

for expenditure of all funds no later than 30 days after the date of enactment of this Act and to include DRF transfers in the CFO's monthly budget execution reports submitted to the Committees, which shall satisfy the requirements for notification of DRF transfers under a general provision in Title V of this Act.

### Integrity Investigations

Within the total provided, an increase of \$3,000,000 is provided for integrity investigations. The fiscal year 2013 expenditure plan should identify the total funds dedicated to integrity investigations and their intended purpose.

### GAO Review

The Committees are concerned that the current organization of the OIG may not allow for adequate independence of the OIG's inspections and evaluations function, and that current organizational reporting lines hinder the timely and complete delivery of information to OIG leadership. Recent developments at OIG that have left many senior positions occupied by acting heads have adversely affected OIG's ability to manage its growing workload, and raised questions about its effectiveness and reliability in conducting investigative operations for which it has been assigned unique jurisdiction within DHS. This has occurred at a time when the workload for OIG is growing, compounded by the need to address the potential of fraud associated with ever increasing disaster assistance and the highly sensitive issue of integrity investigations in the Department, particularly with regard to border security operations. GAO is directed to undertake a review of (1) the organizational structure of the OIG; (2) how OIG is organized to report the results of audits, investigations, and inspections and evaluations; and (3) whether these functions are properly placed within the organizational structure of OIG to ensure compliance with applicable independence standards. The review should be completed by December 1, 2013.

## TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

### U. S. CUSTOMS AND BORDER PROTECTION

#### SALARIES AND EXPENSES

A total of \$8,293,351,000 is provided for "Salaries and Expenses." The funding level reflects changes in the activities supported by this appropriation. In addition, the bill institutes a new PPA structure and distribution for greater accountability.

The bill provides \$315,000,000 in appropriated funds to rectify CBP's salary shortfall, created by the flawed budget request that incorrectly assumed CBP access to fee revenues and demonstrated inexcusably poor budget development by CBP. Specifically, the President's budget request for fiscal year 2013 assumes that CBP has access to \$110,000,000 in fee revenues pursuant to the Colombia Free Trade Agreement's elimination of certain exemptions to the Consolidated Omnibus Budget Reconciliation

Act of 1985 (COBRA) fees. While the fees are being collected today from travelers entering the United States, the fees are not accessible to CBP. Further, the shortfall created by this inaccessibility persists annually until fiscal year 2022. The Department is directed, in coordination with the Office of Management and Budget (OMB), to include a means of access to these fees in the fiscal year 2014 budget request and beyond, with appropriate offsets. The gap cannot be filled by appropriated funds and trade-offs within CBP accounts into the future.

Compounding this deficit, CBP failed to adequately estimate its salary needs for its operational workforce resulting in an estimated \$214,000,000 shortage in fiscal year 2013. After months of unanswered questions from OMB, DHS, and CBP, the House Appropriations Committee undertook an audit of CBP's budget development and execution processes that revealed significant weaknesses. The Department is directed to ensure the fiscal year 2014 request fully funds CBP's operational workforce and mission needs. Further, the Committees will continue to work with CBP in the coming months to ensure the weaknesses are addressed.

The CBP funding level reflects savings and deferments proposed by CBP to reduce the shortfall, including: \$50,000,000 in rent savings and deferrals; \$10,000,000 in project reprioritization and cancellations taken from Facilities Construction and Sustainment; and \$35,889,000 from deferment of vehicle replacement. While the Committees are concerned about longer term deferment of vehicle replacement, CBP currently has a sufficient, well-maintained fleet for fiscal year 2013. CBP proposed other, internal offsets that were wholly unacceptable. No funds are included for the Joint Operations Division created by CBP in 2011.

The amount provided under this heading does not include the full amount requested for a civilian pay raise. Should the President provide a civilian pay raise for 2013, it is assumed that the cost of the pay raise will be absorbed within existing appropriations for fiscal year 2013. However, to avoid exacerbating CBP's pay shortfall, the bill provides \$19,558,000 across the appropriate PPAs and in the "Air and Marine Operations" appropriation as a contingency for a potential pay raise to cover operational personnel. Should the President decide not to institute the pay raise, CBP shall apply those funds to other operational needs, in accordance with a general provision in Title V and with appropriate notification to the Committees.

The bill also restructures the Headquarters Management and Administration PPAs to provide greater visibility into CBP's expenditures, as outlined in the House report. The new PPA structure is provided in the table listed below. In the fiscal year 2014 budget request, CBP is directed to distribute the working capital fund expenditures among the PPAs as appropriate to reflect the actual costs to each CBP office rather than including a total in the Administration PPA.

Further, funds in existing PPAs across the "Salaries and Expenses" appropriation are redistributed to more closely align to offices, as outlined in the House report. For example, the Office of Information Technology (OIT) is funded for its activities in the Automated Targeting Systems (ATS) and Inspection and Detection Technology Investments PPAs, in addition to the funds in the "Automation Modernization" appropriation that now contains OIT's salaries and expenses.

Border Security Inspections and Trade Facilitation (Inspections) is funded at \$3,206,458,000, including \$215,000,000 to address part of the salary shortfall noted

above; \$5,747,000 for prior year annualization of CBP officer staffing enhancements; \$14,076,000 for annualization of CBP officer staff for new ports of entry and enhanced operations; \$10,000,000 as requested for enhancing intellectual property rights enforcement efforts; \$13,032,000 to re-baseline the Container Security Initiative; realignment of funds to the Other International Programs PPA from International Cargo Screening; and consolidation of funds into the ATS and National Targeting Center PPAs to more fully display the costs of those activities. Other International Programs is reduced by \$2,218,000, as recommended in the Senate report. As included in the House report, \$12,284,000 is provided to the Office of Field Operations for its entry-exit policy and operations responsibilities. CBP is expected to maintain no less than 21,775 CBP officers, a number adjusted by CBP from prior year targets to account for all CBP officers as intended.

Border Security and Control between Ports of Entry is funded at \$3,705,735,000, which reflects an \$8,000,000 decrease to transfer responsibility for detainee medical costs to ICE, \$11,500,000 in cost savings for detainee transportation, \$100,000,000 to address part of the salary shortfall noted above, and full funding for the Office of Border Patrol and the Joint Field Command. This level continues to support a Border Patrol agent force of 21,370.

The Air and Marine Operations PPA is moved to the “Air and Marine Operations” appropriation and renamed the Salaries and Expenses PPA. As outlined in the House report, the PPA does not include funds for the Joint Operations Division and the Joint Field Command.

The Committees reject the proposal to move the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) from the National Protection and Programs Directorate (NPPD) to CBP. Instead, the bill realigns the policy and operational responsibilities of US-VISIT while retaining the information technology systems in a new Office of Biometric Identity Management (OBIM) in NPPD discussed later.

CBP has long been subject to limitations, terms and conditions on overtime funds that are carried in the Salaries and Expenses appropriation. Funds moved from the Salaries and Expenses appropriation into the “Automation Modernization” and “Air and Marine Operations” appropriations are still subject to those limitations, terms and conditions.

The amount provided for the “Salaries and Expenses” appropriation by PPA is as follows:

Headquarters, Management, and Administration:

Commissioner.....	\$17,415,000
Chief Counsel.....	43,078,000
Congressional Affairs.....	2,568,000
Internal Affairs.....	154,108,000
Public Affairs.....	12,563,000
Training and Development.....	77,721,000
Tech, Innovation, Acquisition.....	26,004,000
Intelligence/Investigative Liaison.....	68,156,000
Administration.....	414,674,000

Rent .....	564,871,000
Subtotal.....	1,381,158,000
 Border Security Inspections and Trade Facilitation:	
Inspections, trade, and travel facilitation at ports of entry .....	2,718,654,000
Harbor maintenance fee collection (trust fund).....	3,274,000
International cargo screening .....	71,487,000
Other international programs.....	24,799,000
Customs-Trade Partnership Against Terrorism (C-TPAT).....	43,069,000
Trusted Traveler programs .....	10,811,000
Inspection and detection technology investments .....	117,565,000
Automated Targeting Systems .....	113,826,000
National Targeting Center .....	68,127,000
Training .....	34,846,000
Subtotal.....	3,206,458,000
 Border Security and Control between Ports of Entry:	
Border security and control .....	3,631,796,000
Training .....	73,939,000
Subtotal.....	3,705,735,000
Total, Salaries and Expenses .....	\$8,293,351,000

### Financial Plan

CBP is directed to submit its fiscal year 2013 financial plan by office no later than 30 days after the date of enactment of this Act, consistent with the new distribution and PPAs. Additionally, CBP shall include the working capital fund estimates by office and PPA.

### Management of User Fee Revenues

CBP has not demonstrated the ability to manage fluctuations in fee funding levels. Given that approximately 37 percent of CBP officers are funded by user fees, the failure to properly project and manage these fees has a significant operational impact – not only on CBP but on the traveling public and on our national security posture. To address these failures and to assist the Committees in their oversight, the Commissioner is directed to take the actions required by the House report on user fee management. In addition, as required by the Senate report, CBP shall brief on the use of APHIS fee revenues and report on steps to advance its relationship with port authorities on staffing.

### Fee Balances

As directed in the House report, CBP shall report on the final determination regarding the availability of \$639,400,000 in unobligated fee balances and the path for

eliminating them from CBP's financial statements. Unfortunately, these funds are not accessible to CBP; however, the agency has not responded adequately to the question of availability raised by GAO.

### Innovation and Facilitation

CBP is directed to continue considering and instituting innovations to more efficiently process legitimate travel and trade, such as those outlined in the House report. Further, the bill provides funds above the request toward this end, including \$10,000,000 for preclearance operations and \$2,500,000 for improved signage and information about the entry process, as recommended in the Senate report, and \$4,500,000 for Global Entry expansion, kiosks, and promotion, as recommended in the House and Senate reports. No later than 60 days after the date of enactment of this Act, CBP shall brief the Committees in detail on its full fiscal year 2013 funding for these activities as well as the use of the increased funds.

### Workload Staffing Model

The Department is directed to immediately submit the CBP workload staffing model for Field Operations required by the joint explanatory statement accompanying Public Law 112-74. This report, which has languished in a bureaucratic clearance "do loop," is necessary for a responsible dialogue on CBP mission needs, including any demonstrated staffing needs.

### Cargo Security Strategy

The bill provides an additional \$3,000,000 for the Customs-Trade Partnership Against Terrorism (C-TPAT) program to ensure audits of participants are conducted as needed based on a risk determination. No later than 60 days after the date of enactment of this Act, CBP shall brief the Committees in detail on its full fiscal year 2013 funding for C-TPAT as well as the use of the increased funds.

Further, the Committees concur with the direction and concerns outlined in the House report regarding the cargo security strategy and look forward to seeing the Secretary develop and propose a meaningful alternative to 100 percent scanning.

### Targeting

The bill provides an additional \$3,000,000 for National Targeting Center (NTC) operations to cover pre-adjudication vetting of visa applicants. No later than 60 days after the date of enactment of this Act, CBP shall brief the Committees in detail on its full fiscal year 2013 funding for NTC as well as the use of the increased funds.

As required in the House report, CBP is directed to provide a detailed accounting of funds executed by the Targeting Analysis Systems Project Office no later than 30 days after the date of enactment of this Act. CBP shall also include an annual update of this information with the President's budget request.

## Entry-Exit Policy and Operations

CBP is the DHS lead for entry-exit policy and operations, as recommended by the House. Responsibility for implementing a biometric exit program lies with CBP. Within 120 days after the date of enactment of this Act, CBP, in conjunction with OBIM and any other appropriate partners, such as the Science and Technology Directorate, shall report to the Senate Committees on Appropriations, the Judiciary, and Homeland Security and Governmental Affairs and the House Committees on Appropriations, the Judiciary, and Homeland Security on the Department's tangible progress in implementing an enhanced biographic exit system and biometric exit planning. The report shall include the results of the Canadian pilot programs and provide an update on the Mexican pilot program. The Committees on Appropriations shall be briefed semiannually on exit thereafter.

### Border Patrol and Border Security between Ports of Entry

CBP shall submit a report to the Committees no later than 90 days after the date of enactment of this Act on its five-year staffing and deployment plan for the Border Patrol. In addition, the budget justification for fiscal year 2014 shall include a plan detailing staffing and funding for the Northern Border. Further, CBP is prohibited from closing Border Patrol stations in Texas, as proposed in the budget request. CBP and ICE have not produced a transition plan to ensure the immigration enforcement needs of local sheriffs will be supported without a Border Patrol presence.

### Joint Field Command Structure

While CBP allocated funds within its budget for the Joint Field Command (JFC), it is important to reassess the cost-benefit of operating the JFC, particularly as CBP considers other joint operation and coordination structures and confronts enormous budget challenges. The need for operational coordination within CBP is no less imperative than its coordination with ICE, Coast Guard, and other law enforcement agencies active in a particular area of responsibility. Therefore, CBP is directed to brief the Committees, no later than 60 days after the date of enactment of this Act, on all plans, milestones, and costs for establishing and operating joint field efforts, as required in the House report. In addition, the brief shall include the cost-benefit of operating the JFC.

### Integrity Programs

The bill supports CBP efforts to reduce and prevent corruption, as well as ensure that its ethics, integrity, and conduct programs include training at all stages of an agent's or officer's career. Over the past five years, as the Federal law enforcement presence on the Nation's borders has increased due to major increases in hiring of Border Patrol agents and other law enforcement officers, Congress has provided resources above the Presidents' requests for the OIG, CBP, and ICE to ensure that a greater level of scrutiny is focused on preventing officer corruption and enhancing training on public integrity. Given these efforts, combined with the full implementation of the Anti-Border Corruption Act of 2011 (Public Law 111-338), sufficient funds were requested in the

budget and are provided by this Act to continue rigorous attention to public integrity of DHS law enforcement personnel. CBP is expected to work with OIG and ICE to aggressively investigate reports of fraud and to provide continuous integrity training to current as well as new employees. CBP is directed to continue briefing the Committees on a semiannual basis on integrity efforts, per the House report. In addition, GAO is directed to report on CBP's integrity program no later than 120 days after the date of enactment of this Act, as required in the House report.

### Workers' Compensation Plans

CBP is directed to brief the Committees on its progress in implementing the OIG recommendations and related issues, as required by the House report, no later than April 3, 2013.

### Preventing Human Trafficking

The Committees strongly support DHS efforts to broaden human trafficking awareness, including through CBP's Blue Lightning Initiative. In lieu of the level recommended by the House, CBP shall fund its Blue Campaign efforts, as requested, and brief the Committees, as required by the House report.

### Training

Per the House report, CBP is directed to brief the Committees on its corrective action plan and the status of implementation of recommendations contained in GAO-12-269, not later than April 3, 2013. In addition, GAO is directed to follow up on its findings one year after its release to identify progress that has been made and any remaining deficiencies.

### AUTOMATION MODERNIZATION

A total of \$719,866,000 is provided for "Automation Modernization." Of that amount, \$394,340,000 is for Information Technology, which includes salaries and expenses for OIT; \$138,794,000 is for the Automated Commercial Environment (ACE); and \$186,732,000, as requested, is for Current Operations Protection and Processing Support. As provided in a general provision in this Act, CBP is required to submit an updated multi-year investment and management plan for all funds executed by OIT that are now largely consolidated in "Automation Modernization."

The amount provided under this heading does not include the requested funding for a civilian pay raise. Should the President provide a civilian pay raise for 2013, it is assumed that the cost of the pay raise will be absorbed within existing appropriations for fiscal year 2013.

### Briefings

CBP is directed to continue briefing the Committees on a quarterly basis on ACE progress, including the information directed by the House and Senate reports. CBP and ICE are directed to jointly brief the Committees on the status of TECS modernization efforts, as required by the House and Senate reports, on a semiannual basis with the first briefing no later than 60 days after the date of enactment of this Act.

#### BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

A total of \$324,099,000 is provided for “Border Security Fencing, Infrastructure, and Technology” (BSFIT). No funds are provided for further environmental mitigation efforts with the Department of Interior.

The Committees remain concerned about the lack of progress in deploying critical tools and technology that the Border Patrol clearly needs to secure the border. The schedule for awarding a contract for Integrated Fixed Towers (IFT) as well as to upgrade and purchase Remote Video Surveillance Systems (RVSS) continues to slip. In fact, CBP’s schedule does not show full deployment of RVSS and IFT before fiscal years 2014 and 2016 respectively – years after the original timelines. Given these delays, CBP is directed to continue quarterly briefings and weekly notifications on procurement actions, as directed in the House report. In addition, CBP is currently evaluating proposals submitted for IFT, a process that shall include a demonstration evaluation. After the demonstration phase, CBP is directed to brief DHS leadership, OMB, and the Committees before a contract award for IFT that would specify the number and pace of deployments. The briefing is not intended to involve procurement-sensitive information; rather the focus is on understanding CBP’s intention regarding the number and pace of deployments rather than vendor-specific information.

As of October 1, 2012, CBP has \$400,000,000 in prior year unobligated balances in BSFIT in addition to the funds provided for fiscal year 2013. As a result, the bill includes a rescission of \$73,232,000, to ensure that funds do not languish unused for years. As recommended in the House report, those funds are applied to CBP Air and Marine operations, supporting a significant increase in proposed flight hours. These funds will provide immediate border security operational benefit while enabling CBP to maintain its IFT investments and deployments as currently planned.

#### AIR AND MARINE OPERATIONS

A total of \$799,006,000 is provided for “Air and Marine Operations.” The funding includes \$283,570,000 for a new Salaries and Expenses PPA moved from the CBP “Salaries and Expenses” appropriation; \$397,399,000 for Operations and Maintenance to restore flight hours, including to restore unmanned aerial systems (UAS) flight hours above the fiscal year 2011 level; and \$118,037,000 for Procurement. The procurement funds include an additional \$21,500,000 for purchase of an additional multi-enforcement aircraft; \$39,000,000 for the service life extension of the P-3 fleet; and \$18,567,000 for enhanced sensor capabilities for UAS.

The amount provided under this heading does not include the full amount requested for a civilian pay raise. Should the President provide a civilian pay raise for 2013, it is assumed that the cost of the pay raise will be absorbed within existing appropriations for