



Legislative Bulletin.....June 4, 2013

**H.R. 2217 – Department of Homeland Security Appropriations Act of 2014  
(Rep. Carter, R-TX)**

**BY THE NUMBERS:**

*In Millions of Dollars*

	<b>FY13 House 302(b)</b>	<b>FY13 Enacted Pre Sequester</b>	<b>FY13 Enacted Post Sequester</b>	<b>FY14 House Committee</b>
<b>Base Appropriations</b>	39,117	39,606	37,759	38,993

**The Committee Bill is:**

- **\$1.2 billion more than the FY13 enacted post-sequester level.**
- **\$613 million less than the FY13 enacted pre-sequester ([HR 933](#)).**
- **\$124 million less than the FY13 House 302(b) levels.**

**Spending Discussion:** The bill (bill text [here](#), bill report [here](#)) provides a base spending level of \$38 billion. This spending level is consistent with the House Appropriations Committee’s 302(b) allocation for Homeland Security Appropriations, which is consistent with the House-passed FY14 budget’s overall 302(a) spending level of \$967 billion, which is consistent with the post-sequester discretionary spending level required for FY14 in the Budget Control Act. The House-passed budget is the only budget to pass that complies with the overall spending level called for by law. The Senate-passed budget calls for discretionary spending \$91 billion higher than the House at \$1,058 billion, which is the level to which the Senate Appropriations Committee will write its appropriations bills.

**Disaster funding:** The bill provides \$5.6 billion in disaster funding which is in addition to the \$39 billion provided in base funding.

**Mandatory spending:** The bill provides \$1.5 billion in mandatory funding for U.S. Coast Guard retirement pay, which is in addition to the \$39 billion in base funding.

**Rescissions:** The bill rescinds \$476 million in unobligated budget authority. \$100 million of this total is the result of a “CHIMP” (change in mandatory spending).

**Total Cost:** All told, this bill provides \$46.1 billion in budget authority.

**Order of Business:** The bill is scheduled to be considered on Wednesday, June 5, under an open rule ([H. Res. 243](#)). The rule providing for consideration of H.R. 2217 will also “deem” the House-passed budget. This allows the Budget Committee to submit 302(a) levels set in the House budget as binding in the House in spite of Senate inaction on the House’s concurrent budget resolution.

**Provisions of Note:**

- **ACORN:** Section 545 continues a provision to prohibit funding in the legislation (or any other appropriations Act) to the Association of Community Organizations for Reform Now (ACORN) or any of its subsidiaries, successors, or allied organizations.
- **Border Patrol Agents:** The legislation requires the active duty presence of at least 21,370 full-time equivalents agents protecting the border of the United States.
- **Border Security Fencing:** The legislation funds \$351.5 million for expenses for border security fencing, infrastructure, and technology.
- **Buy American Act:** This legislation continues a prohibition of any funding in the bill from being used in contravention of the Buy American Act.
- **Civil Liberties:** The legislation requires the Secretary of Homeland Security to ensure that any new processes to screen aviation passengers and crews for transportation or national security purposes to take into consideration passengers’ and crews’ civil liberties.
- **Coast Guard Fast Response Cutter Program:** The legislation continues a provision requiring all funds collected from the 110-123 foot patrol boat conversion program to be directed to the Coast Guard Fast Response Cutter Program.
- **Computer Network Prohibitions:** The legislation prohibits funds for maintaining or establishing a computer network unless it blocks the viewing, downloading, and exchanging of pornography. Federal, State, tribal, or local law enforcement agencies are not prohibited from using such funds to carry out criminal investigations, prosecutions, or adjudication activities.
- **Convicted Criminals:** The legislation prevents funding for any contract to any corporation (or officer acting on behalf of the corporation) that has been convicted of a federal or State felony criminal violation within the last two years.
- **Cybersecurity:** The legislation provides approximately \$200 million for “Federal Network Security” to deploy on federal systems technology improvements for government-wide and agency-specific cybersecurity efforts except for the legislative and judicial branches and the Department of Defense, the Central Intelligence Agency, and the Office of the Director of National Intelligence. It seeks to “address escalating and rapidly evolving threats to information security...” Note: The House passed a cybersecurity-related bill this Spring when it considered [H.R. 624](#).
- **Disaster Declarations:** The legislation continues a provision requiring FEMA to post on its website a report regarding the President’s decision to declare a major disaster or not. This report must be posted within 30 days after the President’s decision.
- **E-Verify:** The legislation provides \$114 million of funding for the E-verify Program. According to the [Department of Homeland Security](#), E-Verify is a free, Internet-based

system that compares information from an employee's Form I-9 Employment Eligibility and Verification to data from the U.S. Department of Homeland Security and Social Security Administration records to confirm employment eligibility. Participation is voluntary for most businesses, but some companies, are required by state law or federal regulation to use E-verify. For example, E-Verify is [mandatory for employers with federal contracts or subcontracts](#) that contain the Federal Acquisition Regulation E-Verify clause. It also continues a provision requiring the TSA to certify to the Appropriations Committees that no security risks would arise from a TSA determination that an airport does not need to participate in the E-Verify program. Significant discussion about the strengths and limitations of the current employment verification technology, the voluntary nature of the program, and the legal regime relating to unlawful employment is occurring in both chambers with regard to the current debate about immigration reform legislation.

- **Fast and Furious:** This legislation prohibits any funding to be used by a federal law enforcement officer to facilitate the transfer of a firearm to any individual known or suspected to be an agent of a drug cartel unless the officer continuously monitors or controls the firearm at all times.
- **Firearms Ammunition:** The legislation includes new reporting requirements for the Secretary of Homeland Security to submit a comprehensive report to Congress on the purchase and usage of ammunition by the Department of Homeland Security when the President submits his FY2015 budget proposal. The report shall include: mission requirements pertaining to ammunition, including certification, qualification, training, and inventory requirements for each relevant Department component or agency and a comparison of such requirements to the requirements of federal law enforcement agencies of the Department of Justice and the military components of the Department of Defense; and details on all contracting practices applied by the Department of Homeland Security to procure ammunition, including comparative details regarding other contracting options with respect to cost and availability. Beginning April 1, 2014, the Secretary of Homeland Security is required to quarterly submit reports to Congress that includes the quantity of ammunition in inventory, used, and purchased in the Department of Homeland Security at the end of the preceding calendar year.
- **First Class Travel:** The legislation prohibits funding for first class travel of federal agency employees.
- **Guantanamo Bay:** The legislation continues a provision prohibiting funds to transfer or release to or within the United States, its territories, or possessions Khalid Sheikh Mohammed or any other Guantanamo Bay, Cuba detainee.
- **ICE Processing Centers:** The legislation provides continued authority to the Secretary of Homeland Security to dispose of individual Service Processing Centers or other U.S. Immigration and Customs Enforcement (ICE) owned detention facilities by selling all real and related personal property subject to the protection of government interests and program requirements (including maintenance of at least 34,000 detention beds).
- **Illegal Aliens:** The legislation prevents funding in the bill to be used to employ unauthorized illegal aliens.
- The legislation prevents funding to contractors for awards or incentive fees whose performance has been judged to be below satisfactory performance or basic contract performance requirements.

- **Immigration Law Enforcement:** This legislation requires the Secretary of the Homeland Security to enforce United States' immigration laws statutorily defined to include all laws, conventions, and treaties of the U.S. relating to the immigration, exclusion, deportation, expulsion, or removal of aliens. It also requires that the Secretary of Homeland Security prioritize the identification and removal of aliens convicted of a crime by the severity of the crime as well as prevents the granting of an immigration benefit unless a background check is passed. Homeland Security Secretary Janet Napolitano is a named party in a [lawsuit](#) alleging that a Homeland Security directive placed Immigrations and Customs Enforcement (ICE) agents in a position to violate federal laws. Members of Congress have written [letters](#) to Secretary Napolitano's question her agency's fidelity to enforcing the rule of law.
- **Importation:** The legislation continues a provision permitting importation of up to a 90-day personal use supply of FDA compliant prescription drugs from Canada.
- **Intelligence Authorities:** The legislation authorizes intelligence activities under section 504 of the National Security Act of 1947 (50 U.S.C. 414) for FY2014 until enactment of a separate Act authorizing intelligence activities for FY2014.
- **International Conferences:** This legislation prevents funding for travel expenses for any single international conference for more than 50 employees of a single component of the Department of Homeland Security unless the Secretary of Homeland Security determines such attendance is in the national interest. Also, the bill requires quarterly reporting requirements by the Secretary of Homeland Security to the Homeland Security Inspector General relating to the costs and contracting procedures for conferences or ceremonies that cost more than \$20,000.
- **National ID Card:** The legislation continues a prohibition on any funding to be used for planning, testing, piloting, or developing a national identification card.
- **Pornography Tipline:** The legislation funds \$305,000 for the promotion of public awareness of the child pornography tipline and activities to counter child exploitation.
- **Public Advocate:** This legislation continues the prohibition of funding for the position of [Public Advocate](#), or a successor position, within the U.S. Immigration and Customs Enforcement. The Obama Administration created the [ICE Public Advocate](#) position in February 2012 to respond to criticism that the agency was too unresponsive to the needs of individuals ICE investigated or detained. The President of the National ICE Council called the Public Advocate office "nothing but waste, fraud, and abuse."
- **Rescissions:** The legislation rescinds approximately \$110 million from unobligated funds from prior appropriations Acts from the Coast Guard Acquisition, Construction, and Improvements accounts. Also, it rescinds \$100 million from the unobligated balances in the Department of the Treasury Forfeiture Fund.
- **Secret Service Offices:** The legislation prohibits funding for opening a new permanent domestic or overseas office or location unless the Appropriations Committees are notified 15 days in advance of such obligation.
- **Spending Accountability:** This legislation continues a prohibition against any appropriated amount in the bill being made available for obligation after FY2014 unless otherwise expressly specified. It also continues a prohibition against the use of unused funds from prior appropriations or from this act from being used to fund the creation of a new program, eliminate a program, plus-up unauthorized programs, or for purposes other than directed by the Senate or House unless the House and Senate Appropriations

Committees are notified 15 days in advance of the reprogramming. Three days advance notice by the Department of Homeland Security to Congress is required for contracts over \$1 million (\$25 million for multi-year funds).

- **Transportation Security Administration:** The legislation requires all unused, recovered and unobligated funds from the FY2004/2005 relating to transportation security to be used to purchase or install cargo, baggage or checkpoint screening systems or explosives detection systems.
- **Unpaid Tax Liability:** The legislation prevents funding to any corporation that has any unpaid, assessed federal tax liability for which all judicial and administrative remedies have been exhausted.
- **Visa Security Program:** This legislation funds the Visa Security Program at \$31.5 million. The [Visa Security Program](#) serves to prevent criminals, terrorists and others from exploiting the legal visa process to enter the United States. Security measures range from screening names against lists of known terrorist or criminal suspects to the deployment of special agents to identify potential terrorist or criminal suspects and stop them before they reach the United States.

**Administration Position:** The White House has issued a conditional [veto threat](#).

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