



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

June 22, 2004  
(House)

## STATEMENT OF ADMINISTRATION POLICY

### H.R. 4613 – Department of Defense Appropriations Bill, FY 2005

(Sponsors: Young (R), Florida; Obey (D), Wisconsin)

The Administration supports House passage of the FY 2005 Department of Defense Appropriations Bill, as reported by the House Committee, and commends the Committee for its continued support of America's national defense and armed forces. To ensure the Defense Department has the necessary transfer authority in FY 2004 and resources to support operations in Iraq and Afghanistan, the Administration urges the Congress to send the President a bill he can sign before it adjourns for the August work period.

The President supports a discretionary spending total of not more than \$819 billion, in addition to \$2.5 billion in advance appropriations for Project BioShield, consistent with his FY 2005 Budget. The President's Budget responsibly holds the growth in total discretionary spending to less than four percent and the growth in non-security spending to less than one percent, while providing the critical resources needed for our Nation's highest priorities: fighting the War on Terror, strengthening our homeland defenses, and sustaining the momentum of our economic recovery.

Consistent with the need for responsible spending restraint, the Administration urges the Congress to consult with the Administration and make best efforts to fund unavoidable obligations. Emergency funding, including contingent emergencies, would be acceptable only if mutually agreed upon in advance by both the Congress and the Administration.

The Administration is concerned that the bill as currently written would result in a discretionary total well in excess of the \$819 billion discretionary total, as noted below, and looks forward to working with the House to address the following concerns.

#### War-Related Appropriations

The Administration appreciates the Committee's support for an additional \$25 billion to help finance potential operational costs in Iraq and Afghanistan, but is concerned that the bill does not provide the President the flexibility he requested and the Defense Department needs for allocating the funds to the accounts most likely to be under the greatest strain. The Administration appreciates the fact that these funds are made available upon enactment, but encourages the Congress to treat these funds as contingent emergency funds as requested by the President. As currently written, these funds would be added to the Committee's discretionary top line.

Deputy Secretary Armitage testified on May 18, 2004, that the State Department has been working with the Defense Department to project FY 2004 costs and FY 2005 requirements for the U.S. Mission in Iraq. He also testified that the Administration has identified sufficient available funds to cover fourth quarter 2004 costs. In addition, the Administration has stated that

until such time as Ambassador Negroponte and his team are in place and can assess actual needs, including a firm estimate of costs for FY 2005, the Defense Department will continue to provide security and logistical support. The Administration has committed to requesting funds for the Mission in a FY 2005 Supplemental once these requirements are assessed and looks forward to working with the Committee.

The Administration has almost \$400 million in resources for Sudan available in FY 2004, including pledges for Darfur. The Administration has requested \$436 million in FY 2005 and has pledged an additional \$140 million in FY 2005 for Darfur. These funds are sufficient to address requirements on the ground at this time in the region.

Inclusion of funds for the U.S. Mission in Iraq and for Sudan is unnecessary at this time. Unless these provisions, as well as the language for funding for Iraq and Afghanistan, are modified, the Administration would score the bill as exceeding the top line of \$819 billion.

#### General Transfer Authority (GTA)

The Administration appreciates the Committee's approving \$3 billion in GTA in FY 2005 with an exclusion for transfers among Military Personnel accounts, but urges support for the \$4 billion in GTA that the President requested. The Department's need for higher GTA, especially during this time of war, has become dramatically evident in the current fiscal year.

#### Reductions to Operation and Maintenance and Military Personnel

The Administration opposes the \$3.4 billion shift of funds out of Operations and Maintenance and Military Personnel accounts into investment programs of lesser value. Most damaging are the large reductions (nearly \$1 billion alone to the Transportation Working Capital Fund) that are based on presumed excess balances in the working capital funds, which are unlikely to be available. The House's action could risk insolvency of the affected Working Capital Funds.

#### Shifts from the President's Request in Investment Spending

The Administration is also concerned that the House bill includes increases for Procurement and Research, Development, Test, and Evaluation (RDT&E) for a large number of unrequested programs. At the same time, the bill levies large undistributed reductions, which for RDT&E alone amount to over \$1 billion. The net effect of this action is that programs that have been reviewed and certified as having military utility by the military services will be cut arbitrarily while unrequested programs with often questionable military utility will grow. Increasing Congressional reliance on reductions of an indiscriminate nature and increasing use of earmarks within the DoD budget will damage future military capabilities.

The Administration is concerned with the addition of \$125 million in advance procurement funding for an additional DDG-51 Destroyer. Currently, the Navy plans to procure the last three ships of this class in FY 2005. An additional ship in FY 2006 would be in excess of Navy requirements. The Administration urges restoration of \$221 million for the initial DD(X) destroyer.

The Administration also opposes \$458 million in reductions to missile defense programs. Cuts in system engineering functions (\$199 million), Midcourse Defense Segment interceptor missiles (\$35 million), and the future boost-phase kinetic interceptor program (\$68 million) will seriously hamper the Administration's goal of deploying a multi-layered, effective missile defense system. Funding for these important programs could be reallocated from programs that the House has funded above the President's request, including advance procurement for the DDG-51 Destroyer noted above and funding for a seventh Stryker Brigade that was not requested and is not required.

The Administration is concerned with reductions in critical transformational space programs. Specifically, the administration urges restoration of funding for the Space Based Radar (\$263 million), Transformational Satellite Communications (\$100 million), Navy satellite communications (\$110 million), and counterspace systems (\$53 million).

### Constitutional Concerns

Section 8014(b) provides a benefit for native Hawaiian organizations by exempting them from the bill's restrictions on the conversion of government work to private contractors. Although programs providing benefits to members of federally recognized Indian tribes would likely be upheld under existing Equal Protection Clause precedents, there is substantial question whether Congress may treat native Hawaiians as it does the Indian tribes. Therefore, to the extent that this provision could be viewed as authorizing the award of government benefits on the basis of racial or ethnic criteria, it would be subject to the strict scrutiny standard, and would be upheld as constitutional only if narrowly tailored to serve a compelling governmental interest.

Provisions in the bill concerning reporting of military activities to the Congress (such as section 8007, 8011 and 9005) should be revised, and will be construed, in a manner consistent with the President's constitutional authority to withhold information the disclosure of which could impair foreign relations, national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties.

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