



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

May 25, 2006  
(House)

## STATEMENT OF ADMINISTRATION POLICY

### H.R. 5441 -- Department of Homeland Security Appropriations Bill, FY 2007

(Sponsors: Lewis (R), California; Obey (D), Wisconsin)

The Administration supports House passage of the FY 2007 Department of Homeland Security Appropriations Bill, as reported by the House Committee and commends the Committee for reporting this bill in a timely manner. The Administration appreciates the strong support provided by the Committee by funding homeland security priorities, including border and transportation security, the Domestic Nuclear Detection Office, the Science and Technology Directorate, and infrastructure protection.

The President's FY 2007 Budget holds total discretionary spending to \$872.8 billion and cuts non-security discretionary spending below last year's level. The Budget funds priorities and meets these limits by proposing to reform, reduce, or terminate 141 lower-priority programs. The Administration urges Congress to fund priority needs while holding spending to these limits. The Administration looks forward to working with Congress to adopt the President's proposals to cut wasteful spending in order to maintain fiscal discipline to protect the American taxpayer and sustain a strong economy.

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

#### Border and Transportation Security

The Administration appreciates the funding provided by the Committee for border and immigration enforcement and strongly urges the House to fully fund 1,500 new Border Patrol agents and 6,700 additional detention beds and associated costs, as requested. On May 15th, the President outlined his five-part plan for comprehensive immigration reform. The Administration is committed to securing the resources necessary to gain control of the borders through the deployment of additional Border Patrol agents, as well as adding infrastructure and technology, such as access roads, fences, vehicle barriers, and aerial surveillance. These resources, coupled with additional legal authority from Congress, will help end the practice of catch and release along the southern border by increasing detention and removal capabilities. The Administration is committed to working with Congress to implement a comprehensive immigration reform strategy.

The Administration is concerned that the Committee did not include the requested increase for aviation security passenger fees. The House 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 Administration strongly recommends that Section 520 be deleted from the bill. This section requires the Department to use an existing government card production facility for the production of the transportation worker identification credential. As proposed, the section inappropriately constrains the Department's ability to obtain new technologies or redesign business processes to ensure the most effective and efficient means are available to implement this critical program.

The Administration opposes the prohibition on using the Federal Air Marshals in other than the airport environment. Although the Transportation Security Administration does not plan to routinely use these assets in other transportation sectors, it must be allowed the flexibility to use all of its security assets to protect all modes of transportation.

### State and Local Programs

The Administration believes that grant funds should be targeted to areas of highest risk and greatest threat. The bill provides funding above the request but nearly doubles funding for programs that are "stovepiped" between various grantee categories, reducing the ability of the Department and state and local officials to allocate State-based grants according to homeland security risks and threats. The bill reduces funding for infrastructure protection grants and Urban Area grants, which imperil key efforts to protect crucial infrastructure and secure high-risk urban areas. The bill does not provide any funding for Citizen Corps. This funding is important in preparing America's citizens and our Nation for the upcoming hurricane season. The Administration looks forward to working with Congress on achieving a more integrated approach to infrastructure protection grants. Further, while the Administration recognizes that homeland security grants can enhance preparedness for a range of hazards, the Administration does not believe grants focused on terrorism preparedness should be allocated based on the frequency of natural disasters.

### Federal Emergency Management Agency (FEMA)

The Administration appreciates the Committee's support of FEMA's core operating expenses, but the amount provided for pre-disaster mitigation grants is \$51 million below the requested level. Full support of the request for the pre-disaster mitigation grant program will better protect people and buildings from flood damage, earthquakes, and wind damage from hurricanes and tornados.

The Administration strongly urges the House to provide the full request level for FEMA's Disaster Relief Fund. The amount provided for disaster relief is \$278 million below the request. The requested funding is based on the five-year average of total disaster costs, excluding large one-time events such as Hurricanes Katrina and Rita. Full funding of the Disaster Relief Fund is important to ensure that the Department of Homeland Security (DHS) is able to respond appropriately to the Nation's unforeseen events and natural disasters in a timely manner.

## Management

The Administration is disappointed that funding was not provided for the design and buildout of a new Coast Guard Headquarters at the St. Elizabeth's campus. This facility has been identified by the General Services Administration as the only federally owned secure campus readily available in Washington, D.C. It is critical that the Coast Guard headquarters be constructed in a timely manner. The funding requested for this project will help meet this timeline, address serious space needs of the agency, and support infrastructure for eventual tenancy by other DHS components. The House is urged to restore this funding.

The Administration is opposed to any effort to reduce or eliminate funding for the DHS MAX HR initiative. This human resource management system is designed to meet the diverse personnel pay and benefit requirements of DHS.

While the Administration agrees that DHS should provide accurate and timely reports to Congress, it is concerned by provisions of the bill that would restrict the availability of key management resources until a variety of reports on complicated homeland security issues are submitted. Such requirements may affect the ability of the Department to provide the reporting desired by the Committee.

## Competitive Sourcing

The Administration strongly opposes section 515, 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. Depriving the Department of the operational efficiency to be gained by competition limits its ability to direct Federal resources to other priorities. Management decisions about public-private competition, and accountability for results, should be vested with the Department. On a Government-wide basis, the improvements set in motion by competitions completed between FY 2003 and FY 2005 will generate an estimated savings that will grow to over \$5 billion over the next 10 years. The House is urged to strike this restriction.

## Drug Re-Importation

The Administration strongly opposes section 532, the prescription drug importation provision. In 2004, a Health and Human Services Task Force on prescription drug importation (chaired by Surgeon General Carmona) found that there are significant safety and economic issues that must be addressed with respect to prescription drug re-importation. Prohibiting the Bureau of Customs and Border Protection from exercising its authority to assist the Food and Drug Administration in enforcing current laws designed to protect the health and safety of American consumers is an inappropriate way to address the issue of drug affordability.

### Sensitive Security Information

The Administration strongly opposes Section 525, which would jeopardize an important program that protects Sensitive Security Information (SSI) from public release by deeming it automatically releasable in three years, potentially conflict with requirements of the Privacy and Freedom of Information Acts, and negate statutory provisions providing original jurisdiction for lawsuits challenging the designation of SSI materials in the U.S. Courts of Appeals. This provision would require the Secretary to undertake an ongoing, burdensome review process to protect this secure sensitive information that would otherwise remain appropriately protected by regulation. Also, the section would result in different statutory requirements being applied to SSI programs administered by the Departments of Homeland Security and Transportation.

### Constitutional Concerns

Several provisions of the bill purport to require approval of the Committees prior to the obligation of funds. These are found under the headings, "United States Visitor and Immigrant Status Indicator Technology "; "Salaries and Expenses," "Automation Modernization," and "Construction," within Customs and Border Protection; "Protection, Administration, and Training," U.S. Secret Service; "United States Citizenship and Immigration Services;" "Research, Development, Acquisition and Operations," Science and Technology; and section 508. These provisions should be changed to require only notification of Congress, since any other interpretation would contradict the Supreme Court's ruling in *INS v. Chadha*.

Language under the heading, "Acquisition, Construction, and Improvements," Coast Guard, purports to specify the content of Presidential recommendations for enactment of appropriations laws. This language should be revised to require such content only "to the extent the President shall judge necessary and expedient," so as to make the provisions consistent with the Constitution's commitment to the President of exclusive authority to recommend to Congress such measures as he judges necessary and expedient.

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