



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

June 16, 2005  
(House)

## STATEMENT OF ADMINISTRATION POLICY

### H.R. 2863 – Department of Defense Appropriations Bill, FY 2006

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

The Administration supports House passage of the FY 2006 Department of Defense Appropriations Bill, as reported by the House Committee.

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. In addition to holding non-security funding below last year's level, it is critical that we maintain funding levels for defense activities to ensure that our troops have the resources they need to fight and win the War on Terror.

The Administration opposes the more than \$3-billion reduction in funds for defense included in this bill and will strongly oppose any additional efforts to shift funds away from Department of Defense (DOD) appropriations. Any additional cuts would either require base DOD needs to be inappropriately funded through future supplemental requests or could result in deterioration of our force readiness. Base funding requirements should not be shifted to supplemental bills as a way to increase non-security related discretionary spending and avoid agreed upon spending limits.

The Administration thanks Congress for providing the vital funds in the recently enacted FY 2005 Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief. The Administration appreciates Congress' strong commitment to our troops and the Global War on Terror and notes that the supplemental funding will be sufficient to pay for our efforts through the end of the current fiscal year. While the \$45.3-billion bridge fund included in this bill is not needed for the remainder of FY 2005, the Administration looks forward to working with Congress to ensure that there is no interruption of resources for the Global War on Terror in FY 2006 and that funding is allocated in the most effective way to meet the needs of commanders in the field.

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

Operation and Maintenance Funding

The Administration opposes the Committee's \$3.6-billion reduction to the President's request for operation and maintenance funding, including the across-the-board reductions in the General Provisions. The Administration is concerned that these reductions could damage the readiness of U.S. forces and their preparedness. The \$285-million reduction for military-to-civilian conversions would limit one of the DOD's most productive initiatives for reducing the strain on our armed forces. Military-to-civilian conversions are part of the President's Management Agenda for Competitive Sourcing and free up critically needed troops for the Global War on Terror.

### Support to Other Nations

The Administration welcomes Section 9007, which authorizes up to \$500 million for the Commanders' Emergency Response Program, and Section 9008, which authorizes logistical support to coalition forces. The Administration also welcomes Section 9006 of the bill, which authorizes up to \$500 million in DOD operation and maintenance funds to train, equip, and provide related military assistance to military and security forces in Iraq and Afghanistan. Because many of our adversaries are operating outside of these two countries, we would encourage Congress to extend this authority to other friendly nations.

### Reductions and Limitations on Acquisition Programs

The Administration is concerned with the numerous funding reductions and guidelines for specific acquisition programs. Fielding the enhanced combat capabilities provided by the DD(X) would be substantially delayed with the total reduction of over \$1.4 billion in advance procurement and research and development. The Administration opposes the elimination of \$148 million for the Joint Air-to-Surface Standoff Missile and the direction to terminate the program, which is a critical long-range, low-observable standoff strike capability. The Administration is also concerned with major reductions to transformational programs, including cuts of \$449 million in requested programs for the Future Combat System, \$120 million from Global Hawk, \$400 million in the Transformational Satellite, \$126 million from Space Radar, and \$143 million from Missile Defense. These large reductions will cause significant delays or cancellation of these programs, which are key elements of DOD's transformation strategy and vital to our coalition warfare operations.

The Administration also objects to the elimination of all \$152 million in advance procurement for the first Joint Strike Fighter production aircraft. This reduction will cause additional schedule slips and cost increases in this critical joint and international program. Finally, the Administration opposes the \$340-million cut in the Joint Tactical Radio program. Although the program has experienced difficulties and is being restructured this year, a reduction of this magnitude in FY 2006 would cause a delay of up to two years in fielding this transformational, networked tactical communication system.

### Unrequested Program Funding

As DOD conducts its Quadrennial Defense Review, it should be free to balance force structure, platform capability, and program costs in the most effective manner. The Committee's additions to the Navy's shipbuilding program (especially a new DDG-51 destroyer), the restoration of funding for the Joint Common Missile program, and numerous other smaller

funding increases, preempts the Department's ability to invest cost-effectively in 21<sup>st</sup> century capabilities.

### National Drug Intelligence Center

The Administration opposes increased funding for the National Drug Intelligence Center (NDIC). The President requested \$17 million to close the center because NDIC has proven ineffective in achieving its assigned mission. The Administration believes that closure of NDIC and reassignment of its missions to other organizations represents a step toward more efficient coordination and management of counterdrug intelligence activities.

### Classified Programs

The Administration looks forward to reviewing the classified annex and working with Congress to address its concerns on classified programs as the legislative process continues. The Administration continues to discourage any efforts, such as sections 8067 and 8075, to enact secret law as part of defense funding legislation and encourages instead appropriate use of classified annexes to committee reports and joint statements of managers that accompany the final legislation.

### Armored Vehicles

The Administration urges inclusion of section 8057 of the President's request, which would allow the DOD to purchase heavy and light-armored vehicles for force protection purposes. Existing statutory price limitations on passenger carrying vehicles may preclude buying vehicles adequately modified for force protection needs.

### Competitive Sourcing

The Administration strongly opposes a provision in the bill (Section 8014(a)3) that would unnecessarily subject private sector bidders to intrusive data requirements concerning the provision of health benefits to their employees. While well intentioned, this provision ultimately undermines the efficiencies in private health plans and provides another disincentive for the private sector to participate in DOD's competitions. Further, by discouraging private sector interest in competitive sourcing, this provision places at risk significant savings -- estimated to be \$6 billion from FY 2001 to 2006 -- generated by the Competitive Sourcing initiative of the President's Management Agenda. Small business participation in competitions will be eliminated since this provision makes it particularly burdensome to assemble competitive offers. The Administration urges the House to eliminate DOD-specific restrictions to take advantage of government-wide Circular A-76 policies to achieve the best value for the taxpayer.

### Constitutional Concerns

Provisions of the bill that purport to specify the content of Presidential recommendations for enactment of appropriations laws, such as section 8010(b), 8031, and 8092, 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. Also, recognizing the Executive Branch's constitutional entitlement to communicate with Congress, section 8012 of the bill should be amended to make explicit that it does not prevent officers or employees of the United States from communicating to Congress through the proper official channels requests for action on legislation or appropriations matters.

Provisions of the bill concerning the reporting of military activities to Congress, including sections 8007, 8011, 8054, 8085, 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. The Administration also recommends deletion as unnecessary section 8096, relating to integration of intelligence information, and section 9006, relating to detainees, as such matters are already appropriately addressed by other law.

Two provisions of the bill authorize the provision of benefits to Native Hawaiians. The Department of Justice advises that there is a substantial, unresolved question whether Congress has authority to deal with Native Hawaiians as it does with Indian tribes. To the extent the definition of "Native Hawaiian" constitutes a racial, rather than political, classification, such programs would be subject to strict scrutiny in Federal courts.

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