA, proposed funding for certain activities was higher than the FY2008 enacted appropriation. Among the more significant requested increases were those for EPA's homeland security activities within various accounts, such as the Science and Technology and Superfund accounts mentioned above.

Table 15 lists the eight statutory accounts that currently fund EPA.⁷⁵ The table specifies the amounts within each account that Congress enacted for FY2008, and compares these amounts to the President's FY2009 amended budget request.

Table 15. Appropriations for the Environmental Protection Agency, FY2008-FY2009
(\$ in millions)

EPA Accounts	FY2008 Approp.	FY2009 Request
Science and Technology		
— <i>Base Appropriations</i>	760.1	774.1
— <i>Transfer in from Superfund</i>	25.7	26.4
Science and Technology Total	785.8	800.5
Environmental Programs and Management	2,328.0	2,338.4
Office of Inspector General		
— <i>Base Appropriations</i>	41.1	39.5
— <i>Transfer in from Superfund</i>	11.5	7.2
Office of Inspector General Total	52.6	46.7
Buildings & Facilities	34.3	35.0
Hazardous Substance Superfund Total (before transfers)	1,254.0	1,288.4
— <i>Transfer out to Office of Inspector General</i>	11.5	7.2
— <i>Transfer out to Science and Technology</i>	25.7	26.4
Hazardous Substance Superfund Net (after transfers)	1,216.8	1,254.8
Leaking Underground Storage Tank (LUST) Program ^a	105.8	92.6
Oil Spill Response	17.1	17.7
State and Tribal Assistance Grants (STAG)		
— <i>Clean Water State Revolving Fund</i>	689.1	555.0
— <i>Drinking Water State Revolving Fund</i>	829.0	842.2
— <i>Special Project Grants</i>	132.9	0.0
— <i>Categorical Grants^a</i>	1,078.3	1,036.2
— <i>Other Grants</i>	196.9	168.3
State and Tribal Assistance Grants Total	2,926.2	2,601.7
Rescissions (various EPA accounts) ^b	5.0	10.0
Total EPA Accounts	7,461.5	7,177.3

Source: Prepared by the Congressional Research Service using information from the House Appropriations Committee, as provided October 16, 2008. FY2009 requested amounts reflect

⁷⁵ Congress established these accounts in FY1996 as part of a restructuring of EPA's budget to more closely align the accounts with the purposes of the activities funded within them.

increases to the Science and Technology (\$10.6 million) and Superfund (\$24.2 million) accounts included in the President's August 1, 2008 amendments to his original FY2009 request.

a. Rather than the \$92.6 million indicated, the President's FY2009 budget request included \$72.3 million for the LUST Program account. This is due to a difference in the accounting of funds for certain activities authorized in the Energy Policy Act of 2005 (P.L. 109-58). The President's request reflected funding for these activities within the amount for Underground Storage Tank Categorical Grants under the STAG account. Consistent with the enactment of appropriations for FY2008, the House Appropriations Committee included these requested funds within the LUST Program account and adjusted the President's request to \$92.6 million for comparative purposes. Accordingly, the Committee also adjusted the President's request for the STAG account downward by the same amount to reflect this accounting difference.

b. The rescissions are from unobligated balances from funds appropriated in prior years, and made available for expenditure in a later year. They include \$5.0 million rescinded from prior years and made available in FY2008. The President's budget request included \$10.0 million that would be rescinded from prior years and be made available in FY2009. In effect, these "rescissions" increase the availability of funds for expenditure by the agency in the years in which they are applied, functioning as an offset to new appropriations by Congress.

Key Funding Issues

There have been varying levels of interest in the President's FY2009 budget request for individual programs and activities administered by EPA. Much of the attention has focused on funding for water infrastructure projects, the cleanup of hazardous waste sites under the Superfund and Brownfields programs, and scientific research on human health effects upon which pollution control standards are based. Selected funding issues receiving more prominent attention are discussed below.

Water Infrastructure. Appropriations for water infrastructure projects are allocated within EPA's State and Tribal Assistance Grants (STAG) account. Most of these funds are devoted to grants that support State Revolving Funds (SRFs). These grant funds provide seed monies for states to issue loans to communities for wastewater and drinking water infrastructure projects. The President's FY2009 budget request included \$555.0 million for the Clean Water SRF to support local wastewater infrastructure needs, \$134.1 million less than the FY2008 appropriation of \$689.1 million. The FY2009 request for the Drinking Water SRF was \$842.2 million, a \$13.1 million increase above the FY2008 appropriation of \$829.0 million.

The adequacy of federal funding to assist states in capitalizing their Clean Water SRFs is a perennial issue. Although appropriations for these grants have declined in recent years, Congress had been providing significantly more funding than the President requested. This stemmed from differing views on the extent of the federal role in capitalizing these state loan funds. Departing from this trend, the FY2008 enacted appropriation was closer to the President's request than in past years. The President's FY2009 request would have further reduced the federal role in capitalizing these loan funds. There generally has been less disagreement between Congress and the Administration about the federal role in capitalizing the Drinking Water SRFs. However, some Members continue to assert that more federal funds are needed to help capitalize these latter loan funds, noting more stringent federal drinking water standards with which communities must comply.

Although the SRF grants represent the bulk of EPA funding for water infrastructure, Congress also has supported these needs through congressionally directed funding for “special project grants” within the agency’s STAG account. As in past budget requests, the President’s FY2009 request did not include funding for these special projects, as the Administration views them solely to be the priorities of Congress. For FY2008, Congress appropriated \$132.9 million within the STAG account for 280 special project grants, and identified the intended recipients in the explanatory statement accompanying the FY2008 appropriations law. Each recipient generally is required to provide 45% of a project’s cost in matching funds, but the grants do not require repayment, as do loan funds from the SRFs.

Funding for EPA’s water infrastructure grants also has been an issue within the context of economic stimulus legislation. As passed by the House on September 26, 2008, the Job Creation and Unemployment Relief Act of 2008 (H.R. 7110) would provide emergency supplemental appropriations for FY2009 for many federal programs and activities. These funds are intended to stimulate the economy through various means. The bill would provide a total of \$7.5 billion in emergency supplemental appropriations for EPA in FY2009. This additional amount would double the agency’s funding level relative to the FY2008 enacted appropriation of nearly \$7.5 billion. Of the \$7.5 billion proposed in H.R. 7110, \$6.5 billion would be allocated to the Clean Water SRF to support wastewater infrastructure projects. The remaining \$1.0 billion would be allocated to the Drinking Water SRF. Municipal water agencies have questioned the greater funding priority in the bill for the Clean Water SRF, noting that funding needs for wastewater and drinking water infrastructure are comparable based on some estimates.

Superfund. The President’s FY2009 amended budget request included \$1.29 billion for the Hazardous Substance Superfund account, \$34.4 million more than the FY2008 appropriation of \$1.25 billion. This account primarily funds the cleanup of contaminated sites on the National Priorities List (NPL) of the nation’s most hazardous waste sites, and supports numerous activities related to that effort. These amounts indicated for the FY2009 request and the FY2008 enacted appropriation are the total amounts for the Superfund account, *prior* to transfers to the Science and Technology account to support research of more effective cleanup methods, and to the Office of the Inspector General account for investigation, audit, and evaluation of the program’s performance. See the breakout of the Superfund account in **Table 15** for the net funds available after transfers.

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)⁷⁶ established the Superfund program to fund the cleanup of contamination when responsible parties cannot be found or cannot pay. Total funding for the Superfund account has remained relatively flat over the past decade. Some Members of Congress and the Bush Administration continue to assert that steady funding is sufficient to maintain a constant pace and adequate degree of cleanup, considering the costs borne by responsible parties that supplement these funds. Other Members, states, communities, and environmental organizations

⁷⁶ 42 U.S.C. 9601 et seq.

counter that more federal funds are necessary to expedite the pace of cleanup, and to clean up sites more thoroughly.

Some also have observed that funding has declined over time in real dollar values when accounting for inflation, resulting in fewer resources to maintain a consistent pace of cleanup. Concern about the availability of resources has renewed interest among some as to whether Superfund taxes on industry should be reinstated. The authority to collect these taxes expired on December 31, 1995. The remaining revenues were essentially expended by the end of FY2003. Since that time, Congress has funded the Superfund account with general Treasury revenues.

The allocation of funds within the Superfund account for the actual cleanup of sites also has been an issue. The President proposed \$780.0 million for actual cleanup activities in FY2009, \$3.4 million less than the FY2008 enacted appropriation of \$783.4 million. Funding for site cleanup includes support for both short-term *removal* actions to address immediate risks of exposure to contamination and long-term *remedial* actions intended to provide a more permanent means to prevent exposure. The balance of the Superfund account funds numerous activities not directly involved in the physical cleanup of contaminated sites per se, but that support this goal in some way. In terms of funding, some of the major cleanup-related activities include enforcement against responsible parties to require payment of their shares of cleanup costs, and research of more effective cleanup methods with funds transferred to the Science and Technology account.

The growth of funding within the Superfund account for homeland security activities also has been an issue among those concerned about the availability of resources to clean up existing sites. Superfund homeland security activities support EPA's preparedness to respond to *threatened* releases of contaminants, rather than cleanup of existing contamination at NPL sites across the nation. The President's FY2009 amended budget request included an additional \$24.2 million within the Superfund account to enhance the capacity of EPA's laboratories and equipment to respond to contamination that could result in the event of a release of anthrax. Including these additional funds, the President proposed \$83.7 million for homeland security activities within EPA's Superfund account for FY2009, \$36.9 million more than the FY2008 enacted appropriation of \$46.8 million.

Brownfields. In addition to Superfund, amendments to CERCLA in 2002 established a separate program to clean up contaminated "brownfields."⁷⁷ The President's FY2009 budget request included a total of \$165.8 million for EPA's Brownfields Program,⁷⁸ nearly \$100,000 more than the FY2008 appropriation of \$165.7 million. Typically, brownfields are abandoned, idled, or underutilized commercial and industrial properties with levels of contamination less hazardous than a Superfund site, but that still warrant cleanup before the land can be safe for

⁷⁷ Brownfields Revitalization and Environmental Restoration Act (P.L. 107-118, Title II).

⁷⁸ The Department of Housing and Urban Development also has awarded grants to assist communities in redeveloping brownfields sites, once they are cleaned up and deemed suitable for their intended land use. These grants are funded in the Transportation, Housing and Urban Development, and Related Agencies appropriations laws.

reuse. The desire to redevelop these properties for economic benefit has generated interest in the adequacy of funding to assist states and communities. Funding for EPA's Brownfields Program consists of amounts for the three following activities: brownfields project grants to assist communities in cleaning up contaminated sites, brownfields categorical grants to assist states in administering their own brownfields programs, and administration of these grants by EPA. **Table 16** presents the FY2008 appropriation and the FY2009 request for each program activity by account.

Table 16. Appropriations for EPA's Brownfields Program, FY2008-FY2009

(\$ in millions)

Account and Activity	FY2008 Approp.	FY2009 Request
State and Tribal Assistance Grants Account		
<i>Project Grants</i>	93.5	93.6
<i>Categorical Grants</i>	48.7	49.5
State and Tribal Assistance Grants Subtotal	142.2	143.1
Environmental Programs and Management Account		
Administrative Expenses	23.4	22.7
EPA Brownfields Program Total	165.7	165.8

Source: Prepared by the Congressional Research Service using information from the House Appropriations Committee, as provided October 16, 2008.

Scientific Research. Most of EPA's scientific research activities are funded within the agency's Science and Technology account. As presented in **Table 15**, the President's FY2009 amended budget request included \$800.5 million for the Science and Technology account, a \$14.7 million increase above the FY2008 enacted appropriation of \$785.8 million. These amounts are the total funds available to the account after transfers from Superfund. As discussed earlier, these transferred funds are dedicated to research of more effective methods to clean up contaminated sites.

The activities funded within the Science and Technology account include a broad range of research conducted by universities, foundations, and other non-federal entities with grants awarded by EPA, and research conducted by the agency at its own laboratories and facilities. The operation and administration of the agency's laboratories and facilities necessitate significant expenditures for rent, utilities, and security. Funding for these latter expenses now represents approximately 10% of the S&T account.

At the activity level, the President's request for EPA's Science and Technology account included a mix of increases for some research areas and decreases for others. The President proposed the largest single increase within this account for homeland security research activities, from \$54.5 million appropriated for FY2008 to \$84.5 million requested for FY2009. Of this \$30.0 million increase, the President's August budget amendment included \$10.6 million for research of methods to assess the potential risks of contamination in the event of a release of anthrax, sample contaminated media to measure levels of anthrax, and decontaminate outdoor areas if a release were to occur. The President's request also included smaller increases in other EPA research areas, including Air Toxics and Quality, Land Protection, and

Pesticides and Toxics. The President proposed to decrease funding for some of the agency's other core scientific research areas, such as Clean Air, Clean Water, Human Health and Ecosystems, and Sustainability.

The adequacy of funding for EPA's scientific research activities has been part of a broader question about the adequacy of overall federal funding for a broad range of scientific research activities administered by multiple federal agencies. Some Members of Congress, scientists, and environmental organizations have expressed concern about the downward trend in federal resources for scientific research over time. The debate continues to center around the question of whether the regulatory actions of federal agencies are based on "sound science," and how scientific research is applied in developing federal policy.

For further information on the budget and activities of the *Environmental Protection Agency*, see its websites, [<http://www.epa.gov>] and [<http://www.epa.gov/ocfo/budget>].

CRS Multimedia Product MM70108, *EPA: President's FY2009 Budget Request*, by David M. Bearden and Robert Esworthy.

Title III: Related Agencies

Department of Agriculture: Forest Service⁷⁹

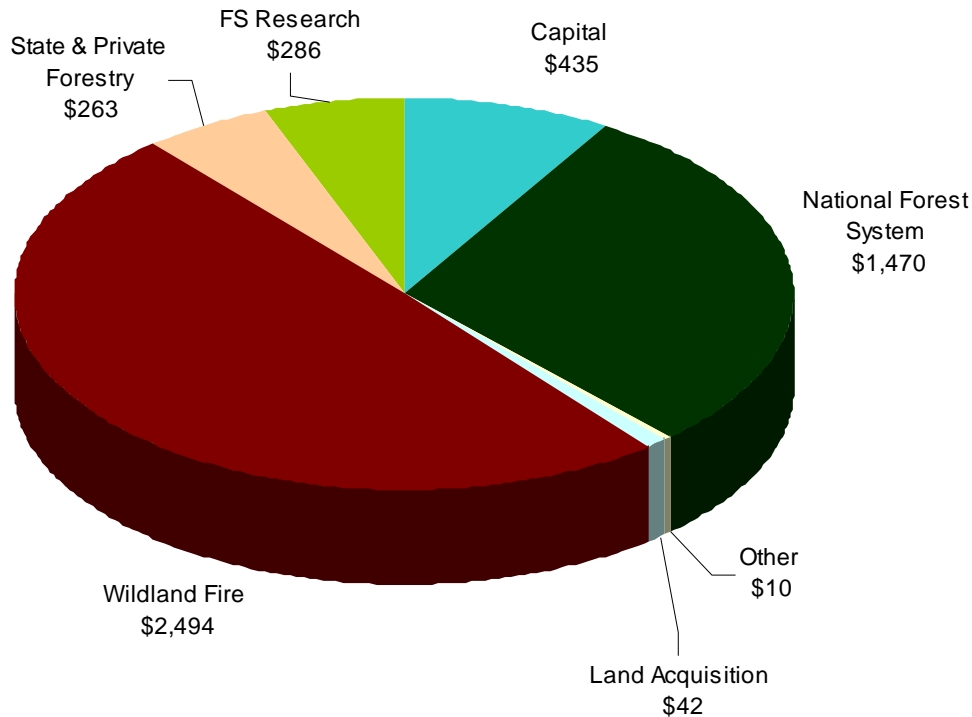
The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for Forest Service (FS) accounts, through March 6, 2009, at the amounts provided in the FY2008 regular appropriations act. For the FS for FY2009, the President had requested \$4.11 billion, \$1.69 billion (29%) less than the FY2008 appropriations of \$5.80 billion (\$4.45 billion in regular appropriations and \$1.36 billion in emergency appropriations). Excluding emergency funding, the request was \$334.1 million (8%) below FY2008.

As shown in **Figure 1**, FS appropriations are provided in several major accounts: Forest and Rangeland Research (FS Research); State and Private Forestry; National Forest System; Wildland Fire Management; Capital Improvement and Maintenance (Capital); Land Acquisition; and Other programs. Wildland fire management, nearly half of the FS budget request, is discussed with DOI wildland fire management under "Cross-Cutting Topics," below.

⁷⁹ For more information on FS funding, contact Ross W. Gorte at 7-7266.

Figure 1. FS FY2008 Appropriation

(\$ in millions)



Major FS Issues in Appropriations. Significant FS issues have been raised during consideration of the annual appropriations. For the FY2009 request, one issue was the proposed decline in State and Private Forestry (described below) — 58% below FY2008 appropriations. Most FS programs were proposed to be cut for FY2009, but none as much as the State and Private Forestry programs.

FS Payments to States also have been an issue in the appropriations debates. Payments under the Secure Rural Schools and Community Self-Determination Act of 2000 (P.L. 106-393) expired at the end of FY2006, and were extended for FY2007 in the emergency supplemental appropriations act (P.L. 110-28). In the FS budget proposals for FY2007 and FY2008, the President had proposed selling about 300,000 acres of national forest lands to extend payments under the program, but legislation necessary to authorize FS land sales has not been introduced. The FY2009 request noted that the Administration intended to propose legislation on the issue, with \$200 million above the baseline for a four-year extension targeted to the most affected areas, capped, adjusted downward annually, and phased out. To date, no such legislation has been introduced. The program was modified and extended for four years, with declining payments, in the Emergency Economic Stabilization Act of 2008 (P.L. 110-343, Title VI of Division C).

Another issue that has arisen during consideration of recent appropriations bills is timber harvesting in the Tongass (AK) National Forest. The final FY2008 appropriations law did not include House-passed language that would have limited

funds for timber harvesting in the Tongass. The House had agreed to an amendment to prohibit funds to plan, design, study, or build forest development roads in the Tongass for timber harvesting by private entities or individuals (§503). Proponents of the amendment contended that timber harvests in the Tongass are a net loss to the Treasury and damaging to the environment; opponents asserted that federal timber is critical to the economy of southeast Alaska. A similar amendment had passed the House in the FY2006 appropriations bill but was removed in the conference agreement. In the FY2007 bill, the amendment was disallowed on a point of order.

State and Private Forestry. State and Private Forestry (S&PF) programs provide financial and technical assistance to states and to private forest owners. For FY2009, the President requested \$109.5 million for S&PF, a decrease of \$153.3 million (58%) from FY2008. See **Table 17**. The request included relatively large cuts for cooperative lands forest health management, forest stewardship, forest legacy, and urban and community forestry. The Administration proposed terminating funds for economic action programs and forest resource information and analysis.

Table 17. Appropriations for FS State and Private Forestry, FY2005-FY2009
(\$ in millions)

State and Private Forestry	FY2005 Approp.	FY2006 Approp.	FY2007 Approp.	FY2008 Approp.	FY2009 Request
Forest Health Management	101.9	100.1	101.1	98.7	55.0
— <i>Federal Lands</i>	54.2	53.2	54.0	54.1	45.0
— <i>Cooperative Lands</i>	47.6	46.9	47.1	44.5	10.0
Cooperative Fire Assistance	38.8	38.8	38.8	38.5	30.0
— <i>State Assistance</i>	32.9	32.9	32.9	32.6	25.0
— <i>Volunteer Asst.</i>	5.9	5.9	5.9	5.9	5.0
Cooperative Forestry	145.4	133.2	133.2	118.3	22.5
— <i>Forest Stewardship</i>	32.3	34.1	41.9	29.5	5.0
— <i>Forest Legacy^a</i>	57.1	56.5	56.5	52.3	12.5
— <i>Urban & Comm. Forestry</i>	32.0	28.4	30.1	27.7	5.0
— <i>Economic Action Prog.</i>	19.0	9.5	0.0	4.2	0.0
— <i>Forest Res. Info. & Anal.</i>	5.0	4.6	4.6	4.5	0.0
International Programs	6.4	6.9	6.9	7.4	2.0
Emergency Appropriations	49.1	30.0	0.0	0.0	0.0
Total State & Private Forestry	341.6	309.0	280.0	262.8	109.5

Forest health management programs provide insect and disease control on federal and cooperative (nonfederal) lands. The FY2009 request was \$45.0 million for federal lands, a 17% decline from FY2008, and \$10.0 million for cooperative lands, a 78% decline from FY2008. Cooperative fire programs had proposed declines of 23% for state fire assistance and 15% for volunteer fire assistance. The emergency supplemental funding (in P.L. 110-116 and P.L. 110-329) also made \$155.0 million available for fuel reduction activities on non-federal lands, although how much might be spent through these programs appears to be within the agency's discretion. The FY2009 request included substantial declines in all the cooperative forestry programs. Forest stewardship, which assists private landowners through state agencies, would be cut by \$24.5 million (83%). Forest legacy, which purchases

title or easements for lands threatened with conversion to nonforest uses (such as for residences), would be cut by \$39.8 million (76%). Urban and community forestry, which provides financial and technical assistance to localities, would be cut by \$22.7 million (82%). The other cooperative forestry programs — economic action (for assisting economic diversification in forest-dependent communities) and forest resource information and analysis (for forest inventories; see the “FS Research,” section below) — would be terminated. Finally, international forestry would be cut by \$5.4 million (73%).

FS Research. The FY2009 request included \$263.0 million for FS Research, a decline of \$22.9 million (8%) from FY2008. However, this understates the proposed decline for research. Forest inventory and analysis funded in FS Research would increase by \$1.9 million, while comparable funding in S&PF (\$4.5 million for FY2008) would be terminated. Thus, total forest inventory and analysis funding would decline by \$2.6 million (4%), and total FS Research funding would effectively decline by \$27.4 million (9%).

National Forest System. The National Forest System (NFS) includes many sub-accounts, most of which were proposed to decline in FY2009. Total NFS funding was proposed at \$1.35 billion, \$120.0 million (8%) below FY2008 appropriations. Two programs would receive increases — 8% for land management planning and less than 1% for forest products (timber sales). All other NFS programs would decline under the FY2009 request: 18% for landownership management (boundary surveying); 16% for minerals and geology management; 13% for law enforcement operations; 12% for inventory and monitoring; 11% for wildlife and fish habitat management; 10% for recreation, heritage, and wilderness; 7% for vegetation and watershed management; and 2% for grazing management. In addition, funding for the Valles Caldera National Preserve would be terminated.

Capital Improvement and Maintenance. This account includes funding for the construction and maintenance of facilities, roads, and trails, as well as for deferred maintenance (i.e., the maintenance backlog). For FY2009, the President requested \$405.8 million, \$59.0 million (13%) below FY2008 appropriations, including emergency supplemental funds of \$30.0 million in P.L. 110-329. However, the program decline would be larger, because an additional \$40.0 million was provided for FY2008 from two sources — \$25.0 million of excess purchaser elect road funds and \$15.0 million of deferred road and trail fund payments. Thus, the proposed programmatic decline would be \$99.0 million (20%). The FY2009 request sought to increase some sub-accounts while reducing others.

One sub-account proposed to decline was deferred maintenance. While the request proposed to increase infrastructure improvement by \$0.1 million (2%), it would terminate funding for legacy road remediation. This program, to decommission roads, repair and maintain roads and trails, remove fish passage barriers, and protect community water resources, was funded at \$39.8 million in FY2008. Thus, in total, deferred maintenance to reduce the agency’s backlog (estimated at \$5.7 billion as of September 30, 2007) would be \$9.1 million, \$39.6 million (81%) below the FY2008 total of \$48.7 million.

Land Acquisition. The FY2009 budget request included \$5.0 million for acquisition management, with no funding for new land acquisition. This was a decline of \$4.8 million (49%) from FY2008 for acquisition management and elimination of the \$32.0 million for land acquisition. Total land acquisition funding would decline by \$36.8 million (88%).

For information on the *Department of Agriculture*, see its website at [<http://www.usda.gov/wps/portal/usdahome>].

For further information on the *U.S. Forest Service*, see its website at [<http://www.fs.fed.us/>].

CRS Report RL33792, *Federal Lands Managed by the Bureau of Land Management (BLM) and the Forest Service: Issues for the 110th Congress*, by Ross W. Gorte, Carol Hardy Vincent, Marc Humphries, and Kristina Alexander.

CRS Report RL33822, *The Secure Rural Schools and Community Self-Determination Act of 2000: Forest Service Payments to Counties*, by Ross W. Gorte.

CRS Report RL30647, *National Forest System Roadless Areas Initiative*, by Kristina Alexander and Ross W. Gorte.

CRS Report RL34772, *Proposals to Merge the Forest Service and the Bureau of Land Management: Issues and Approaches*, by Ross W. Gorte.

Department of Health and Human Services: Indian Health Service⁸⁰

The Indian Health Service (IHS) in the Department of Health and Human Services (HHS) is responsible for providing comprehensive medical and environmental health services for approximately 1.9 million American Indians and Alaska Natives (AI/AN) who belong to 562 federally recognized tribes located in 35 states. Health care is provided through a system of federal, tribal, and urban Indian-operated programs and facilities. IHS provides direct health care services through 31 hospitals, 50 health centers, 2 school health centers, and 31 health stations. Tribes and tribal groups, through IHS contracts and compacts, operate another 15 hospitals, 254 health centers, 18 school health centers, 112 health stations, and 166 Alaska Native village clinics. IHS, tribes, and tribal groups also operate 12 regional youth substance abuse treatment centers and over 2,200 units of residential quarters for staff working in the clinics.

The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for IHS accounts, through March 6, 2009, at the amounts provided in the FY2008 regular appropriations act. IHS total appropriations for FY2008 were \$3.35 billion. For FY2009, the Administration proposed \$3.32 billion, a decrease of \$21.3 million (0.6%) from FY2008. IHS also receives funding through

⁸⁰ For more information on IHS funding, contact Roger Walke at 7-8641.

reimbursements and a special Indian diabetes program (see the “Health Services” section below). The sum of direct appropriations, reimbursements, and diabetes is IHS’s “program level” total. See **Table 18**.

IHS funding is separated into two budget categories: Health Services, and Facilities. Of total IHS appropriations enacted for FY2008, 89% will be used for Health Services and 11% for the Facilities program. The most significant issues in the FY2009 IHS budget concern the urban Indian health and Indian health professions programs, in Health Services, and the health care facilities construction program in Facilities.

Health Services. IHS Health Services appropriations for FY2008 were \$2.97 billion. For FY2009, the Administration proposed essentially level funding (a decrease of \$2,000 from FY2008). IHS Health Services are funded not only through congressional appropriations, but also from money reimbursed from private health insurance and federal programs such as Medicare, Medicaid, and the State Children’s Health Insurance Program (SCHIP). Estimated total reimbursements are expected to be \$779.7 million in FY2008. Another \$150.0 million per year is expended through IHS for the Special Diabetes Program for Indians under a separate appropriation that expires at the end of FY2009.

The IHS Health Services budget has three subcategories: clinical services, preventive health services, and other services.

**Table 18. Appropriations for the Indian Health Service,
FY2008-FY2009**
(\$ millions)

Indian Health Service	FY2008 Approp.	FY2009 Request	Percent Change FY08- FY09
Indian Health Services			
Clinical Services			
— <i>Hospital and Health Clinics</i>	1,484.0	1,521.9	3%
— <i>Indian Health Care Improvement Fund</i>	13.8	24.0	74%
— <i>Dental Health</i>	133.6	137.9	3%
— <i>Mental Health</i>	63.5	65.8	4%
— <i>Alcohol and Substance Abuse</i>	173.2	162.0	-6%
— <i>Contract Health Services</i>	579.3	588.2	2%
— <i>Catastrophic Health Emergency Fund</i>	26.6	25.0	-6%
<i>Subtotal, Clinical Services</i>	2,433.8	2,475.9	2%
Preventive Health Services			
— <i>Public Health Nursing</i>	55.9	58.3	4%
— <i>Health Education</i>	15.0	15.2	2%
— <i>Community Health Representatives</i>	54.9	55.8	2%
— <i>Immunization (Alaska)</i>	1.7	1.8	2%
<i>Subtotal, Preventive Health Services</i>	127.6	131.1	3%
Other Services			
— <i>Urban Health Projects</i>	34.5	0	-100%

Indian Health Service	FY2008 Approp.	FY2009 Request	Percent Change FY08- FY09
— <i>Indian Health Professions</i>	36.3	21.9	-40%
— <i>Tribal Management</i>	2.5	2.5	2%
— <i>Direct Operations</i>	63.6	62.6	-2%
— <i>Self-Governance</i>	5.8	5.9	2%
— <i>Contract Support Costs</i>	267.4	271.6	2%
<i>Subtotal, Other Services</i>	410.2	364.6	-11%
Subtotal, Indian Health Services	2,971.5	2,971.5	<-1%
Indian Health Facilities			
— <i>Maintenance and Improvement</i>	52.9	52.9	0%
— <i>Sanitation Facilities Construction</i>	94.3	94.3	0%
— <i>Health Care Facilities Construction</i>	36.6	15.8	-57%
— <i>Facilities and Environmental Health Support</i>	169.6	169.1	<-1%
— <i>Equipment</i>	21.3	21.3	0%
Subtotal, Indian Health Facilities	374.6	353.3	-6%
Total Appropriations	3,346.2	3,324.9	-1%
Medicare/Medicaid Reimbursements and Other Collections	779.7	779.7	0%
Special Diabetes Program for Indians ^a	150.0	150.0	0%
Total Program Level	4,275.9	4,254.6	<-1%

a. The Special Diabetes Program for Indians has a direct appropriation of \$150 million for each of fiscal years FY2004 through FY2009 (P.L. 110-173). Funded through the General Treasury, this program cost is not a part of IHS appropriations.

Clinical Services. The clinical services budget includes most of IHS Health Services funding. The FY2008 appropriations for clinical services were \$2.43 billion, and the Administration proposed \$2.48 billion for FY2009, an increase of \$42.1 million (2%) over FY2008.

Clinical services include primary care at IHS- and tribally-run hospitals and clinics. For hospital and health clinic programs, which make up 61% of the FY2008 clinical services budget, the FY2008 appropriation was \$1.48 billion. The Administration requested \$1.52 billion, an increase of \$37.9 million (3%), for FY2009.

Within the hospitals and health clinics budget activity is the Indian Health Care Improvement Fund (IHCIF), which is authorized to be allocated among IHS service units to reduce health status and resources deficiencies and shortfalls. IHCIF is allocated according to a formula that measures the percentage of health care funding needs met in each operating unit. IHCIF appropriations for FY2008 were \$13.8 million; the explanatory statement for the appropriations act directed that IHCIF funds were to be allocated first to operating units with the greatest level of health care funding needs so as to bring their funding up to 40% of the funding needed (as measured by the formula). For FY2009, the Administration proposed a 74% increase for IHCIF, to \$24.0 million.

Contract Health Services (CHS) is a program that funds the purchase of health services from local and community health care providers when IHS cannot provide medical care and specific services through its own system. CHS is especially important in IHS regions that have fewer direct-care facilities or no inpatient facilities. Included in the CHS program is the Catastrophic Health Emergency Fund (CHEF), which is used to pay contract health care costs in critical, high-cost cases (above \$25,000), such as disaster victims or catastrophic illnesses. FY2008 appropriations for CHS totaled \$579.3 million, including \$26.6 million for CHEF. For FY2009 the Administration proposed \$588.2 million for CHS (an increase of \$8.8 million, or 2%), including \$25.0 million for CHEF (a decrease of \$1.6 million, or 6%).

For other programs within clinical services, the FY2008 appropriations were \$133.6 million for dental programs, \$63.5 million for mental health, and \$173.2 million for alcohol and substance abuse (which included \$13.8 million for methamphetamine treatment and prevention, to be distributed to areas with greatest need). For FY2009 the Administration proposed \$137.9 million for dental programs (a 3% increase), \$65.8 million for mental health programs (a 4% increase), and \$162.0 million for alcohol and substance abuse programs (a reduction of 6%, or \$11.3 million).

Preventive Health Services. For preventive health services, FY2008 appropriations were \$127.6 million. The Administration proposed \$131.1 million for FY2009, a \$3.5 million (3%) increase over FY2008. Included in preventive health services appropriations for FY2008 were \$55.9 million for public health nursing; \$15.0 million for health education in schools and communities; \$1.7 million for immunizations in Alaska; and \$54.9 million for the tribally administered community health representatives (CHR) program, which supports tribal community members who work to prevent illness and disease in their communities. The Administration's proposal for FY2009 was \$58.3 million for public health nursing (an increase of \$2.4 million, or 4%); \$15.2 million for health education (up \$0.2 million, or 2%); \$1.7 million for Alaska immunizations (up \$27,000, or 2%); and \$55.8 million for the CHR program (up \$0.9 million, or 2%).

Other Health Services. FY2008 appropriations for other health services totaled \$410.2 million. The Administration requested \$364.6 million for FY2009, a reduction of \$45.6 million (11%) from FY2008. Other health services include urban Indian health programs and Indian health professions support (both discussed below), contract support costs, tribal management grants, direct IHS operation of facilities, and self-governance technical assistance.

Contract support costs (CSC), the largest item in other health services, received appropriations of \$267.4 million in FY2008. CSC funds are provided to tribes to help pay the costs of administering IHS-funded programs under self-determination contracts or self-governance compacts authorized by the Indian Self-Determination and Education Assistance Act (P.L. 93-638, as amended). CSC pays for costs that tribes incur for such items as financial management, accounting, training, and program start-up. For FY2009, the Administration proposed \$271.6 million, an increase of \$4.2 million (2%) over FY2008.

Tribal management grants received \$2.49 million in FY2008, and the Administration proposed \$2.53 million for FY2009, an increase of 2%. Direct IHS operations appropriations were \$63.6 million in FY2008, and the amount proposed by the Administration for FY2009 was \$62.6 million, a 2% decrease. Self-governance assistance received FY2008 appropriations of \$5.8 million, and the Administration proposed a 2% increase to \$5.9 million for FY2009.

Urban Indian Health Program. FY2008 appropriations for the urban Indian health program were \$34.5 million. As in the two preceding years, the Administration proposed no FY2009 funding for the program.

The 32-year-old program helps fund preventive and primary health services for eligible urban Indians through contracts and grants with urban Indian organizations. Currently there are 35 urban Indian health programs serving 41 urban sites. The specific services vary from site to site, and may include direct clinical care, alcohol and substance abuse care, referrals, and health information. The Administration contends that IHS must target funding and services towards Indians on or near reservations, to serve those who do not have access to health care other than IHS, and that urban Indians can be served through other federal and local health programs, such as HHS's Health Centers program. Opponents assert that the Administration has not provided evidence that alternative programs can replace the urban Indian health program and that it has not studied the impact of the loss of IHS funding on health care for urban Indians who annually receive services through this program.

Indian Health Professions Program. IHS's Indian Health Professions program comprises three scholarship programs for Indians, a loan repayment program for health professionals' student loans, and multiple recruitment and retention activities. Several additional grant programs support the scholarship, loan repayment, and recruitment and retention programs. The purposes of the Indian Health Professions programs are to increase the number of Indians in health professions and to fill vacancies in IHS-funded health care facilities. Vacancies at IHS-funded facilities decrease access to health care and increase CHS expenditures, according to an IHS official.⁸¹ FY2008 appropriations for Indian Health Professions were \$36.3 million. For FY2009, the Administration proposed appropriations of \$21.9 million, a decrease of \$14.4 million (40%). The Administration contended that, in a tight budget year, IHS funding had to be concentrated on clinical and preventive health care, and not on non-clinical programs like Indian Health Professions. Indian health proponents oppose the reduction, asserting that it will sharply cut scholarships and loan repayment awards and that the program needs to be increased.

Facilities. The IHS's Facilities category includes money for the equipment, construction, maintenance, and improvement of both health-care and sanitation

⁸¹ Randy Grinnell, IHS, "Indian Health: Challenges and Changes," PowerPoint presentation at National Combined Councils Meeting, February 4, 2008, pp. 12-13; available at [<http://www.ihs.gov/MedicalPrograms/ClinicalSupportCenter/docs/2008NCCGrinnell.pdf>], last accessed April 1, 2008. According to this source, IHS vacancy rates in January 2008 were: dentists, 31%; physicians, 17%; nurses, 18%; optometrists, 13%; and pharmacists, 11%.

facilities, as well as environmental health support programs. FY2008 appropriations for Facilities were \$374.6 million. The Administration requested \$353.3 million for FY2009. Included in the Administration's FY2009 proposal were \$52.9 million for maintenance and improvement, \$94.3 million for sanitation facilities construction, \$21.3 million for equipment, \$169.1 million for facilities and environmental health support, and \$15.8 million for health care facilities construction. Except for health care facilities construction (discussed below), all the FY2009 proposed amounts are the same, or nearly so, as FY2008 appropriations. See **Table 18**.

Health Care Facilities Construction. The Administration's FY2009 proposal of \$15.8 million was \$20.8 million (57%) below the FY2008 appropriation for health care facilities construction. The amount proposed would all be used to continue construction on one project, a replacement hospital in Barrow, AK.

The Administration stated that instead of providing additional funds for facility construction, the budget emphasized providing staff and operating support at new facilities and at other sites experiencing overcrowding. Opponents of the reduction contended that the IHS has a large backlog in unmet health-facility needs and that increasing patient needs were too great for a reduction in new construction.

For further information on the Indian Health Service, see its website at [<http://www.ihs.gov/>].

CRS Report RL33022, *Indian Health Service: Health Care Delivery, Status, Funding, and Legislative Issues*, by Roger Walke.

Office of Navajo and Hopi Indian Relocation⁸²

The Office of Navajo and Hopi Indian Relocation (ONHIR) and its predecessor were created pursuant to a 1974 act (P.L. 93-531, as amended) to resolve a lengthy dispute between the Hopi and Navajo tribes involving lands originally set aside by the federal government for a reservation in 1882. Pursuant to the 1974 act, the lands were partitioned between the two tribes. Members of one tribe living on land partitioned to the other tribe were to be relocated and provided new homes, and bonuses, at federal expense. Relocation is to be voluntary.

ONHIR's chief activities consist of land acquisition, housing acquisition or construction, infrastructure construction, and post-move support, all for families being relocated, as well as certification of families' eligibility for relocation benefits. ONHIR appropriations for FY2008 were \$8.9 million. The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for ONHIR accounts, through March 6, 2009, at the amounts provided in the FY2008 regular appropriations act. The Administration had proposed \$7.5 million for FY2009, a decrease of 15% below the FY2008 level of \$8.9 million.

Navajo-Hopi relocation began in 1977 and is now nearing completion. ONHIR has a backlog of relocatees who are approved for replacement homes but have not yet

⁸² For more information on ONHIR funding, contact Roger Walke at 7-8641.

received them. Most families subject to relocation were Navajo. Originally, an estimated 3,600 eligible Navajo families resided on land partitioned (or judicially confirmed) to the Hopi, while only 26 eligible Hopi families lived on Navajo partitioned land, according to ONHIR data. By the end of FY2005, according to ONHIR, 98% of the currently eligible Navajo families and 100% of the Hopi families had completed relocation. In addition, however, ONHIR estimated that about half of roughly 250 Navajo families (not all of them eligible families) who live on Hopi land and signed “accommodation agreements” (under P.L. 104-301) that allow them to stay on Hopi land, under Hopi law, might wish to opt out of these agreements and relocate using ONHIR benefits.

ONHIR estimated that, as of the end of FY2006, 76 eligible Navajo families were awaiting relocation. Eight of these 76 families still resided on Hopi partitioned land; one of these families was seeking a relocation home and the other seven refused to relocate or sign an accommodation agreement. ONHIR and the U.S. Department of Justice were negotiating with the Hopi Tribe to allow the seven families to stay on Hopi land, as autonomous families, in return for ONHIR’s relocating off Hopi land those families who had signed accommodation agreements but later decided to opt out and accept relocation.

In its FY2008 budget justification, ONHIR had estimated that relocation moves for currently eligible families would be completed during FY2009-FY2010. ONHIR also had estimated that the addition of Navajo families who opt out of accommodation agreements and of Navajo families who filed late applications or appeals (but whom ONHIR is accommodating to avoid litigation),⁸³ and who are certified by ONHIR, would not extend relocation moves beyond FY2010. ONHIR noted, however, that this schedule for completion of relocations would depend on infrastructure needs and relocatees’ decisions. In addition, according to ONHIR, any required post-move assistance to relocatees would necessitate another two years of expenditures after the last relocation move.

Congress has been concerned, at times, about the speed of the relocation process and about avoiding forced relocations or evictions. In the 109th Congress, legislation passed the Senate, but not the House, to sunset ONHIR in 2008 and transfer any remaining duties to the Secretary of the Interior. Further, a long-standing proviso in ONHIR appropriations language, retained for FY2008, prohibits ONHIR from evicting any Navajo family from Hopi partitioned lands unless a replacement home were provided. This language appears to prevent ONHIR from forcibly relocating Navajo families, because of ONHIR’s backlog of approved relocatees awaiting replacement homes. As the backlog is reduced, however, forced eviction may become an issue, if any remaining Navajo families were to refuse relocation and if the Hopi Tribe were to exercise a right under P.L. 104-301 to begin legal action against the United States for failure to give the Hopi Tribe “quiet possession” of all Hopi partitioned lands. The purpose of the negotiations among ONHIR, the Justice Department, and the Hopi Tribe, mentioned above, was to avoid this.

⁸³ The number of families was estimated altogether at over 110; they overlap to an unpredicted extent with the 76 eligible Navajo families.

Smithsonian Institution⁸⁴

The Smithsonian Institution (SI) is a museum and research complex consisting of 19 museums and galleries and the National Zoo in addition to nine research facilities throughout the United States and around the world. Smithsonian facilities logged more than 24.5 million visitors in FY2007. Established by federal legislation in 1846 in acceptance of a trust donation by the Institution's namesake benefactor, SI is funded by both federal appropriations and a private trust, with \$989 million in revenue for FY2007.⁸⁵

The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for SI accounts, through March 6, 2009, at the amounts provided in the FY2008 regular appropriations act. The total request for appropriations for FY2009 was \$716.4 million, a \$33.8 million (5%) increase over the FY2008 level of \$682.6 million. The request consisted of funding for two main line items: (1) salaries and expenses and (2) facilities capital.

Salaries and Expenses. For FY2009, the SI requested \$588.4 million to fund salaries and expenses for its museums, research centers, and administration, as shown in **Table 19** below. This represents a \$26.0 million (5%) increase over FY2008 funding and \$52.1 million (10%) more than FY2007. The requested increase in federal funding would primarily be for mandatory costs, such as salaries, utilities, and rent. The remainder would fund operating priorities, including improved governance procedures, security/anti-terrorism enhancements, and critical staffing required for SI's facilities maintenance program.

Facilities Capital. For FY2009, the SI requested \$128.0 million for facilities capital, as shown in **Table 19**, below. This represented a \$22.6 million (21%) increase over FY2008 and \$29.4 million (30%) more than FY2007. Recent external studies⁸⁶ and the SI estimate that an investment of \$2.5 billion over ten years is needed to address advanced facilities deterioration. Recent appropriations and fundraising fall far short of this level. Of the FY2009 request for facilities capital, \$102.3 million would fund these renovations, with the balance toward security and health and safety improvements. No major capital construction funds were requested for FY2009. The request included funds for planning and design for renovations and new construction, including final planning and initial design work for the National Museum of African American History and Culture.

⁸⁴ For more information on SI funding, contact Shannon Loane at 7-6223.

⁸⁵ Smithsonian Institution, *Explore Globally, Engage Locally: 2007 Annual Report*. This and older annual reports are available online at [<http://www.si.edu/opa/annualrpts/>].

⁸⁶ For further information, see U.S. Government Accountability Office, *Smithsonian Institution: Funding Challenges Affect Facilities' Conditions and Security, Endangering Collections*, GAO-07-1127, September 2007.

**Table 19. Appropriations for the Smithsonian Institution,
FY2008-FY2009**
(\$ in thousands)

Smithsonian Institution	FY2008 Approp.	FY2009 Request
Salaries and Expenses	562,434	588,400
— <i>Museums and Research Centers</i>	227,995	224,052
— <i>Program Support and Outreach</i>	38,169	39,806
— <i>Administration</i>	65,509	69,229
— <i>Inspector General</i>	2,052	2,422
— <i>Facilities Services</i>	228,709	252,891
Facilities Capital	105,429	128,000
— <i>Revitalization</i>	90,900	104,500
— <i>Construction</i>	0	0
— <i>Facilities Planning and Design</i>	14,529	23,500
Legacy Fund	14,766	0
Total Appropriations	682,629	716,400

Legacy Fund. Established by Congress in 2008 (P.L. 110-161), the Legacy Fund's purpose is to address the backlog of facilities capital repairs. For FY2008, up to \$14.8 million in federal funding was provided for the initiative, with a requirement that private dollars match each federal dollar two to one. The SI is developing plans to raise the matching private funds and no new federal funds were requested for FY2009.

Trust Funds. In addition to federal appropriations, the Smithsonian Institution receives income from trust funds which support salaries for some employees, donor-designated capital projects and exhibits, and operations. In FY2007, the SI's net assets increased by almost 10 percent to a total of just under \$2.5 billion. Non-appropriated revenues fund more than forty percent of SI operations and include income from the trusts, contributions from private sources, competitive government grants and contracts from other agencies, and the profits from the Smithsonian Business Ventures division. For FY2008, the SI estimates \$279.8 million will be available for Institution operations from these sources.

For further information on the *Smithsonian Institution*, see its website at [<http://www.si.edu/>].

National Endowment for the Arts and National Endowment for the Humanities⁸⁷

One of the primary vehicles for federal support for the arts and the humanities is the National Foundation on the Arts and the Humanities, composed of the National

⁸⁷ For more information on NEA/NEH funding, contact Shannon Loane at 7-6223.

Endowment for the Arts (NEA), the National Endowment for the Humanities (NEH), the Federal Council on the Arts and Humanities, and the Institute of Museum and Library Services (IMLS). The NEA and NEH authorization (P.L. 89-209; 20 U.S.C. §951) expired at the end of FY1993, but the agencies have been operating on temporary authority through appropriations law. IMLS receives funding through the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts.

NEA. The NEA is a major federal source of support for all arts disciplines. Since 1965 it has provided over 120,000 grants that have been distributed to all states. The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for NEA accounts, through March 6, 2009, at the amounts provided in the FY2008 regular appropriations act. For FY2009, NEA had requested \$128.4 million, a decrease of \$16.3 million (11%) from FY2008, as shown below in **Table 20**.

Of the \$101.6 million requested for grants, the NEA proposed allocating \$39.2 million for direct grants and \$32.0 million for state/regional partnership grants — the two largest programs funded by the agency. An additional \$8.5 million would fund *Challenge America* — a program of matching grants for arts education, outreach, and community arts activities for rural and under-served areas. Another \$13.3 million would fund *American Masterpieces* — touring programs, local presentations, and arts education in the fields of dance, visual arts, and music.

NEH. The NEH generally supports grants for humanities education, research, preservation and public humanities programs; the creation of regional humanities centers; and development of humanities programs under the jurisdiction of the 56 state humanities councils. Since 1965, NEH has provided over 61,000 grants. NEH also supports a Challenge Grant program to stimulate and match private donations in support of humanities institutions.

The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for NEH accounts, through March 6, 2009, at the amounts provided in the FY2008 regular appropriations act. For FY2008, a total of \$144.7 million was appropriated. For FY2009, NEH requested \$144.4 million, nearly level with FY2008. The two largest programs that would be funded from the NEH request for \$106.2 million in non-matching grants are federal/state partnership grants and the *We the People* initiative. They were requested to be funded at \$31.7 million and \$20.0 million, respectively.

**Table 20. Appropriations for Arts and Humanities,
FY2008-FY2009**
(\$ in thousands)

Arts and Humanities	FY2008 Approp.	FY2009 Request
National Endowment for the Arts		
Grants	119,604	101,632
Program Support	1,673	1,700
Administration	23,429	25,080
Subtotal, NEA	144,706	128,412
National Endowment for the Humanities		
Grants	105,731	106,242
Matching Grants	14,284	12,113
Administration	24,692	26,000
Subtotal, NEH	144,707	144,355
Total NEA & NEH	289,413	272,767

For further information on the *National Endowment for the Arts*, see its website at [<http://arts.endow.gov/>].

For further information on the *National Endowment for the Humanities*, see its website at [<http://www.neh.gov/>].

CRS Report RS20287, *Arts and Humanities: Background on Funding*, by Susan Boren.

Cross-Cutting Topics

Everglades Restoration⁸⁸

Altered natural flows of water by a series of canals, levees, and pumping stations, combined with agricultural and urban development, are thought to be the leading causes of environmental deterioration in South Florida. In 1996, Congress authorized the U.S. Army Corps of Engineers (Corps) to create a comprehensive plan to restore, protect, and preserve the entire South Florida ecosystem, which includes the Everglades (P.L. 104-303). A portion of this plan, the Comprehensive Everglades Restoration Plan (CERP), was completed in 1999, and provides for federal involvement in restoring the ecosystem. Congress authorized the Corps to implement CERP in Title IV of the Water Resources Development Act of 2000 (WRDA 2000, P.L. 106-541). While restoration activities in the South Florida ecosystem are conducted under several federal laws, WRDA 2000 is considered the seminal law for Everglades restoration. (See CRS Report RS20702, *South Florida*

⁸⁸ For more information on funding for Everglades restoration, contact Pervaze A. Sheikh at 7-6070.

Ecosystem Restoration and the Comprehensive Everglades Restoration Plan, by Pervaze A. Sheikh and Nicole T. Carter.)

Appropriations for restoration projects in the South Florida ecosystem have been provided to various agencies as part of several annual appropriations bills. The Interior, Environment, and Related Agencies appropriations laws have provided funds to several DOI agencies for restoration projects. Specifically, DOI conducts CERP and non-CERP activities in southern Florida through the National Park Service, Fish and Wildlife Service, U.S. Geological Survey, and Bureau of Indian Affairs. (For more on Everglades funding, see CRS Report RS22048, *Everglades Restoration: The Federal Role in Funding*, by Pervaze A. Sheikh and Nicole T. Carter.)

From FY1993 to FY2008, federal appropriations for projects and services related to the restoration of the South Florida ecosystem exceeded \$3.0 billion, and state funding topped \$5.0 billion.⁸⁹ The average annual federal cost for restoration activities in southern Florida in the next 10 years is expected to be approximately \$286 million per year.⁹⁰ For FY2008, \$204.0 million was provided to DOI and the Corps for restoration efforts in the Everglades.

FY2009 Request. The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for DOI accounts that fund Everglades restoration, through March 6, 2009, at the amounts provided in the FY2008 regular appropriations act. The FY2009 request for funding DOI restoration activities in the Everglades was \$69.4 million, a decrease of \$3.5 million from the FY2008 enacted level. See **Table 21**.

Table 21. Appropriations for Everglades Restoration in the DOI Budget, FY2008-FY2009
(\$ in thousands)

Everglades Restoration in DOI	FY2008 Approp.	FY2009 Request
National Park Service		
— CERP	4,657	4,699
— Park Operations ^a	28,481	30,210
— Everglades Acquisitions Management	750	800
— Modified Water Delivery	14,299	10,000
— Everglades Research	3,849	3,849
— South Florida Ecosystem Task Force	1,303	1,303
— GSA Space	554	554
Subtotal, NPS	53,893	51,415

⁸⁹ These figures represent an estimate of all CERP and non-CERP related costs for restoration in the South Florida ecosystem.

⁹⁰ This figure is based on CERP and non-CERP related restoration activities in South Florida.

Everglades Restoration in DOI	FY2008 Approp.	FY2009 Request
Fish and Wildlife Service		
— <i>CERP</i>	3,250	3,250
— <i>Land Acquisition</i>	1,028	0
— <i>Ecological Services</i>	2,482	2,443
— <i>Refuges and Wildlife</i>	4,315	4,315
— <i>Migratory Birds</i>	99	99
— <i>Law Enforcement</i>	609	609
— <i>Fisheries</i>	94	94
Subtotal, FWS	11,877	10,810
U.S. Geological Survey		
— <i>Research, Planning and Coordination</i>	6,800	6,800
Subtotal, USGS	6,800	6,800
Bureau of Indian Affairs		
— <i>Seminole, Miccosukee Tribe Water Studies and Restoration</i>	390	390
Subtotal, BIA	390	390
Total Appropriations	72,960	69,415

Source: U.S. Department of the Interior, *Fiscal Year 2009, The Interior Budget in Brief* (Washington, DC: February 2008).

- a. This includes total funding for park operations in Everglades National Park, Dry Tortugas National Park, Biscayne National Park, and Big Cypress National Preserve.

The FY2009 request provided \$10.0 million for the Modified Water Deliveries Project (Mod Waters), a \$4.3 million decrease from the FY2008 enacted level. This project is designed to improve water deliveries to Everglades National Park, and to the extent possible, restore the natural hydrological conditions within the Park. The completion of this project is required prior to the construction of certain projects under CERP. The FY2008 appropriations law provided funds for Mod Waters under NPS construction only if matching amounts were appropriated for similar purposes to the Corps. The FY2008 law also provided \$9.8 million to the Corps for Mod Waters. Further, it prohibited funding for Mod Waters under NPS Construction if any Corps matching funds for Mod Waters became unavailable, including funds for design analysis of the Tamiami Trail (a component of Mod Waters). Tamiami Trail is a U.S. highway that cuts across the Everglades in southern Florida.

Funding and planning for the Tamiami Trail portion of the project is being conducted by the Corps. In the Continuing Appropriations Resolution, 2009, funding for Mod Waters is made available to the Corps at a rate for operations as provided for Mod Waters in the FY2008 appropriations law. The funding is to be used to implement Alternative 3.2.2.a regarding the Tamiami Trail, as described in the Limited Reevaluation Report with Integrated Environmental Assessment and

Addendum.⁹¹ This report details a project to increase water flows southward to Everglades National Park by creating a 1-mile bridge on Tamiami Trail and increasing the height of a canal by one foot. The project is expected to cost \$212 million.

A funding issue receiving broad attention is the level of commitment by the federal government to implement restoration activities in the Everglades. Some observers measure commitment by the frequency and number of projects authorized under CERP, and the appropriations they receive. Because only two restoration projects have been authorized since WRDA 2000, these observers are concerned that federal commitment to CERP implementation is waning. Others assert that the federal commitment will be measurable by the amount of federal funding for construction, expected when the first projects break ground in the next few years. Some state and federal officials contend that federal funding will increase compared to state funding as CERP projects move beyond design into construction. Still others question whether the federal government should maintain the current level of funding, or increase its commitment, because of escalating costs and project delays. Much of the concern over funding is focused on the requested appropriations for two newly authorized restoration projects, the Indian River Lagoon and Picayune Strand, which are expected to be implemented by the Corps.

Concerns Over Phosphorus Mitigation. Since FY2004, Interior appropriations laws have conditioned funding for the Modified Water Deliveries Project based on meeting state water quality standards. Funds appropriated in the laws and any prior laws for Mod Waters would be provided *unless* administrators of four federal departments/agencies (Secretary of the Interior, Secretary of the Army, Administrator of the EPA, and the Attorney General) indicate in their joint report that water entering the A.R.M. Loxahatchee National Wildlife Refuge and Everglades National Park do not meet state water quality standards, and the House and Senate Committees on Appropriations respond in writing disapproving the further expenditure of funds. These provisions were enacted based on concerns regarding a Florida state law (Chapter 2003-12, enacted on May 20, 2003) that amended the Everglades Forever Act of 1994 (Florida Statutes §373.4592) by authorizing a new plan to mitigate phosphorus pollution in the Everglades. Phosphorus is one of the primary water pollutants in the Everglades and a primary cause for ecosystem degradation. Provisions conditioning funds on the achievement of water quality standards were included in the FY2008 appropriations law. It appears that these provisions would remain in effect under the Continuing Appropriations Resolution, 2009. The Administration's FY2009 request did not contain these provisions.

For further information on *Everglades Restoration*, see the website of the South Florida Ecosystem Restoration Program at [<http://www.sfrestore.org>] and the website of the Corps of Engineers at [<http://www.evergladesplan.org/>].

⁹¹ The report is available at [http://www.saj.usace.army.mil/dp/mwdenp-c111/docs/ttm-LLR_Final20080620/MWD-TTM_Final_LRR_MainDoc.pdf] and the addendum is available at [http://www.saj.usace.army.mil/dp/mwdenp-c111/docs/20080728_TTM_LRR_EA_Addendum_Final.pdf].

CRS Report RS22048, *Everglades Restoration: The Federal Role in Funding*, by Pervaze A. Sheikh and Nicole T. Carter.

CRS Report RS21331, *Everglades Restoration: Modified Water Deliveries Project*, by Pervaze A. Sheikh.

CRS Report RS20702, *South Florida Ecosystem Restoration and the Comprehensive Everglades Restoration Plan*, by Pervaze A. Sheikh and Nicole T. Carter.

The Land and Water Conservation Fund (LWCF)⁹²

Overview. The LWCF (16 U.S.C. §§460l-4, et seq.) is authorized at \$900 million annually through FY2015. However, these funds may not be spent without an appropriation. The LWCF is used for three purposes. First, the four principal federal land management agencies — Bureau of Land Management, Fish and Wildlife Service, National Park Service, and Forest Service — draw primarily on the LWCF to acquire lands. The sections on each of those agencies earlier in this report identify funding levels and other details for their land acquisition activities. Second, the LWCF funds acquisition and recreational development by state and local governments through a grant program administered by the NPS, sometimes referred to as stateside funding. Third, the Clinton and Bush Administrations have requested, and Congress has appropriated, money from the LWCF to fund some related activities. This third use is relatively recent, starting with the FY1998 appropriation. Programs funded have varied from year to year. Most of the appropriations for federal acquisitions generally are specified for management units, such as a specific National Wildlife Refuge. The appropriations for the state grant program and other related activities rarely have been specified for individual projects or areas.

From FY1965 through FY2008, about \$31 billion was credited to the LWCF. Roughly half that amount has been appropriated. Throughout history, annual appropriations from LWCF have fluctuated considerably. Until FY1998, LWCF funding did not exceed \$400 million, except from FY1977-FY1980, when funding was between \$509 million and \$805 million. In FY1998, LWCF appropriations exceeded the authorized level for the first time, spiking to \$969 million from the FY1997 level of \$159 million. A record level of funding was provided in FY2001, when appropriations reached \$1.0 billion, partly in response to President Clinton's Lands Legacy Initiative and some interest in increased and more certain funding for LWCF.

FY2009 Funding. The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for land acquisition accounts, through March 6, 2009, at the amounts provided in the FY2008 regular appropriations act. For FY2009, the Administration had requested a total of \$348.7 million for LWCF, an increase of \$93.1 million (36%) over the FY2008 appropriation of \$255.7 million. The request included funds for federal land acquisition and other purposes, but not the stateside program, as discussed below.

⁹² For more information on LWCF funding, contact Carol Hardy Vincent at 7-8651.

Land Acquisition. Of the total request for FY2009, \$41.5 million was for federal land acquisition. If enacted, this would be an \$88.3 million (68%) reduction from the FY2008 level of \$129.7 million. An additional \$8.0 million was requested for land appraisals related to federal land acquisition.

For the five fiscal years ending in FY2001, appropriations for federal land acquisition had more than tripled, rising from \$136.6 million in FY1996 to \$453.4 million in FY2001. The appropriation for land acquisition has subsequently declined to roughly the FY1996 level — to \$129.7 million for FY2008. The decline may be attributed in part to increased interest in allocating funding to lands already in federal ownership, reducing the federal budget deficit, and funding other national priorities, such as the war on terrorism. **Table 22** shows recent funding for LWCF.

Table 22. Appropriations from the Land and Water Conservation Fund, FY2004-FY2009
(\$ in millions)

Land and Water Conservation Fund	FY2004 Approp.	FY2005 Approp.	FY2006 Approp.	FY2007 Approp.	FY2008 Approp.	FY2009 Request
Federal Acquisition						
— BLM	18.4	11.2	8.6	8.6	8.9	4.5
— FWS	38.1	37.0	28.0	28.0	34.6	10.2
— NPS	41.7	55.1	17.4 ^a	34.4	44.4	21.8
— FS	66.4	61.0	41.9	41.9	41.8	5.0
Subtotal, Federal Acquisition	164.6	164.3	95.8	113.0	129.7	41.5
Appraisal Services ^c	0.0	0.0	7.3	7.4	0.0	8.0
Grants to States	93.8	91.2	29.6	29.6	24.6	0.0 ^b
Other Programs	229.7	203.4	213.1	215.9	101.3	299.2 ^d
Total Appropriations	488.1	458.9	345.9	365.9	255.7	348.7^d

Source: Data are from the House and Senate Appropriations Committees, the DOI Budget Office, and *The Interior Budget in Brief* for each fiscal year.

- This figure does not reflect the availability of an additional \$26.8 million in prior year funds.
- The President proposed \$1.4 million for the administration of state grants in FY2009, to be derived from the appropriation for National Recreation and Preservation rather than the LWCF. Accordingly, this amount is not reflected here. Further, the President proposed canceling \$1.0 million in prior year state assistance balances, which is not reflected here.
- For FY2008, for appraisal services the appropriations law contained \$7.7 million, but it does not appear that this amount was to be derived from LWCF. Accordingly, it is not reflected here.
- This figure reflects the cancellation of \$4.5 million in prior year funds for the FWS Cooperative Endangered Species Conservation Fund.

Grants to States. The Administration did not request funds for new stateside grants in FY2009; similarly, there was no Administration request for stateside grants for FY2006 through FY2008. The Administration has asserted that state and local governments have alternative sources of funding for parkland acquisition and development. The Administration also concluded that the current program could not adequately measure performance or demonstrate results, and is not central to NPS's core functions. For FY2009, the Administration did request a relatively small

amount of funding for administration of the grant program. Specifically, the Administration supported \$1.4 million for program administration in FY2009, but the funds would not be derived from LWCF. Instead, the funds would come from the National Recreation and Preservation line item, which funds administration of other grants. Seeking to eliminate funds for new stateside grants is not a new phenomenon. For example, for several years the Clinton Administration proposed eliminating stateside funding, and Congress concurred. Over the past several years, stateside funding has fallen 83%, from \$143.9 million in FY2002 to \$24.6 million in FY2008. Of the \$24.6 million appropriated for the stateside program for FY2008, \$23.1 million was for new stateside grants and \$1.5 million was for administrative expenses.

Through provisions of the Gulf of Mexico Energy Security Act of 2006 (P.L. 109-432), a portion of revenues from certain OCS leasing will be provided (without further appropriation) to the stateside grant program. No money was expected to be available under these provisions for FY2008. An estimated \$8.2 million in revenue from such OCS leasing was projected to be collected in FY2008 and disbursed to the stateside program in FY2009.

Other Purposes. The largest portion of the President's FY2009 request — \$299.2 million — was for several other programs within the Department of the Interior and the Forest Service. This would be nearly triple the amount enacted for FY2008. The FY2008 law provided funding from LWCF for two other programs, for a total of \$101.3 million. Of the total, \$49.0 million was provided for Cooperative Endangered Species Grants and \$52.3 million was for the Forest Legacy Program. **Table 22** shows that for each year from FY2004 through FY2007, the largest portion of the LWCF appropriation was for other programs. This changed in FY2008, when the largest portion of the LWCF appropriation was for land acquisition. The Administration had requested a much larger amount than was appropriated for each year for other programs, for instance requesting \$313.1 million for FY2008.

Table 23 shows the other programs for which Congress appropriated funds for FY2006 through FY2008 or for which the President requested funds for FY2009. Any non-LWCF funds provided to these programs is not reflected here.

Table 23. Appropriations for Other Programs from the LWCF, FY2006-FY2009

(\$ in millions)

Other Programs	FY2006 Approp.	FY2007 Approp.	FY2008 Approp.	FY2009 Request
Department of the Interior				
Bureau of Land Management				
— Challenge Cost Share	0.0	0.0	0.0	9.2
Fish and Wildlife Service				
— Resource Management	0.0	0.0	0.0	82.7
— State and Tribal Wildlife Grants	67.5	67.5	0.0	73.8
— Landowner Incentive Grants	21.7	23.7	0.0	0.0
— Private Stewardship Grants	7.3	7.3	0.0	0.0

Other Programs	FY2006 Approp.	FY2007 Approp.	FY2008 Approp.	FY2009 Request
— <i>Cooperative Endangered Species Grants</i>	60.1	61.1	49.0	75.5 ^a
— <i>North American Wetlands Conservation Fund Grants</i>	0.0	0.0	0.0	42.6
National Park Service				
— <i>Challenge Cost Share</i>	0.0	0.0	0.0	2.3
Departmental Management				
— <i>Take Pride in America</i>	0.0	0.0	0.0	0.5
Forest Service (USDA)				
— <i>Forest Legacy Program</i>	56.5	56.3	52.3	12.5
Total Appropriations	213.1	215.9	101.3	299.2

Notes: This table identifies “other” programs for which Congress appropriated funds for FY2006 through FY2008 or for which the Administration requested funds for FY2009. It excludes federal land acquisition and the stateside program. Funding provided outside of LWCF is not reflected. Information is from the DOI Budget Office and House and Senate Appropriations Committees.

- a. Reflects a request for \$80.0 million and the cancellation of \$4.5 million in prior year funds for a total of \$75.5 million for FY2009.

Wildland Fire Management⁹³

Wildfire protection programs and funding continue to be controversial. Ongoing discussions include questions about the high cost of fire suppression efforts; locations for various fire protection treatments; and whether, and to what extent, environmental analysis, public involvement, and legal challenges to administrative decisions hinder fuel reduction and post-fire rehabilitation activities.

The Continuing Appropriations Resolution, 2009 (Division A, P.L. 110-329), generally extended funding for wildland fire management accounts, through March 6, 2009, at the amounts provided in the FY2008 *regular* appropriations act. For FY2009, the Administration requested \$2.83 billion for wildland fire management of the Forest Service and the Department of the Interior. This would be a decline of \$1.63 billion (37%) from FY2008 appropriations of \$4.46 billion (including \$1.71 billion of emergency appropriations). The FY2009 request for wildland fire management funds for the FS was \$1.98 billion, \$1.29 billion (40%) below FY2008 (including \$1.33 billion of emergency funding). For DOI, the request was \$850.1 million, \$342.0 million (29%) below FY2008. The FY2009 budget request also proposed transferring the DOI wildfire appropriation from the Bureau of Land Management, which traditionally had transferred wildfire funds to the other DOI agencies, to the Office of the Secretary — Department-Wide Programs.

The FS and DOI wildfire line items include funds for fire suppression, preparedness, and other operations. The FY2008 appropriations law (P.L. 110-161) contained \$2.75 billion in regular, annual funding for these line items. Another \$1.71

⁹³ For more information on funding for Wildland Fire Management, contact Ross W. Gorte at 7-7266 or Carol Hardy Vincent at 7-8651.

billion in emergency funds for wildfire management in FY2008 was enacted: \$500.0 million in P.L. 110-116 (\$329.0 million for the FS and \$171.0 million for DOI), \$300.0 million in Title V of P.L. 110-161 (\$222.0 million for the FS and \$78.0 million for DOI), and \$910.0 million in P.L. 110-329 (\$775.0 million for the FS and \$135 million for DOI). The FY2008 total of \$4.46 billion for FS and DOI total wildfire funding combined was the highest level ever. See **Table 24**. About 27% of the FY2008 total (\$1.19 billion) was provided to DOI, while the other 73% of the FY2008 total (\$3.27 billion) was provided to the FS. (For historical background, descriptions of activities, and analysis of wildfire expenditures, see CRS Report RL33990, *Wildfire Funding*, by Ross W. Gorte.)

Wildfire Suppression. The FY2009 request for wildfire suppression — for fighting wildfires — was \$1.33 billion, an increase of \$193.7 million (17%) over the FY2008 regular appropriations. This included an increase of \$148.3 million (18%) for the FS and of \$45.4 million (16%) for DOI. The requests were calculated using the 10-year average of suppression obligations, adjusted for inflation. However, the requests were less than the total of fire suppression plus emergency and contingent funding in four of the past five years. In its report on the FY2008 act, the House Appropriations Committee expressed continued concern with the high costs of large fires, and provided direction to the FS and DOI on examining, reducing, and reporting on the costs of large fire incidences.

Fire Preparedness. The FY2009 request for preparedness — equipment, training, baseline personnel, prevention, and detection — was \$866.1 million, a decline of \$76.2 million (8%) from FY2008. This included a decrease of \$77.4 million (12%) for the FS and an increase of \$1.2 million (less than 1%) for DOI. In their reports on the FY2008 appropriations bill, the Appropriations Committees recommended an increase in preparedness funding. For instance, the Senate Committee asserted that cutting preparedness funds would not save money, but rather shift expenditures to suppression (S.Rept. 110-91, p. 15).

Table 24. Appropriations for FS and DOI Wildland Fire Management, FY2004-FY2009
(\$ in millions)

National Fire Plan	FY2004 Approp.	FY2005 Approp.	FY2006 Approp.	FY2007 Approp.	FY2008 Approp.	FY2009 Request
Forest Service						
— Fire suppression	597.1	648.9	690.2	741.5	845.6	993.9
— Preparedness	671.6	676.5	660.7	665.4	665.8	588.4
— Other operations ^a	354.2	377.7	395.2	416.7	431.9	394.3
Subtotal, FS	1,623.0	1,703.0	1,746.1	1,823.6	1,943.4	1,976.6
— Emergency supplemental and contingent	724.0	425.5	100.0	370.0	1,326.0	0.0
Total, FS	2,347.0	2,128.5	1,846.1	2,193.6	3,269.4	1,976.6
DOI						
— Fire suppression	192.9	218.4	230.7	249.2	289.8	335.2
— Preparedness ^b	254.2	258.9	268.8	274.9	276.5	277.7

National Fire Plan	FY2004 Approp.	FY2005 Approp.	FY2006 Approp.	FY2007 Approp.	FY2008 Approp.	FY2009 Request
— <i>Other Operations</i>	238.1	255.3	255.7	234.3	241.8	237.2
Subtotal, DOI	685.2	732.7	755.3	758.4	808.1	850.1
— <i>Emergency supplemental and contingent</i>	198.4	98.6	100.0	95.0	384.0	0.0
Total, DOI	883.6	831.3	855.3	853.4	1,192.1	850.1
FS and DOI						
— Fire suppression	790.0	867.3	920.9	990.7	1,135.4	1,329.1
— Preparedness	925.8	935.4	929.5	940.3	942.3	866.1
— Other Operations	592.3	633.0	650.9	651.1	673.7	631.5
Subtotal Funding	2,308.1	2,435.7	2,501.4	2,582.0	2,751.4	2,826.7
— Emergency supplemental and contingent	922.5	524.1	200.0	465.0	1,710.0	0.0
Total Funding	3,230.6	2,959.8	2,701.4	3,047.0	4,461.4	2,826.7

Notes: Includes funding only from DOI and FS Wildland Fire Management accounts. This table differs from the detailed tables in CRS Report RL33990, *Wildfire Funding*, by Ross W. Gorte, because that report rearranges data to distinguish funding for protecting federal lands, assisting in nonfederal land protection, and fire research and other activities.

- Excludes fire assistance funding under the State & Private Forestry line item.
- Fire research and fuel reduction funds are included under Other Operations.

Other Operations. Other wildland fire operations include funds for an array of activities — burned area rehabilitation, fuel reduction, research, and assistance to states and private entities. The FY2009 request for other operations was \$631.5 million, a decrease of \$42.3 million (6%) from FY2008 regular appropriations. However, the declines were not spread evenly among the activities.

The FY2009 request for burned area rehabilitation was \$24.3 million, a decline of \$10.7 million (31%) from FY2008 regular appropriations. This included an increase of \$0.1 million (less than 1%) for DOI, and no funds for the FS. FS funds for emergency burned area rehabilitation can be drawn from suppression funding, while additional funds to restore burned areas are provided in the various accounts for the National Forest System. Emergency funds totaling \$131.0 million (\$100.0 million for the FS and \$31.0 million for DOI) also were enacted for FY2008 to supplement burned area rehabilitation.

Fuel reduction has been an Administration focus, to implement the Healthy Forests Restoration Act of 2003 (P.L. 108-148) and the National Fire Plan. The FY2009 request for fuel reduction was \$499.8 million, a decline of \$9.9 million (2%) from FY2008 regular appropriations. This included a decrease of \$13.1 million (4%) for the FS and an increase of \$3.2 million (2%) for DOI. Emergency funds totaling \$265.0 million (\$255.0 million for the FS and \$10.0 million for DOI) also were enacted for FY2008 for fuel reduction, with as much as \$155.0 million of the FS funds available for fuel reduction on nonfederal lands.

Wildfire appropriations for fire research in FY2009 would be cut by \$3.3 million (9%). DOI funding for the Joint Fire Science Program would be cut by \$1.9

million (32%). FS funding for the Joint Fire Science Program would be increased slightly, while funding for other FS fire research would be cut by \$1.5 million (6%). The FS also funds fire research in its research line item, but the amount of general forestry research for fire is not distinguished in the budget documents.

FY2009 fire assistance funding would be cut substantially under the President's request — by \$18.4 million (21%). This included modest (2%) increases for FS forest health management on federal and nonfederal lands and for FS volunteer fire assistance and a significant decrease (\$13.0 million, 27%) for FS state fire assistance. (The FY2009 budget for the Forest Service included cuts in State and Private Forestry funding for these programs; see State and Private Forestry under “U.S. Department of Agriculture: Forest Service,” above.) DOI funding for community assistance (\$5.9 million in FY2008) would be terminated.

Emergency Supplemental and Contingent Appropriations. P.L. 110-116 provided \$500.0 million in emergency wildfire appropriations for FY2008, with \$329.0 million for the FS and \$171.0 million for DOI. The funds were for several purposes:

- \$110.0 million for FS emergency wildfire suppression and \$40.0 million for DOI emergency wildfire suppression;
- \$100.0 million for repayment of FS accounts and \$115.0 million for repayment of DOI accounts from which funds were borrowed during FY2007 for wildfire suppression;
- \$80.0 million for FS fuels reduction and hazard mitigation activities (including \$30.0 million available for activities on nonfederal lands) and \$10.0 million for DOI fuels reduction;
- \$25.0 million for FS rehabilitation and restoration of lands and \$6.0 million for DOI rehabilitation and restoration of lands; and
- \$14.0 million for reconstruction/construction of FS facilities.

In addition, Title V of the FY2008 Interior appropriations act (Division F of P.L. 110-161) provided another \$300.0 million for emergency wildfire suppression — \$222.0 million for the FS and \$78.0 million for DOI.

Finally, P.L. 110-329 (the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009) provided \$910.0 million in emergency wildfire appropriations for FY2008 — \$775.0 million for the FS and \$135.0 million for DOI. As with P.L. 110-116 emergency funding, the money was directed for several purposes:

- \$500.0 million for FS emergency wildfire suppression (including at least \$300.0 million to repay FY2008 borrowings and at least \$100.0 million to repay previous borrowings) and \$110.0 million for DOI emergency wildfire suppression and repayment of borrowed funds;
- \$75.0 million for FS rehabilitation and restoration of burned lands and \$25.0 million for DOI burned area rehabilitation;
- \$175.0 million for FS fuels reduction (including \$125.0 million available for activities on nonfederal lands); and

- \$25.0 million for FS preparedness for retention initiatives for high risk areas with recurrent staffing shortages.

For further information on wildfires, see the National Interagency Fire Center website at [<http://www.nifc.gov>].

CRS Experts List WE04003, *Wildfires, 2008: CRS Experts*, by Ross W. Gorte.

CRS Report RL33990, *Wildfire Funding*, by Ross W. Gorte.

CRS Report RL30755, *Forest Fire/Wildfire Protection*, by Ross W. Gorte.

CRS Report RL34517, *Wildfire Damages to Homes and Resources: Understanding Causes and Reducing Losses*, by Ross W. Gorte.

CRS Report RS21880, *Wildfire Protection in the Wildland-Urban Interface*, by Ross W. Gorte.

Table 25. Appropriations for Interior, Environment, and Related Agencies, FY2004-FY2009
(\$ in thousands)

Bureau or Agency	FY2004 Approp.	FY2005 Approp.	FY2006 Approp. ^g	FY2007 Approp.	FY2008 Approp.	FY2009 Requested
Title I: Department of the Interior						
Bureau of Land Management ^k	1,009,640	985,615	1,001,902	1,029,498	1,007,897	999,119
U.S. Fish and Wildlife Service	1,308,405	1,332,591	1,307,639	1,340,989	1,441,301	1,301,745
National Park Service	2,258,581	2,365,683	2,255,768	2,299,959	2,390,488	2,404,342
U.S. Geological Survey	937,985	944,564	961,675	988,050	1,006,480	968,516
Minerals Management Service	170,297	173,826	158,294	159,530	118,053	160,393
Office of Surface Mining Reclamation and Enforcement	295,975	296,573	294,228	294,654	170,411	137,559
Bureau of Indian Affairs	2,300,814	2,295,702	2,274,270	2,308,304	2,291,279	2,191,364
Departmental Offices ^a	460,859	496,837	527,656	514,913	474,236	474,180
Department-Wide Programs ^b	—	—	1,003,540	1,101,911	1,477,066	1,135,064
Total Title I	9,847,964	9,955,228	9,784,972	10,037,808	10,377,211	9,772,282
Title II: Environmental Protection Agency	8,365,817^d	8,026,485	7,617,416	7,723,948	7,461,496	7,177,285
Title III: Related Agencies						
U.S. Forest Service ^e	4,939,899	4,770,598	4,200,762	4,706,349	5,804,428	4,114,367
Indian Health Service	2,921,715	2,985,066	3,045,310	3,180,148	3,346,181	3,324,862
National Institute of Environmental Health Sciences	78,309	79,842	79,108	79,117	77,546	77,546
Agency for Toxic Substances and Disease Registry	73,034	76,041	74,905	75,212	74,039	72,882
Council on Environmental Quality and Office of Environmental Quality	3,219	3,258	2,677	2,698	2,661	2,703
Chemical Safety and Hazard Investigation Board	8,648	9,424	9,064	9,113	9,263	9,499
Office of Navajo and Hopi Indian Relocation	13,366	4,930	8,474	8,509	8,860	7,530
Institute of American Indian and Alaska Native Culture and Arts Development	6,173	5,916	6,207	6,207	7,183	7,900
Smithsonian Institution	596,279	615,158	615,097	634,895	682,629	716,400
National Gallery of Art	98,225	102,654	111,141	111,729	117,866	118,000
John F. Kennedy Center for the Performing Arts	32,159	33,021	30,347	30,389	42,674	33,300
Woodrow Wilson International Center for Scholars	8,498	8,863	9,065	9,100	9,844	8,857
National Endowment for the Arts	120,972	121,264	124,406	135,500	144,706	128,412
National Endowment for the Humanities	135,310	138,054	140,949	141,105	144,707	144,355
Commission of Fine Arts	1,405	1,768	1,865	1,873	2,059	2,234
National Capital Arts and Cultural Affairs	6,914	6,902	7,143	7,143	8,367	—
Advisory Council on Historic Preservation	3,951	4,536	4,789	4,828	5,265	5,498
National Capital Planning Commission	7,635	7,888	8,123	8,168	8,136	8,328
U.S. Holocaust Memorial Museum	39,505	40,858	42,150	42,349	44,786	46,839
Presidio Trust	20,445	19,722	19,706	19,706	22,051	17,450
White House Commission on the Natl. Moment of Remembrance	—	248	247	247	197	—
Dwight D. Eisenhower Memorial Comm.	—	—	—	—	1,969	19,000
Total Title III	9,115,661	9,036,011	8,541,535	9,214,385	10,565,417	8,865,962
<i>[Title IV: Veterans' Health]</i>	—	—	<i>[1,500,000]</i>	—	—	—
Title IV: Secure Rural Schools	—	—	—	425,000	—	—
Grand Total (in Bill)^c	27,329,442	27,017,724	25,942,155^f	27,401,141^h	28,416,852ⁱ	25,810,529^j

Source: House and Senate Appropriations Committees.

- a. The Departmental Offices figure currently includes the Office of the Secretary, Insular Affairs, Office of the Solicitor, Office of Inspector General, and Office of Special Trustee for American Indians.
- b. The Department-Wide Programs figures include Wildland Fire Management, the Payments in Lieu of Taxes Program (PILT), Central Hazardous Materials Fund, Natural Resource Damage Assessment Fund, and Working Capital Fund. Figures for FY2006 through FY2009 reflect the proposed transfer of DOI Wildland Fire Management from the Bureau of Land Management to Department-Wide Programs. Comparable figures for earlier years are not readily available.
- c. Figures generally do not reflect scorekeeping adjustments.
- d. Derived from the report of the House Appropriations Committee on H.R. 5041 (H.Rept. 108-674).
- e. The FY2005 figure excludes \$40.0 million in transferred funds from the Department of Defense (§8098, P.L. 108-287).
- f. The total does not include supplemental appropriations or \$1.50 billion in emergency appropriations for veteran's health. It reflects \$1.8 million in undistributed reductions which are not reflected in the individual agency figures in the column.
- g. Supplemental appropriations are not reflected in this column.
- h. The total reflects appropriations of \$26.51 billion; emergency appropriations of \$925.2 million, including \$425.0 million for Secure Rural Schools; and rescissions of \$30.0 million.
- i. The total reflects appropriations of \$26.64 billion, emergency appropriations of \$1.82 billion, and rescissions of \$35.0 million.
- j. The total includes a requested appropriation of \$25.86 billion and rescissions of \$54.4 million.
- k. Figures do not reflect funding appropriated to BLM for Wildland Fire Management for FY2004 through FY2008. These fire funds are included under Department-Wide Programs beginning in FY2006, consistent with the Administration's request to fund DOI firefighting from this account beginning with FY2009.