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. 6020 – Financial Services and General Government Appropriations Act, 2013
(Rep. Rogers, R-KY)

The Administration strongly opposes House passage of H.R. 6020, making appropriations for financial services and general government 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. Departing from the bipartisan agreement reached in the BCA and departing from these caps, the House of Representatives put forward a topline discretionary funding level for FY 2013 that, for example, would 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.

In addition to the concern outlined above, the Administration strongly opposes the bill as reported by the Committee. The bill severely undermines key investments in financial oversight and implementation of Wall Street reform to protect American consumers, as well as needed tax enforcement and taxpayer services. It also hampers effective implementation of the Affordable Care Act (ACA). Investing in these areas is critical to the Nation's economic growth, security, and global competitiveness. 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. 6020, 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.

Department of the Treasury

Internal Revenue Service (IRS). The Administration strongly opposes the bill's reduction in funding from the FY 2013 Budget request for the IRS. Freezing funding at FY 2012 levels would continue to erode IRS program performance, significantly reduce revenue, and impair taxpayers' ability to access

IRS services. The Administration also urges the Congress to adopt the FY 2013 Budget's program integrity cap adjustment proposal, to provide additional funding to support high-return activities critical to the Nation's fiscal stability, yielding revenue that is many times larger than the investment.

Community Development Financial Institutions (CDFI) – Healthy Food Financing Initiative (HFFI) and Bond Guarantee Program. The Administration strongly urges the House to support key CDFI priorities such as HFFI, which is designed to increase the availability of affordable, healthy food outlets in underserved urban and rural communities, and the authorized Bond Guarantee Program, which would expand economic development and opportunity in low-income and disadvantaged areas.

Fiscal Service. The Administration urges the House to provide a single appropriation for Fiscal Service rather than the Committee's proposal to provide separate funding for the Bureau of the Public Debt and the Financial Management Service. A single account would enhance the organizational consolidation that is currently underway to streamline Federal financial management processes while improving efficiency and performance.

<u>Other Defense Civil Programs</u>

Selective Service System. The Administration objects to the 50-percent reduction from the FY 2013 Budget request for the Selective Service System. This reduction would make it difficult to maintain a viable registration system, which has both military and symbolic significance, and would require a Reduction-In-Force (RIF).

<u>Executive Office of the President (EOP)</u>

EOP Funding. The $23 million reduction from the FY 2013 Budget request in the bill would significantly impact the EOP's responsibilities to assist the President in carrying out his constitutional duties as head of the Executive Branch, including protecting national security interests, developing policies to address the challenges facing the Nation, and providing effective coordination and oversight of Federal agencies.

Office of Management and Budget (OMB). The Administration strongly objects to the bill's funding level for OMB, which represents a ten-percent reduction from the FY 2012 enacted level and is $11 million reduction below the FY 2013 Budget request. Absorbing reductions of this magnitude would require OMB to eliminate approximately 90 full time equivalents (FTEs) a staffing reduction of over 17 percent. This reduction would severely impact OMB's ability to carry out responsibilities that ensure sound use of taxpayer dollars, reduce low-priority spending to live within our fiscal constraints, and improve Government management.

<u>General Services Administration (GSA)</u>

Federal Buildings Fund. The Administration urges the House to provide the FY 2013 Budget request for the Federal Buildings Fund. By providing $702 million less than the FY 2013 Budget request, the bill fails to fund repair and alteration projects with exigent needs including fire and life safety repairs, and underfunds GSA's minor repair and alterations allocation, which is needed to meet minimal building repair requirements. The Committee's funding level for the Federal Buildings Fund's operating activities jeopardizes GSA's ability to pay private lessors, utilities, and janitorial services.

Small Business Administration

Disaster Loan Program. The Administration urges the House to provide the FY 2013 Budget request of $167 million for the Disaster Loan program's administrative costs through the authorized disaster cap adjustment under the BCA.

Other Independent Agencies

Securities and Exchange Commission (SEC). The Administration strongly opposes total resources included in the bill for SEC, which is $245 million below the FY 2013 Budget request, including a provision preventing obligation of funds from the Commission's non-appropriated Reserve Fund. Taken together with onerous mandated increases in information technology funding in excess of amounts requested, the bill would require SEC to reduce staff policing U.S. securities markets and enforcing Federal securities laws, threatening the stability of our markets and the health of our economy.

Federal Communications Commission (FCC). The Administration appreciates that the bill allows FCC increased access to spectrum auction receipts to conduct auctions, enabling FCC to implement the spectrum auctions recently authorized by the Middle Class Tax Relief and Job Creation Act in a manner that best serves taxpayers. However, the bill also reduces regular appropriated funding for FCC to $323 million. Funding for FCC is budget neutral and without the proper amount of resources the agency would find it increasingly difficult to manage its responsibilities, such as supporting the build-out of public safety communications networks, overseeing mergers and spectrum transactions, and reforming the Universal Service Fund.

Election Assistance Commission (EAC). The Administration urges the House to fund EAC at the requested level of $11.5 million to maintain the Commission's ability to fulfill its statutorily required duties and protect the integrity of elections. The Committee's funding level could require EAC to RIF half of its current employees.

Administrative Conference of the United States (ACUS). The Administration opposes the Committee's decision not to include funding for ACUS, which would deprive taxpayers of the substantial cost savings that result from ACUS's recommendations.

Privacy and Civil Liberties Oversight Board. The Administration opposes the Committee's decision to not include funding for the Privacy and Civil Liberties Oversight Board. Without funding in FY 2013, the Board would be unable to begin operations and execute its statutory responsibilities to assist agencies in ensuring that policies and activities properly protect U.S. citizens' privacy and civil liberties.

District of Columbia. The Administration urges the House to include the provision requested in the FY 2013 Budget that allows the District of Columbia to spend its own local funds collected through local taxes and other non-Federal sources in the event of a lapse in Federal appropriations. As is true for States, vital District operations that rely solely on non-Federal funds should not be disrupted by inaction of the Federal Government.

Civilian Pay Freeze

The Administration objects to the exclusion of a provision providing for a Government-wide civilian pay adjustment for calendar year 2013. As the President stated in his FY 2013 Budget request, a permanent pay freeze is neither sustainable nor desirable. The Administration encourages the Congress to support the proposed 0.5 percent pay raise for civilian employees, while continuing the pay freeze for senior political officials. The Administration also urges the inclusion of a provision relating to pay adjustments for prevailing rate employees.

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:

Consumer Financial Protection Bureau (CFPB) Funding Restrictions. Sections 501 and 502 would terminate Federal Reserve transfers to fund CFPB and subject the agency to the annual appropriations process beginning in FY 2014. The provision would shred the necessary independence of CFPB set in statute, and would increase the likelihood of underfunding CFPB, reducing consumer protection in the financial services marketplace.

Internal Revenue Service Affordable Care Act. Section 106 would impair the IRS' ability to implement the tax laws, specifically those enacted in ACA, by restricting the use of certain funding sources. This restriction would pose unnecessary risks to proper implementation of the Nation's laws.

District of Columbia Needle Exchange Restriction. Section 807 restricts the use of Federal funds for the District's needle exchange programs. This is contrary to current law and the Administration's policy to allow funds to be used in locations where local authorities deem needle exchange programs to be effective and appropriate.

District of Columbia Abortion Restriction. Section 810 prevents the District of Columbia from using its own funds for abortions, which undermines the principle of States' rights and of District home rule. Longstanding Federal policy already prohibits Federal funds from being used for abortions, except in cases of rape or incest, or when the life of the woman would be endangered.

Reporting Requirements Related to Wall Street Reform Implementation. Sections 120, 203, and 503 place additional reporting requirements on the Office of Financial Research, OMB, and CFPB, respectively, that are duplicative of existing reporting requirements and costly to produce.

Abortion Coverage Under Office of Personnel Management (OPM) Programs. Section 613 would expand current prohibitions on funding for abortion services and related administrative expenses by the Federal Employee Health Benefits programs health insurance carriers to all carriers under OPM's purview. Longstanding Federal policy prohibits funds from being used for abortion services, except in cases of rape, incest, or when the life of the woman would be endangered. However, this expansion could implicate the Multi-State plans (MSPs) administered by OPM under ACA, and preclude OPM from spending any funds appropriated by this Act for MSPs that cover abortion services under segregated funding requirements that are structured to ensure no Federal funds are used for abortion except in the cases listed above. This expansion is not necessary to protect Federal funds and restricts private insurance choices.

Sequestration Reporting. Sections 205 and 206 include requirements for OMB to report on the impact of sequestration. The Administration urges the Congress to focus on bipartisan, balanced deficit reduction legislation to avoid sequestration. Should the Congress fail to act, the Administration will be prepared to implement the sequester.

<u>Constitutional Concerns</u>

Multiple provisions of the bill raise constitutional concerns. Section 204 would prohibit the use of funds for officers or employees of the Executive Office of the President "to prepare, sign, or approve statements abrogating legislation passed by the House of Representatives and the Senate and signed by the President." Contrary to the implication of section 204, presidential signing statements do not abrogate legislation. They indicate how the Executive Branch will apply acts of the Congress to ensure faithful execution of the laws. To the extent section 204 purports to prevent the President from making use of his immediate aides in the Executive Office of the President to prepare any statement articulating the conclusion that a particular provision of law is unconstitutional and therefore will not be executed, in whole or in part, this provision would impermissibly encroach upon the President's constitutional authority to execute and interpret Federal laws, including the Constitution. Section 622 would prohibit the use of funds for several positions that involve providing advice directly to the President and any "substantially similar positions." The President has well-established authority to supervise and oversee the Executive Branch, and to obtain advice in furtherance of this supervisory authority. The President also has the prerogative to obtain advice that will assist him in carrying out his constitutional responsibilities, and do so not only from Executive Branch officials and employees outside the White House, but also from advisors within it. Finally, sections 713 and 715 are phrased in a manner that could be construed to require the Executive Branch to disclose, without discretion, certain classified and other privileged information, in which case they would intrude on the President's discharge of his constitutional authorities.

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

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