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

July 14, 2014
(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 5016 — Financial Services and General Government Appropriations Act, 2015
(Rep. Rogers, R-Kentucky)

The Administration strongly opposes House passage of H.R. 5016, making appropriations for financial services and general government for the fiscal year ending September 30, 2015. The bill impedes implementation of the Affordable Care Act, undermines critical components of Wall Street reform, and fails to provide the resources necessary to provide robust taxpayer services and improve tax enforcement. Further, the legislation includes ideological and political provisions that are beyond the scope of funding legislation. If the President were presented with H.R. 5016, his senior advisors would recommend that he veto the bill.

The Administration looks forward to working with the Congress on an orderly appropriations process that supports economic growth, opportunity, and our national security while avoiding unnecessary fiscal crises that hold the Nation's economy back. This process should include reconciling funding levels for individual appropriations bills to promote economic growth and national security, and passing bills without ideological provisions that could undermine an orderly appropriations process.

The President's fiscal year (FY) 2015 Budget provides a roadmap for making investments to accelerate economic growth, expand opportunity for all hard-working Americans, and ensure our national security, while continuing to improve the Nation's long-term fiscal outlook. At the same time, the Budget takes key steps to both continue and enhance the Administration's efforts to deliver a Government that is more effective, efficient, and supportive of economic growth.

The President's Budget adheres to the FY 2015 spending levels agreed to in the Bipartisan Budget Act (BBA) and shows the choices the President would make at those levels. However, the levels agreed to in the BBA are already below FY 2007 funding levels adjusted for inflation and are not sufficient—either in FY 2015 or beyond—to ensure the Nation is achieving its full potential. For that reason, the Budget also includes a fully paid for Opportunity, Growth, and Security Initiative—evenly split between defense and non-defense priorities—that presents additional investments to grow the economy, expand opportunity, and enhance security. The Opportunity, Growth, and Security Initiative would support a number of investments, including additional resources to improve customer service at the Internal Revenue Service and to provide more useful public reporting of Federal spending data.

The Administration would like to take this opportunity to share additional views regarding the Committee's version of the bill and urges the Congress to resolve these issues during the FY 2015 appropriations process.

Department of the Treasury

Internal Revenue Service (IRS). The Administration strongly opposes the $1.5 billion reduction in funding for the IRS compared to the FY 2015 Budget request. Reverting the agency's funding level to FY 2008 levels would hinder IRS efforts to provide robust service to taxpayers, improve enforcement operations, and implement new statutory responsibilities. Further, these reductions would impact efforts aimed at deficit reduction, as funding for IRS enforcement activities returns many times its cost in the form of increased revenue collections. Additionally, the Administration strongly opposes sections of the bill that limit IRS funding and transfers to carry out implementation of the Affordable Care Act (ACA), through which millions of individuals have signed up for coverage through the Health Insurance Marketplaces. The Administration also objects to provisions that unnecessarily encumber IRS operations with reporting requirements and unduly restrict the IRS's ability to finalize regulations.

Community Development Financial Institutions Fund Program (CDFI). The Administration appreciates the support for CDFI, which is funded at $230 million, $5.1 million above the FY 2015 Budget request. However, the Administration is disappointed that within the total, the bill does not provide the $35 million requested for the Healthy Food Financing Initiative, which is designed to increase the availability of affordable, healthy food outlets in underserved urban and rural communities. The Administration is also disappointed that the bill does not provide for the requested continuation of the CDFI Bond Guarantee program beyond FY 2014; the program requires no additional funding and serves as a source of much needed long-term capital in underserved and economically disadvantaged communities.

Departmental Offices and Office of Terrorism and Financial Intelligence. The Administration objects to the $28 million reduction in funding from the FY 2015 Budget request for Departmental Offices Salaries and Expenses. This level would unreasonably impinge on the ability of the Department to carry out its core mission of providing leadership in economic and fiscal policy. It would also fail to sufficiently fund the Department's administration and implementation of the new Gulf Coast Restoration Trust Fund, which could significantly delay grant awards to the five affected States. The Administration also objects to the creation of a new independent account for the Office of Terrorism and Financial Intelligence, which contributes to the reduction in resources available for other management functions.

Office of Financial Research (OFR). The Administration opposes language in the bill that would subject OFR to the annual appropriations process beginning in FY 2016 and could limit the agency's ability to develop critical market analysis if funding shortfalls prevent information technology investments or hiring of highly-skilled staff.

Multilateral Development Bank (MDB) Restrictions. The Administration opposes language in the bill that prohibits the use of funds for the enforcement of any rule, regulation, policy, or guideline related to the Department of the Treasury's Guidance for U.S. Positions on MDBs Engaging with Developing Countries on Coal-Fired Power Generation. This language is counter to Administration efforts to limit support for coal-fired power plants and to reduce carbon emissions.

Executive Office of the President (EOP)

EOP Funding. The Administration strongly opposes the reduction in funding for Salaries and Expenses among the components within the EOP, which is $3 million below the FY 2014 enacted level, and $7 million below the FY 2015 Budget request. The Administration strongly objects to the proposed reduction for the President's Council of Economic Advisers, which would limit CEA's ability to monitor the state of the economy and develop policies that will promote economic growth. The Administration also strongly objects to the absence of any funding for Unanticipated Needs. Without any funding, the President's flexibility to meet unanticipated needs for the furtherance of the national interest, security, or defense is severely hampered.

Office of Management and Budget (OMB). The Administration strongly opposes the funding level in the bill for OMB, which is $4 million below the FY 2015 Budget request, as well as the unnecessary withholding of $52 million of OMB resources until the FY 2016 Budget request is submitted to the Congress. The Administration objects to bill language that would require burdensome OMB cost estimates to accompany the issuance of all Executive orders, as well as language that would require OMB to submit to the Congress a burdensome and duplicative report of limited value estimating the costs of implementing the Dodd-Frank Act.

Prohibition on Paying Salaries and Expenses. The Administration objects to section 621 of the bill would impinge on the President's ability to organize EOP operations by continuing a prohibition on paying salaries and expenses for certain White House staff positions.

General Services Administration (GSA)

Federal Buildings Fund. The Administration strongly opposes the lack of funding for the Federal Buildings Fund, which is $787 million less than the FY 2015 Budget request. At the level provided, the bill fails to sufficiently fund the GSA capital program, eliminating priority new construction and repair and alteration projects. The bill's funding level also fails to sufficiently fund the operating activities and could force the Government to default on its rent obligation to private sector lessors.

Electronic Government (E-Gov) Fund Consolidation. The Administration appreciates the combined level of funding and authorities for GSA's E-Gov Fund and Federal Citizen Services Fund (FCSF). Increased availability of access to the Internet has created opportunities to merge the functions of the FCSF and the E-Gov Fund while improving the ability of the Federal Government to interact with citizens and businesses through improved Digital Services offerings.

Allowances and Office Staff for Former Presidents. The Former Presidents Act of 1958 requires GSA to provide former Presidents with allowances and office staff, in addition to their pension and benefits, to carry out the duties associated with their former office. The bill would fund this activity at $1.7 million, half the requested level of $3.4 million, thereby limiting GSA's ability to fully support the former Presidents in the manner required by law.

Small Business Administration (SBA)

Entrepreneurial Development Programs. While appreciative of the total funding provided for the Entrepreneurial Development Programs in the bill, the Administration opposes the elimination of funding for Regional Innovation Cluster grants and Growth Accelerators, as well as the reduction of funding for Entrepreneurial Education below the level requested in the FY 2015 Budget. These reductions would impede SBA's ongoing efforts to help regions leverage their unique assets to create jobs by turning entrepreneurial ideas into sustainable high-growth small businesses.

Business Loans Program. The Administration appreciates the funding in the bill for SBA's business loan programs at a level that would support over $29 billion in lending to small businesses in FY 2015. The Administration strongly encourages the Congress to also include the requested reauthorization of the 504 Loan Refinancing Program, which would allow thousands of businesses to refinance their debt into lower interest rate loans to open up cash flow for investments and other expenses at no cost to taxpayers.

Disaster Loans Program. The Administration urges the Congress to utilize the disaster relief cap adjustment authorized in the Budget Control Act of 2011 to fund the $155 million request for SBA's administrative costs associated with major disasters. By not utilizing the cap adjustment, the bill makes unnecessary reductions to other programs to accommodate this line of support to small businesses after disaster.

<u>Other Independent Agencies</u>

Securities and Exchange Commission (SEC). The Administration strongly objects to the funding level of $1.4 billion for the SEC, which is $300 million below the FY 2015 Budget request. The bill also prohibits authorized spending from the agency's mandatory Reserve Fund, which would reduce the resources available to the SEC in FY 2015 by an additional $50 million. At this funding level, the SEC would be unable to add critical positions in market oversight, compliance, and enforcement to carry out its financial oversight responsibilities under the Wall Street Reform and Consumer Protection Act and other authorities. The SEC is fee-funded and its funding level has no impact on the deficit.

Consumer Financial Protection Bureau (CFPB). The Administration strongly opposes language in the bill that would subject CFPB funding to the appropriations process beginning in FY 2016. Doing so would weaken the agency's essential independence and undermine its ability to consistently serve the most vulnerable consumer populations. The bill would also impose burdensome and unnecessary reporting requirements regarding the CFPB's funding and operations. The CFPB already routinely testifies before the Congress on its budget and performance, regularly posts financial reports on its website, and is arguably subject to greater oversight than any other Federal financial regulator. The additional reporting requirements this bill would impose on the agency are costly, duplicative, and provide no material benefit.

Election Assistance Commission (EAC). The Administration opposes the elimination of funding for EAC, which assists State and local entities with election administration and certifies voting equipment. The Administration urges the Congress to fund EAC at the $10 million level included in the FY 2015 Budget request; $8.1 million for EAC and $1.9 million for related activities performed by the National Institute of Standards and Technology.

Federal Communications Commission (FCC). The Administration strongly objects to the reduction in funding in the bill for the FCC, which is funded $53 million below the FY 2015

Budget request and $17 million below the FY 2014 enacted level. This funding level would undermine efforts at the FCC to modernize information technology systems, better map and analyze spectrum usage to free up more bandwidth for commercial use, and continue needed reforms to the Universal Service Fund.

United States Postal Service. The Administration is disappointed that language under the Payment to the Postal Service Fund account would prohibit the Postal Service from modifying its delivery schedule to better adapt to its current business environment.

Privacy and Civil Liberties Oversight Board (PCLOB). The Administration appreciates the increase to the PCLOB funding level over the FY 2014 enacted level, but is disappointed that the bill only provides $4.5 million, which is more than 40 percent below the FY 2015 Budget request. At the funding level provided, PCLOB would be unable to hire the staff needed to perform effective and independent oversight of counterterrorism-related programs.

Administrative Conference of the United States (ACUS). The Administration appreciates the Committee's support for ACUS, which would help save taxpayer dollars through ACUS recommendations.

<u>District of Columbia (D.C.)</u>

Local Budget and Local Legislative Autonomy. The Administration urges the Congress to adopt the provisions requested in the FY 2015 Budget that allow D.C. to spend its own local taxes and other non-Federal funds without congressional approval, and that enable local legislation to take effect immediately upon adoption by the District government.

Restrictions on the District's Use of Local Funds. The Administration strongly opposes language in the bill that restricts D.C. from using its local funds for abortion services, undermining 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. Similarly, the Administration strongly opposes the language in the bill preventing the District from using its own local funds to carry out locally-passed marijuana policies, which again undermines the principles of States' rights and of District home rule. Furthermore, the language poses legal challenges to the Metropolitan Police Department's enforcement of all marijuana laws currently in force in the District.

Needle Exchange. The Administration strongly opposes the restriction in the bill on 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 the use of funds in locations where local authorities deem needle exchange programs to be effective and appropriate.

Education. The Administration is disappointed that the bill compromises a statutorily-mandated evaluation of the D.C. Opportunity Scholarship Program (OSP) by requiring that funds be made available to students in the control group of a multi-year, multi-million dollar Department of Education study already underway. This study is critical to evaluating the impact of OSP vouchers on the academic achievement of participating students. The Administration also objects to the bill's reduction of funding for D.C. Tuition Assistance Grants, which would severely limit assistance available to D.C. students attending public colleges across the United States.

Other Provisions

Cuba Restriction. The Administration strongly opposes language in the bill that would prohibit funding for non-academic educational exchanges to Cuba. This language would result in a reduction of people-to-people interactions and as such is counter to the Administration's policy to increase overall travel and the flow of information and resources to private Cubans. This provision is an unwarranted restriction on purposeful travel to Cuba.

Abortion in Multi-State Qualified Health Plans. The Administration objects to language in the bill that would prohibit funding for abortion or administrative expenses in connection with a multi-State qualified health plan. The ACA already includes segregated funding requirements that are structured to ensure no Federal funds are used for abortion except in cases of rape, incest, or life of the woman. The language is unnecessary and goes beyond longstanding policy.

Impediments to Derivatives Market Reforms. The Administration opposes language in the bill that would amend the Wall Street Reform Act to prohibit regulators from implementing key reforms to the derivatives markets designed to prevent excessive risk taking by financial institutions that are backed by Federal programs. It undermines the efforts under the law to strengthen the Nation's financial system by reducing risks for market participants.

Public-Private Competition. The Administration opposes elimination of the moratorium on public-private competition between Government employees and private sector contractors to perform commercial activities that support agency missions. OMB continues to work with agencies on efforts to ensure the most effective mix of Federal employees and contractors and believes more time is needed for its guidance addressing management of the multisector workforce to take effect before the moratorium is lifted. The Administration urges the Congress to continue the moratorium in FY 2015, as proposed in the FY 2015 Budget.

Constitutional Concerns

There are multiple provisions of the bill that raise constitutional concerns.

Section 203 of the bill would prohibit the use of funds for officers or employees of the EOP "to prepare, sign, or approve statements abrogating legislation passed by the House of Representatives and the Senate and signed by the President," and section 204 would prohibit the use of funds for such officers and employees "to prepare or implement an Executive Order that contravenes existing law." Contrary to the implication of section 203, presidential signing statements do not abrogate legislation. They indicate how the Executive Branch would apply acts of the Congress to ensure faithful execution of the laws. Similarly contrary to the implication of section 204, executive orders are designed to implement the law, not to contravene it. To the extent sections 203 and 204 purport to prevent the President from making use of his immediate aides in the EOP to prepare any statement articulating the conclusion that a particular provision of law is unconstitutional and therefore would not be executed, in whole or in part, or from making use of these aides to prepare or implement an executive order instructing others in the Executive Branch as to how to carry out this determination, these provisions would impermissibly encroach upon the President's constitutional authority to execute and interpret Federal laws, including the Constitution.

Section 621 of the bill 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 would assist him in carrying out his constitutional responsibilities, and to do so not only from Executive Branch officials and employees outside the White House, but also from advisors within it. Legislative efforts that significantly impede the President's ability to exercise his supervisory and coordinating authorities or to obtain the views of the appropriate senior advisors violate the separation of powers.

Finally, section 713 of the bill is 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 it would intrude on the President's discharge of his constitutional authorities.

The Administration looks forward to working with the Congress as the FY 2015 appropriations process moves forward.

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