



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

June 28, 2012
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 5856 – Department of Defense Appropriations Act, 2013

(Rep. Rogers, R-KY)

The Administration strongly opposes House passage of H.R. 5856, making appropriations for the Department of Defense for the fiscal year (FY) ending September 30, 2013, and for other purposes.

Last summer, the Congress and the President came to a bipartisan agreement to put the Nation on a sustainable fiscal course in enacting the Budget Control Act of 2011 (BCA). The BCA created a framework for more than \$2 trillion in deficit reduction and provided tight spending caps that would bring discretionary spending to a minimum level needed to preserve critical national priorities. Consistent with last summer's budget agreement, the FY 2013 Budget request provides the resources that the Department of Defense (DOD) needs to effectively meet the Nation's security requirements. By adding unrequested funding for defense, the House of Representatives departs from the bipartisan understanding reached a year ago. Upending the balance in the BCA has negative consequences that will, for example, cost jobs and hurt average Americans, especially seniors, veterans, and children – as well as degrade many of the basic Government services on which the American people rely such as air traffic control and law enforcement. In addition, these cuts were made in the context of a budget that fails the test of balance, fairness, and shared responsibility by giving millionaires and billionaires a tax cut and paying for it through deep cuts, including to discretionary programs.

Taking this into account, passing H.R. 5856 at its current funding level would mean that when the Congress constructs other appropriations bills, it would necessitate significant and harmful cuts to critical national priorities such as education, research and development, job training, and health care. Furthermore, the bill undermines key investments in high-priority programs, impeding the ability of the Secretary of Defense to carry out the defense strategic guidance issued earlier this year, and hindering the ability of the Armed Forces to carry out their missions consistent with the new strategy. The Administration also strongly objects to the inclusion of ideological and political provisions that are beyond the scope of funding legislation.

If the President were presented with H.R. 5856, his senior advisors would recommend that he veto the bill.

The Administration would like to take this opportunity to share additional views regarding the Committee's version of the bill.

Administration Priorities. The Administration appreciates the Committee's support for certain priorities, including: funding for Overseas Contingency Operations; the requested pay raise for military personnel; DOD's program of basic research; the Defense Advanced Research Projects

Agency; and air and missile defense programs, including support for the Government of Israel to purchase additional Iron Dome missile systems.

Limitations on Retirement of Aircraft. The Administration strongly objects to sections 8116 through 8118 of the bill that would restrict the Air Force and Army from divesting, transferring or retiring unneeded aircraft, including C-27Js, C-23s, and RQ-4 Global Hawk Block 30 Unmanned Aerial Vehicles (UAVs). These provisions would force DOD to operate, sustain, and maintain aircraft that are in excess to national security requirements, as defined by the new defense strategy, and are not affordable in an austere budget environment. They also would impair the ability of the Secretary to manage the Department and, by retaining large numbers of under-resourced aircraft in the fleet in today's fiscally constrained environment, could contribute to a hollow force.

Unnecessary Funding. The Administration is concerned about the billions of dollars the bill provides for items DOD did not request and does not need, as well as section 8006 of the bill, which makes spending on these unnecessary items statutorily required. This diverts resources from more important defense programs and limits the Secretary's flexibility to manage the Department efficiently.

Incremental Funding. The Administration strongly opposes the use of incremental funding, which undermines program stability and cost discipline. The bill would provide incremental funding for Space-Based Infrared System satellites rather than full funding through advance appropriations, as the Administration requested in the FY 2013 Budget request. In addition, the bill provides less than half of the \$911 million requested to deactivate the USS Enterprise.

Army Depot Maintenance. The Administration strongly objects to the reduction in the Army's depot maintenance program as specified in section 8087 of the bill. The reduction of nearly \$2.5 billion from the FY 2013 Budget request would create long-term delays in modernization and readiness for helicopters, radars, and the Stryker combat vehicle. Additionally, with this funding reduction the Army would not meet core depot logistics requirements for many of its systems. This cut would directly reduce Army readiness.

Medium Extended Air Defense System (MEADS). The Administration strongly objects to the Committee's decision to omit funding for MEADS. If the Congress does not appropriate the funding in the FY 2013 Budget request, there is a high likelihood that this action would be perceived by our partners, Italy and Germany, as breaking our commitment under the Memorandum of Understanding. This could harm our relationship with our Allies on a much broader basis, including future multinational cooperative projects. It also could prevent the completion of the agreed Proof of Concept activities, which would provide data archiving, analysis of testing, and software development necessary to harvest technology from U.S. and partner investments in MEADS.

TRICARE Fees and Co-Payments. The Administration is disappointed that the Congress did not incorporate the requested TRICARE fee initiatives into either the appropriation or authorization legislation. The Administration asks the House to reconsider the TRICARE fee proposals, which are essential for DOD to successfully address rising personnel costs. The \$1.8 billion in savings are part of a carefully balanced FY 2013 Budget request.

Advanced Drop-In Biofuel Production. The Administration objects to the reduction of \$70 million from the FY 2013 Budget request intended to support the development of a domestic capability to

produce cost-competitive advanced drop-in biofuels at a commercial scale, which is important to the country's long-term national security. Developing large-scale capacity to produce biofuels, in collaboration with the Departments of Agriculture and Energy, would help insulate the Nation as a whole, as well as the military, from price shocks arising from supply disruptions and price volatility of petroleum products.

MQ-8 Fire Scout UAV. The Administration opposes the \$66 million reduction from the FY 2013 Budget request for the Fire Scout upgrade, which would enable the Special Forces to track potential targets at greater distances and for longer periods. The proposed reduction would prevent the Navy from fielding a system that meets the needs of the Special Forces in FY 2014.

Afloat Forward Staging Base (AFSB). The Administration opposes elimination of funding for AFSB. The \$38 million requested in the FY 2013 Budget request is needed for advanced procurement of AFSB, which would meet Combatant Commanders' requirements for special operations and mine clearance. Further, AFSB is critical to the health of the shipbuilding industrial base as it is the only auxiliary ship in the Navy's shipbuilding plan until FY 2016.

Countering Weapons of Mass Destruction (CWMD) Systems. The Administration objects to the 56-percent reduction from the FY 2013 Budget request for the CWMD Systems program, which integrates intelligence information about weapons of mass destruction for senior government officials. The Military Departments and Combatant Commands have repeatedly identified data fusion as a critical capability gap. The full \$54 million requested in the FY 2013 Budget request is needed to start fusion center operations by the end of FY 2013. The proposed reduction would cause the Department to assume significant tactical, operational, and strategic risk.

Defense Acquisition Workforce Development Fund (DAWDF). The Administration opposes the reduction of \$224 million from the FY 2013 Budget request for DAWDF. Failure to provide the full request of \$274 million would require DOD to collect from other budget accounts the shortfall between the appropriation and the statutory minimum for DAWDF. The reduction in the appropriation would put unnecessary stress on the Operation and Maintenance budget at a time when funding levels are already constrained.

General Transfer Authority. The Administration opposes the reduction of general transfer authority provided in section 8005 of the bill. The \$3 billion limit provided by the Committee significantly restricts DOD's ability to accommodate changing circumstances and to respond to urgent requirements in support of deployed forces, such as for force protection, in a timely manner. DOD needs sufficient transfer authority in order to match individual accounts to programmatic needs.

Intelligence Community Management Account. The Administration opposes the exclusion of section 8045 proposed in the FY 2013 Budget request, which provides critical language to authorize the Program Manager for the Information Sharing Environment (PM-ISE) to transfer funds to other Federal departments and agencies. Without transfer authority, PM-ISE would lose its ability to leverage agency efforts and work effectively with non-Federal partners to improve the performance of the information sharing environment in support of national security.

Classified Programs. The Administration understands that there could be problematic funding adjustments contained in the Classified Annex to the bill and looks forward to providing its views on

this annex once it becomes available.

Civilian Pay Freeze. The Administration objects to section 8119 of the bill, which does not fund the 0.5 percent civilian pay raise for calendar year 2013 proposed in the FY 2013 Budget request. As the President stated in his FY 2013 Budget, a permanent pay freeze is neither sustainable nor desirable.

Riders

The Administration strongly opposes problematic policy and language riders that have no place in funding legislation, including, but not limited to, the following provisions in this bill:

Limitation on Reimbursement of the Government of Pakistan. Section 9015 would require the Secretary of Defense to certify Pakistan's cooperation on issues outside of his purview and would severely constrict DOD's ability to respond to emergent war-time coalition support requirements, negatively affecting our campaign in Afghanistan.

Veterans Memorial Object Transfer. Section 8120 would prohibit the transfer of a veterans memorial object to a foreign country or an entity controlled by a foreign government without specific authorization in law. This provision would restrict the President's ability to take actions to demonstrate goodwill toward foreign allies and partners by lending or giving historical artifacts in instances where doing so would serve the national security interests of the United States.

Detainee Matters. The Administration strongly objects to and has constitutional concerns about the provisions of sections 8108 and 8109 that limit the use of funds to transfer detainees and otherwise restrict detainee transfers. Section 8108 undermines national security and this unnecessarily constrains the Nation's counterterrorism efforts, particularly where Federal courts are the best – or even the only – option for incapacitating dangerous terrorists. For decades, presidents of both political parties have leveraged the flexibility and strength of this country's Federal courts to incapacitate dangerous terrorists and gather critical intelligence. The continued prosecution of terrorists in Federal court is an essential element of counterterrorism efforts – a powerful tool that must remain an available option. Additionally, the restrictions in section 8109 on the transfer of detainees to the United States and to the custody or effective control of foreign countries or entities in the context of an ongoing armed conflict may interfere with the Executive Branch's ability to determine the appropriate disposition of detainees and to make important foreign policy and national security determinations regarding whether and under what circumstances such transfers should occur. The restrictions or interferences in both these sections would, in certain circumstances, violate constitutional separation of powers principles.

In addition, the Administration strongly opposes section 8110 which would prohibit the use of funds to construct, acquire or modify a detention facility in the United States. This would constrain the flexibility that the Nation's Armed Forces and counterterrorism professionals need to deal with evolving threats, intruding upon the Executive Branch's ability to carry out its mission.

The Administration looks forward to working with the Congress as the FY 2013 appropriations process moves forward.

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