



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

July 11, 2005
(Senate)

STATEMENT OF ADMINISTRATION POLICY

H.R. 2360 – Department of Homeland Security Appropriations Bill, FY 2006

(Sponsors: Cochran (R), Mississippi; Byrd (D), West Virginia)

The Administration applauds the Committee for reporting this bill in a timely manner and looks forward to working with Congress to ensure that the FY 2006 appropriations bills do not exceed the \$843 billion discretionary funding level proposed in the President's FY 2006 Budget and contained in the FY 2006 Congressional Budget Resolution. Sustaining the economy's expansion requires strong Federal spending discipline. The President's Budget includes over 150 savings and reforms and was the first to propose reducing non-security discretionary spending since the Reagan Administration. The Administration urges Congress to shift funding from lower priorities and, as assumed in the Budget Resolution, to hold spending in the non-security discretionary category below last year's level.

Given the need for responsible spending restraint, the Administration urges Congress to fully fund unavoidable obligations, such as the disaster relief account. The Administration appreciates the Committee's support for the Coast Guard Deepwater Program and the department-wide human resources system initiative (MAX HR). The Administration looks forward to working closely with Congress to ensure that the Domestic Nuclear Detection Office (DNDO) and other priorities are adequately funded within the overall total.

Domestic Nuclear Detection Office (DNDO)

The Administration appreciates the Committee's support of funding to address radiological and nuclear threats, but strongly recommends that the funding requested be consolidated within the DNDO, without unnecessary limitations on the availability of funding. This initiative is a top priority of the Administration. Failure to consolidate funds within DNDO will hamper its development, testing, and deployment of new technologies for detecting radiological and nuclear materials in cargo, at our borders, and elsewhere. Making a large portion of DNDO funds contingent upon further congressional review may delay improvements in the Nation's capability to defend against catastrophic threats.

Border and Transportation Security

The Administration strongly supports the Committee's efforts to improve border security and control by providing resources to hire and deploy 1,000 new Border Patrol agents and approximately 600 new immigration enforcement agents and investigators, as well as funding more than 4,000 additional detention beds. These changes will allow for more rigorous efforts at the border, stepped up internal enforcement, and more rapid removal of illegal immigrants from the United States. The President's approach for comprehensive immigration security relies on strengthening security at the borders, building a robust interior enforcement strategy to improve confidence in the Nation's immigration laws, and implementing a Temporary Worker Program

to provide a legal channel for willing employers to hire willing workers.

The Administration is concerned that the Committee did not include the requested increase in aviation-security passenger fees. The Senate is urged to include this provision to ensure that the direct beneficiaries of aviation-security measures bear a greater share of the cost of implementing and maintaining a secure screening system.

The reduction of \$257 million to the request for the Transportation Security Administration (TSA) may require TSA to reduce the screener workforce by approximately 6,000 FTE. The Administration strongly urges the Senate to fully fund screener payroll costs to help maintain a secure air transportation system. The Administration urges the Senate to fully fund the Secure Flight program to improve the security and safety of travelers on domestic flights. Also, the Administration is concerned that the proposed restrictions on the use of commercial databases may foreclose a valuable security tool for identifying potential terrorist threats.

The Administration is concerned that the bill does not include language proposed by the Administration to consolidate DHS screening programs. The Administration believes the Office of Screening Coordination and Operations is important to developing a comprehensive approach to terrorist screening that supports homeland security -- in immigration, law enforcement, intelligence, counterintelligence, and protection of the border, transportation system, and critical infrastructure -- and urges the Senate to include this consolidation.

State and Local Programs

The Administration appreciates the increased flexibility to award State and local grants according to homeland security risks and threats and urges Congress to take further steps to increase the share of State grants that can be targeted to where they are needed most, consistent with the President's request. The Administration is concerned that reductions to several programs such as Targeted Infrastructure Protection grants and Citizen Corps would put at risk key Administration initiatives to protect critical infrastructure and prepare our citizens. The Administration strongly objects to the requirement for an advance review of DHS's grant allocation methodology by the Government Accountability Office.

Emergency Preparedness and Response

The amount provided for disaster relief appropriations is \$140 million below the Administration's request. The requested funding level is based on the five-year average of total disaster costs excluding large, one-time events. Full funding of the disaster relief program is important to ensure that DHS is able to respond appropriately to the Nation's unforeseen emergencies and natural disasters.

Limitations on Secret Service

The President should continue to have the flexibility to direct the Secretary of Homeland Security to provide, whether on a reimbursable or an unreimbursable basis, Secret Service protection to the head of an executive agency when protection of that agency head is important to the functioning of the Federal government, there is a risk to the security of the agency head,

and the agency involved lacks the resources to provide such security. Accordingly, section 517 of the bill should be deleted, or should be amended to provide that nothing in the section applies with respect to the exercise by the President of constitutional authority to protect the functioning of the Government.

Potential Amendments

The Administration supports efforts to allocate a greater share of homeland security grants based on risk and would be opposed to any amendment that would add new bureaucratic requirements and cap funding for high-threat cities while not providing enough flexibility to distribute over 90 percent of grant funds on the basis of risk, as proposed in the President's Budget.

The Administration understands that amendments may be offered that would reduce funding throughout the Department in the form of an across-the-board rescission. The Administration strongly objects to this provision.

Competitive Sourcing

The Administration strongly opposes section 516 of the Senate bill, which imposes a legislative restriction on the use of competitive sourcing for work performed by the Immigration Information Officers at the U.S. Citizenship and Immigration Services (USCIS). Management decisions about public-private competition, and accountability for results, should be vested with the USCIS. Agencies across the Government are using competitive sourcing in a reasoned and responsible manner to reduce costs and improve program performance. On a Government-wide basis, competitions completed in FYs 2003 and 2004 are expected to generate \$2.5 billion in savings over the next three to five years. The Senate is urged to strike this restriction.

Constitutional Concerns

The Administration objects to a number of provisions in the bill that would purport to require Committee approval or review by a legislative agent before Executive Branch execution. These provisions should be deleted or changed to require only notification of Congress, since any other interpretation would contradict the Supreme Court's ruling in *INS v. Chadha*. Such provisions include sections 502, 504, 507, 509, and 514 and language under the headings "Office of the Under Secretary for Border and Transportation Security, United States Visitor and Immigrant Status Indicator Technology," "Customs and Border Protection, Automation Modernization," "Customs and Border Protection, Air and Marine Interdiction, Operations, Maintenance, and Procurement," "Immigration and Customs Enforcement, Automation Modernization," "United States Secret Service, Salaries and Expenses," "Office of State and Local Government Coordination and Preparedness, State and Local Programs," and "Science and Technology, Research, Development, Acquisition, and Operations."

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