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## THE INCREDIBLE GROWTH OF THE REGULATORS' BUDGET

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## Introduction

Like previous years, the budget requested by the president in his FY 2009 Budget of the United States to run federal regulatory agencies and its staff increased significantly. Tracking the expenditures of federal regulatory agencies and the trends in regulatory spending over time helps analysts monitor one aspect of the cost of regulations: the direct cost to regulate the economy and taxpayers' lives. We know that if the Regulators' Budget increases, it means that the direct cost of running regulatory agencies increases, and when it goes down, the cost is reduced.

However, it does not say anything about these agencies' output. For instance, an increase in the Regulators' Budget could be the sign of an increase in regulatory activities followed by an increase in the amount of regulations issued. In theory, it could also be the result of an effort to apply better oversight to the regulatory process, more science that supports the regulations, more enforcement of existing regulations, or an increase in any number of activities that these agencies undertake.

As we know, regulations impose social costs on individuals and businesses beyond the direct tax dollars expended to write and enforce them. First, there is a cost that American businesses, stockholders, and consumers must pay for compliance. Then, regulations by their nature alter choices made by individuals and firms, which imposes opportunity costs on those entities. Both are considerably larger than the costs presented here. However, these compliance costs will not be discussed in this work.

## Overview of the 2009 Regulators' Budget

The numbers discussed in this paper are based on the spending and staffing of sixty-nine departments and agencies. Federal regulatory activities are divided into two main categories.<sup>1</sup> The first category, social regulation, includes regulatory activities that address issues related to health, safety, and the environment, such as the Environmental Protection Agency, the Occupational Safety and Health Administration, the Food and Drug Administration, and the Transportation Security Administration. Their activities are

generally limited to a specific issue, but they have the power to regulate across industry boundaries. This report further divides the social regulation category into six subcategories: (1) consumer safety and health, (2) homeland security, (3) transportation, (4) workplace, (5) environment, and (6) energy.

Economic regulatory agencies oversee a broad base of activities, in particular industries using economic controls such as price ceilings or floors, quantity restrictions, and service parameters. The Securities and Exchange Commission, the Federal Communications Commission, and the Federal Energy Regulatory Commission, for example, administer economic regulations. The economic regulation category is divided into three subcategories: (1) finance and banking, (2) industry-specific regulation, and (3) general business. Note that the industry-specific regulation category includes economic regulation of the transportation and energy industries.

### **Spending**

Table 1 summarizes spending for regulatory activities by category and subcategory for decennial years from 1960 to 2000, as well as annually from 2007 through 2009. The 2009 budget request calls for expenditures on regulatory activities of \$51.1 billion in FY 2009, a 4.6 percent increase (in real, inflation-adjusted terms) from FY 2008. With the exception of 2008, this rate represents slightly higher growth than any of the last five years' growth rates.

About 85 percent of the Regulators' Budget is devoted to social regulations. The FY 2009 budget request for administering and enforcing social regulation is \$43.5 billion, a nominal increase of 6.3 percent from the 2008 social regulation budget of \$40.9 billion. This is a 4.5 percent increase in real terms after a 9.4 percent real increase between fiscal years 2007 and 2008. Budget outlays for social regulation activities in 2007 were \$36.9 billion.

Both budget requests for the transportation and environment categories reflect a real decrease in outlays over 2008. This year, again, the homeland security category receives the largest dollar increase among the social regulation subcategories. However, the energy category receives the highest real percentage increase among the social regulation subcategories.

The budgets of agencies in the economic regulation category are smaller than their counterparts involved in social regulatory activity, but each category is budgeted to receive a real increase over 2008. Overall, the 2009 budget request for economic regulatory agencies is \$491 million (or 6.9 percent) higher than estimated for 2008.

**Table 1**  
**Spending Summary for the Federal Regulatory Agencies, Selected Years**  
(Fiscal Years, Millions of Dollars in “Outlays”)

	1960	1970	1980	1990	2000	2007	(Estimated)* 2008	2009	% Change	
									2007-2008	2008-2009
<b>Current (Nominal) Dollars</b>										
<b>Social Regulation</b>										
Consumer Safety and Health	\$102	\$222	\$1,252	\$1,836	\$3,633	\$5,830	\$6,386	\$6,569	9.5%	2.9%
Homeland Security	145	335	1,589	3,359	7,874	19,175	21,964	24,129	14.5%	9.9%
Transportation	42	177	550	810	1,476	2,437	2,898	2,864	18.9%	-1.2%
Workplace	36	115	748	1,012	1,421	1,772	1,867	1,948	5.3%	4.4%
Environment	17	183	1,482	3,675	6,060	6,718	6,868	6,962	2.2%	1.4%
Energy	12	65	437	443	607	869	930	1,027	7.0%	10.5%
<b>Total Social Regulation</b>	<b>\$354</b>	<b>\$1,097</b>	<b>\$6,058</b>	<b>\$11,135</b>	<b>\$21,071</b>	<b>\$36,802</b>	<b>\$40,913</b>	<b>\$43,499</b>	<b>11.2%</b>	<b>6.3%</b>
<b>Economic Regulation</b>										
Finance and Banking	\$40	\$98	\$392	\$1,304	\$1,965	\$2,391	\$2,700	\$2,804	12.9%	3.9%
Industry-Specific Regulation	91	276	486	513	744	1,024	1,143	1,206	11.7%	5.5%
General Business	48	113	357	727	1,674	3,306	3,281	3,605	-0.8%	9.9%
<b>Total Economic Regulation</b>	<b>\$179</b>	<b>\$487</b>	<b>\$1,235</b>	<b>\$2,544</b>	<b>\$4,383</b>	<b>\$6,721</b>	<b>\$7,124</b>	<b>\$7,615</b>	<b>6.0%</b>	<b>6.9%</b>
<b>GRAND TOTAL</b>	<b>\$533</b>	<b>\$1,584</b>	<b>\$7,293</b>	<b>\$13,679</b>	<b>\$25,454</b>	<b>\$43,523</b>	<b>\$48,037</b>	<b>\$51,114</b>	<b>10.4%</b>	<b>6.4%</b>
<i>Annualized Percentage Change</i>		11.5%	16.5%	10.2%	7.2%	4.1%	10.4%	6.4%		
<b>Constant (Real) 2000 Dollars</b>										
<b>Social Regulation</b>										
Consumer Safety and Health	\$485	\$806	\$2,316	\$2,250	\$3,633	\$5,035	\$5,427	\$5,489	7.8%	1.1%
Homeland Security	689	1,218	2,938	4,116	7,874	16,562	18,664	20,161	12.7%	8.0%
Transportation	200	643	1,017	992	1,476	2,105	2,463	2,393	17.0%	-2.8%
Workplace	171	418	1,384	1,240	1,421	1,531	1,586	1,628	3.6%	2.6%
Environment	81	665	2,741	4,503	6,060	5,803	5,836	5,817	0.6%	-0.3%
Energy	57	236	808	543	607	751	790	858	5.2%	8.6%
<b>Total Social Regulation</b>	<b>\$1,682</b>	<b>\$3,985</b>	<b>\$11,205</b>	<b>\$13,644</b>	<b>\$21,071</b>	<b>\$31,787</b>	<b>\$34,766</b>	<b>\$36,347</b>	<b>9.4%</b>	<b>4.5%</b>
<b>Economic Regulation</b>										
Finance and Banking	\$190	\$356	\$725	\$1,598	\$1,965	\$2,065	\$2,294	\$2,343	11.1%	2.1%
Industry-Specific Regulation	432	1,002	899	629	744	884	972	1,008	9.9%	3.7%
General Business	228	410	660	891	1,674	2,855	2,788	3,012	-2.4%	8.1%
<b>Total Economic Regulation</b>	<b>\$851</b>	<b>\$1,768</b>	<b>\$2,284</b>	<b>\$3,117</b>	<b>\$4,383</b>	<b>\$5,805</b>	<b>\$6,054</b>	<b>\$6,363</b>	<b>4.3%</b>	<b>5.1%</b>
<b>GRAND TOTAL</b>	<b>\$2,533</b>	<b>\$5,753</b>	<b>\$13,489</b>	<b>\$16,761</b>	<b>\$25,454</b>	<b>\$37,591</b>	<b>\$40,820</b>	<b>\$42,709</b>	<b>8.6%</b>	<b>4.6%</b>
<i>Annualized Percentage Change</i>		8.6%	9.1%	2.3%	4.3%	4.8%	8.6%	4.6%		

Note: Numbers may not add to totals due to rounding.

Source: Weidenbaum Center, Washington University and Mercatus Center, George Mason University. Author's calculations derived from Appendices to the Budget of the United States and related documents, various fiscal years.

## Staffing

Staffing at federal regulatory agencies is budgeted to increase 3.3 percent in 2009 to 263,989 full-time equivalent employees. This is an increase of 8,359 employees over the 2008 level of 255,630. Table 2 summarizes the staffing at federal regulatory agencies between 1960 and 2009.

The requested level of staffing for regulatory activities in FY 2009 reflects a 50.3 percent increase over staffing levels in 2000, largely due to the Transportation Security Administration's employment of over 57,000 airport screening agents in 2003 (currently

down to 43,000 agents).<sup>1</sup> In addition, the budget for the Transportation Security Administration’s regulatory activities will be increased by 33 percent this year.

**Table 2**  
**Staffing Summary for the Federal Regulatory Agencies, Selected Years**  
(Fiscal Years, Full-time Equivalent Employment)

	1960	1970	1980	1990	2000	2007	(Estimated) 2008	2009	% Change	
									2007-2008	2008-2009
<b>Social Regulation</b>										
Consumer Safety and Health	11,961	14,734	33,201	28,730	31,749	34,389	35,454	36,166	3.1%	2.0%
Homeland Security	17,514	22,496	35,333	44,158	60,414	121,295	133,568	139,487	10.1%	4.4%
Transportation	3,928	7,788	8,401	7,547	9,041	8,363	9,001	9,203	7.6%	2.2%
Workplace	4,151	7,571	17,894	13,610	12,141	10,902	11,321	11,801	3.8%	4.2%
Environment	1,230	4,876	16,993	22,121	26,784	26,396	26,654	26,297	1.0%	-1.3%
Energy	35	220	3,225	3,293	2,923	3,550	3,831	3,937	7.9%	2.8%
<b>Total Social Regulation</b>	<b>38,819</b>	<b>57,685</b>	<b>115,047</b>	<b>119,459</b>	<b>143,052</b>	<b>204,895</b>	<b>219,829</b>	<b>226,891</b>	<b>7.3%</b>	<b>3.2%</b>
<b>Economic Regulation</b>										
Finance and Banking	2,509	5,618	9,524	15,308	13,310	11,637	12,113	12,190	4.1%	0.6%
Industry-Specific Regulation	10,300	19,791	12,326	8,234	6,723	6,369	6,695	6,764	5.1%	1.0%
General Business	5,481	7,181	9,242	9,613	12,515	15,450	16,993	18,144	10.0%	6.8%
<b>Total Economic Regulation</b>	<b>18,290</b>	<b>32,590</b>	<b>31,092</b>	<b>33,155</b>	<b>32,548</b>	<b>33,457</b>	<b>35,801</b>	<b>37,098</b>	<b>7.0%</b>	<b>3.6%</b>
<b>GRAND TOTAL</b>	<b>57,109</b>	<b>90,275</b>	<b>146,139</b>	<b>152,614</b>	<b>175,600</b>	<b>238,351</b>	<b>255,630</b>	<b>263,989</b>	<b>7.2%</b>	<b>3.3%</b>
<i>Annualized Percentage Change</i>		4.7%	5.1%	0.5%	1.5%	1.6%	7.2%	3.3%		

Source: Weidenbaum Center, Washington University and Mercatus Center, George Mason University. Author’s calculations derived from Appendices to the Budget of the United States and related documents, various fiscal years.

## Putting the Numbers in Perspective

Overall spending growth has accelerated since President Bush took office. In his initial budget blueprint presented in 2001, President Bush noted: “For too long, politics in Washington has been divided between those who wanted Big Government without regard to cost and those who wanted Small Government without regard to need.”<sup>2</sup> Unfortunately, after two full terms in office, President Bush has shown a preference for Big Government without regard to cost.

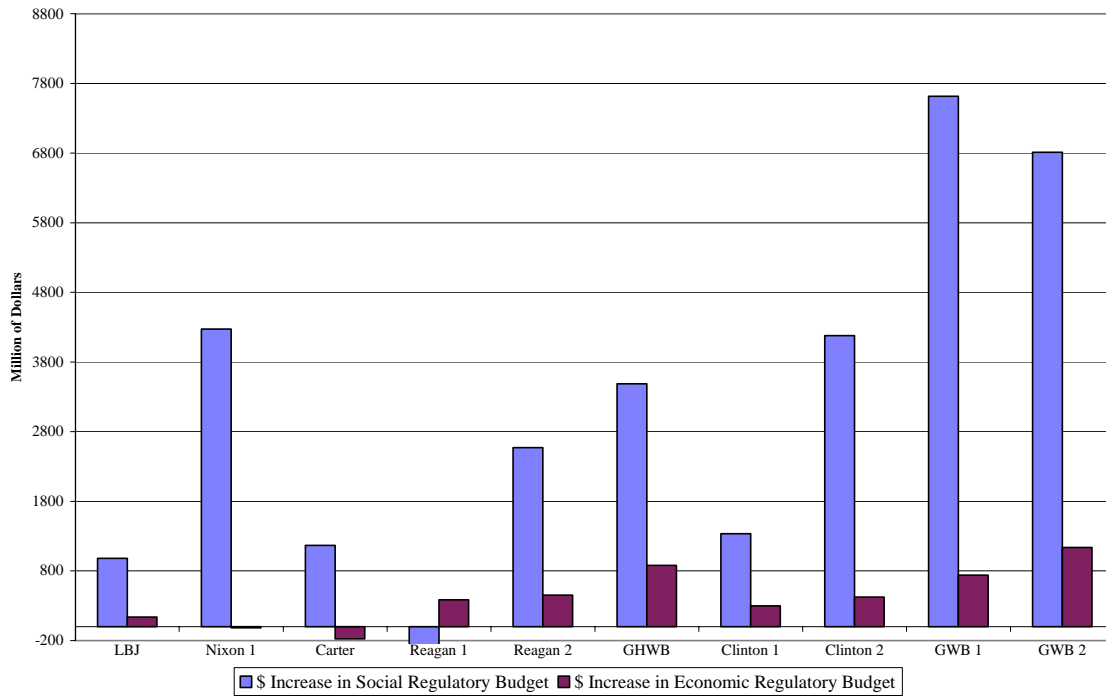
Between FY 2001 and FY 2009, total outlays are expected to increase by \$1.3 trillion to an estimated \$3.1 trillion—a 65 percent increase.<sup>3</sup> That increase in outlays, along with reduced economic growth, has resulted in huge and continuing deficits.

<sup>1</sup> See Transportation Security Administration, *Focus on People*, <http://www.tsa.gov/approach/people/index.shtm#3> (accessed May 9, 2008).

<sup>2</sup> George W. Bush, “President’s Message,” in *A Blueprint for New Beginnings: A Responsible Budget for America’s Priorities* (Washington, DC: Government Printing Office, February 28, 2001), 5, <http://www.gpoaccess.gov/usbudget/fy02/pdf/blueprnt.pdf>.

<sup>3</sup> *The Budget of the United States Government, Fiscal Year 2009* (Washington, DC: Government Printing

Figure 3  
**Social and Economic Regulatory Budget Dollar  
 Increase per Presidential Term (1960 -2009): Constant Dollars**



Source: Authors' calculation based on Table A-5: "Total Spending on Federal Regulatory Activity 1960-2009: Constant Dollars", p. 30 of this report.

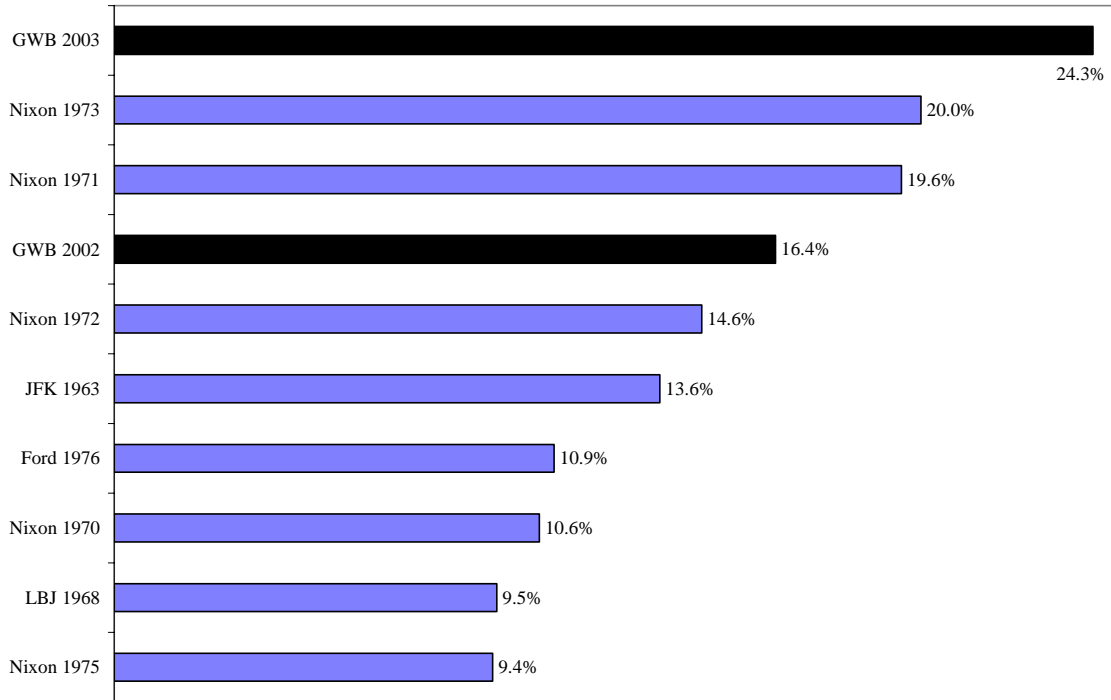
We observe a similar trend in the regulatory portion of the budget. Figure 3 shows the real dollar increase in social and economic regulatory spending by presidential term between 1960 and 2009. Only full-term presidents are represented in this chart. During both his terms, President Bush outspent his predecessors on social and economic regulatory agencies. During his first term, he increased spending on social regulatory agencies by \$7.6 billion, almost doubling what President Clinton spent on these agencies during his second term. With a decrease of \$535 million, only President Reagan, during his first term, reduced spending on social regulatory activities.

Spending on economic regulatory activities is historically smaller than on social regulatory ones. However, here too, President Bush outspent his predecessors during his second term with a \$1.1 billion real spending increase. His father gets the second highest dollar increase with an \$880 million real increase.

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Office, February 2008). The FY 2008 and FY 2009 figures in this paper are estimates.

Figure 4  
**Ten Largest Annual Percentage Increases in  
 Total Regulatory Budget in the Last Fifty Years**



Source: Authors' calculation based on Table A-5: "Total Spending on Federal Regulatory Activity 1960-2009: Constant Dollars", p. 30 of this report.

Also, after eight years in office, President Bush is heading to the record books as one of the biggest-spending presidents. Figure 4 shows the ten largest annual percentage increases in total real regulatory outlays in the last sixty years. The Bush administration's 2002 and 2003 real regulatory spending increases made the top five (with 16.4 percent in 2002 and 24.3 in 2003), with his 2003 budget leading the pack. By comparison, the average real increase in the past sixty years is 6 percent. President Nixon holds the record for having all but one of his budgets make the list. Figure 4 shows that eight out of the ten of the largest regulatory budget increases happened under Republican administrations. During that period there were five democratic presidential terms and seven Republican ones.

**Table 3**  
**Percentage Increase in Social, Economic and**  
**Total Regulatory Budget by Presidential Term**

President's term	% Increase in Social Regulation Spending	% Increase in Economic Regulation Spending	% Increase in Total Regulatory Spending
President Reagan (First Term)	-5%	19%	-1%
President Clinton (First Term)	8%	8%	8%
President Carter	12%	-8%	8%
President Clinton (Second Term)	24%	10%	21%
George W. Bush (Second Term)	23%	22%	23%
President Reagan (Second Term)	25%	19%	24%
Lindon B. Johnson	37%	10%	27%
President George H. Bush	27%	31%	28%
President George W. Bush (Second Term)	35%	16%	32%
President Nixon (First Term)	117%	-1%	82%

Source: Authors' calculation based on Table A-5: "Total Spending on Federal Regulatory Activity 1960-2009: Constant Dollars", p. 30 of this report.

Table 3 shows the percentage increase in spending (adjusted for inflation) on social, economic, and total regulatory agencies. The numbers are organized to show the smallest total percentage increase at the top and the largest one at the bottom. As we can see, President Reagan decreased total spending on regulatory agencies by 1 percent during his first term, while President Nixon is responsible for the biggest percentage increase during his first term with an almost 82 percent increase.

Finally, a look at the agency budget per employee highlights striking data. Figure 5 shows the budget for each regulatory agency per full-time employee as reported by the Office at Management and Budget (OMB). As we can see, according to this data the Department of Housing and Urban Development (HUD) has a budget per employee of almost \$1 million—\$967,000. The three regulatory subcategories in HUD are consumer protection programs, the Office of Lead Hazard Control and Healthy Homes, and the Office of Federal Enterprise Oversight. Based on our calculation, the total regulatory budget for these three subcategories in HUD is \$249 million. The Office of Management and Budget does not report any employees for the first two subcategories and reports 257 employees for the Office of Federal Enterprise Oversight, hence the \$1 million per employee.<sup>4</sup>

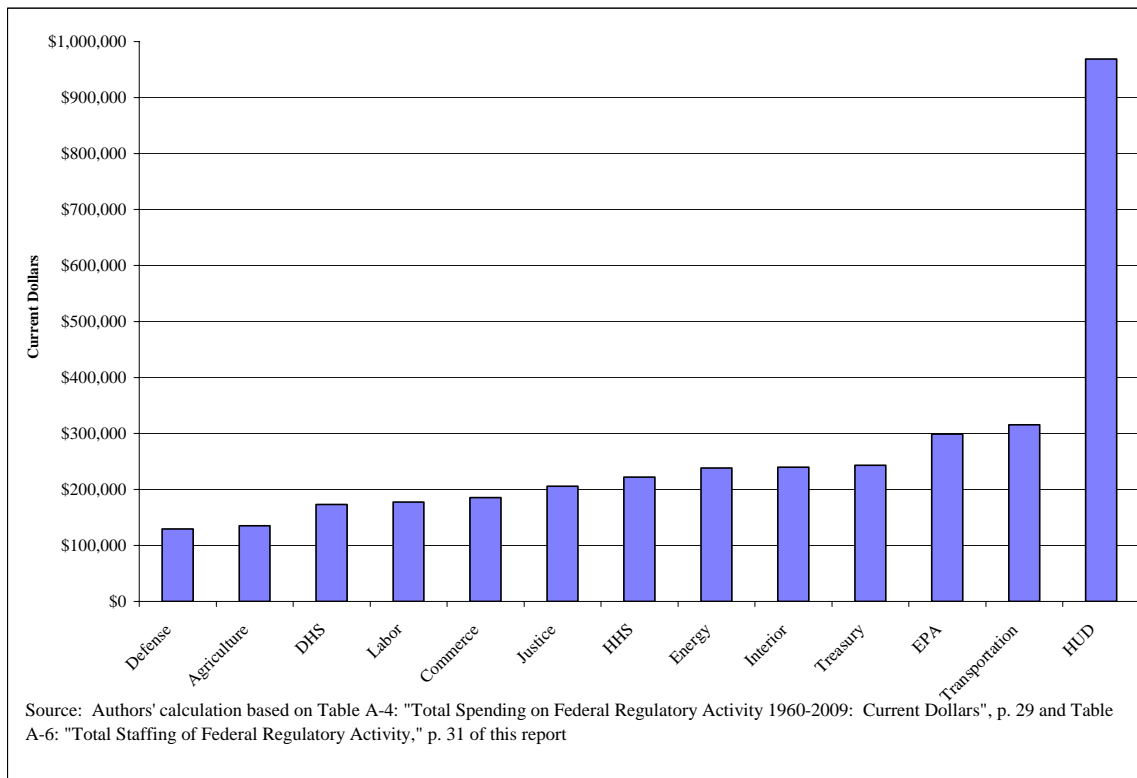
<sup>4</sup> Appendix: Department of Housing and Urban Development in *The Budget of the United States Government, Fiscal Year 2009* (Washington, DC: Government Printing Office, February 2008), 590, <http://www.gpoaccess.gov/usbudget/fy09/pdf/appendix/hud.pdf>.



Obviously, there is a problem with the data for HUD. This number is unrealistic. That being said, it means that there is a serious problem in the way OMB reports the data for this particular agency. What's more, this problem has been going on for many years now. This is problematic as this data should at the very least be roughly accurate—and it is not.

Of course, even with accurate data, this budget has to be taken with a grain of salt. Some agencies have a larger per capita overhead rate because their employees are lab scientists who need materials, but others have large overhead costs because they have oversized conference and travel budgets, waste money, and are vulnerable to fraud and abuses. Many factors can go into this number. However, it remains interesting data.

Figure 5  
**Cost per Employee for Each Regulatory Agency: Current Dollars**



Leaving aside the HUD number, we see that the cost per full-time employee in all other agencies is significantly lower. The second highest is in the Department of Transportation, with a budget of \$315,000 per full-time employee. The third is in the Department of the Treasury with a budget of \$298,000 per employee. It is interesting to notice that the Department of Defense has nearly a third the cost per employee than the DOT and EPA.

## Conclusion

Regulatory expenditures and staffing are significantly larger in 2009 than they were in 2000. Driven largely by homeland security activities, staffing levels requested in 2009 are 50.3 percent larger than they were in 2000. The new budget calls for expenditures that are 67.8 percent higher than in 2000—an increase in real spending on regulatory activities of \$17.2 billion between 2000 and 2009. This level of spending on regulatory agencies is the highest in real dollars in the last fifty years.

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The expenditure data in this report are based on outlays reported in the *Budget of the U.S. Government*. In addition, personnel data in terms of full-time equivalent (FTE) employees are reported. Note that figures for 2008 and 2009 are estimates. The 2008 figures generally reflect the budget Congress appropriated for the current year, while the 2009 figures reflect the outlays and personnel embodied in the president's budget request to Congress for each program area.