



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

June 14, 2006
(House)

STATEMENT OF ADMINISTRATION POLICY
H.R. 5576 – Transportation, Treasury, Housing, the Judiciary, and the District of
Columbia Appropriations Bill, FY 2007
(Sponsors: Lewis (R), California; Obey (D), Wisconsin)

The Administration supports House passage of the FY 2007 Transportation, Treasury, Housing, the Judiciary, and the District of Columbia Appropriations Bill, as reported by the House Committee and commends the Committee for reporting this bill in a timely manner.

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 and objects to the use of gimmicks, including the use of excessively large rescissions of highway contract authority, to meet 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.

Although the bill is largely supportive of the President's request, the Administration would like to take this opportunity to share additional views regarding the Committee's version of the bill.

Department of Housing and Urban Development (HUD)

The Administration appreciates the Committee's support for requested increases to key programs such as Homeless Assistance grants, the HOME Investment Partnerships Program, Housing Choice Voucher Program, and Housing Opportunities for People with AIDS. The Committee is also commended for including major parts of the Federal Housing Administration (FHA) Modernization Act, and the Administration will work with Congress to enact this important legislation to improve FHA loans for low and moderate income first-time homebuyers. In addition, the Administration appreciates the Committee's adoption of proposed reductions and terminations for lower performing programs such as the HOPE VI, Section 108 loan guarantees, Brownfields, and Rural Housing programs.

The Administration objects to funding that exceeds the request by over \$1 billion for the Community Development Block Grant (CDBG), particularly since there are no reforms to the program's outdated targeting. The Administration recommends eliminating the \$270 million in unrequested congressional earmarks and adopting a modernized, reformed means for delivering aid to needy communities. The Administration looks forward to working with the Congress to achieve the objectives of the Strengthening America's Communities Initiative, through the

enactment of the legislative proposal to reform CDBG that was transmitted to the Congress on May 25, 2006.

The Administration urges the House to fund the request for HUD's component of the interagency Prisoner Re-entry Initiative, and the American Dream Downpayment Initiative to support first-time homeownership. In addition, the significant reductions to the request for the Working Capital Fund and to the HUD staff accounts are of concern as they will prevent HUD from modernizing and developing information systems to improve its financial management and provide proper program delivery and compliance. The funding needed for these programs can be offset by reducing unrequested additions.

Department of Transportation (DOT)

The Administration supports the \$900 million provided in the bill for Amtrak, which is consistent with the President's request. As the Committee notes, the current model for providing intercity passenger rail is in need of significant reform. The Administration particularly appreciates that the Committee has instructed DOT to condition the granting of operating subsidies on Amtrak's implementation of reforms. The Administration looks forward to working with Congress to continue to improve Amtrak's performance and accountability.

The Administration is very concerned that the bill continues to rely on rescissions of contract authority for surface transportation programs to offset additional spending throughout the bill. The Committee bill rescinds more than \$2 billion in contract authority. Such rescissions do not reduce the deficit. The President's Budget includes other proposals to reduce spending throughout the bill, such as reductions to the DOT's Airport Improvement Program, that are programmatically justified and would reduce Federal spending.

The Administration is concerned that the President's request of \$59 million for the DOT Headquarters Building was not included in the bill. Nor does the bill include requested language that would provide DOT additional flexibility to utilize existing funds for the project. Substantial resources have already been invested in the new facility and the total cost of the project will unnecessarily increase unless funding is provided to complete the final phase in FY 2007. The Administration urges restoration of these funds; failure to include this funding or provide additional flexibility will delay DOT's move and lead to unnecessary spending.

The Committee bill provides a one-year extension for the war risk insurance program for domestic air carriers. The Administration is opposed to a simple extension of this program, which crowds out private sector mechanisms for diversifying risk. The Administration is committed to working with Congress to reform the program and ensure that air carriers more equitably share in the risks associated with this program.

Department of the Treasury

The Administration strongly urges the House to support the full request for the Internal Revenue Service (IRS), particularly the increase proposed for tax enforcement funding through a \$137 million cap adjustment. These additional resources are needed to narrow the \$290 billion estimated annual "tax gap" between taxes owed and taxes paid.

The Administration objects to section 209, which would reduce Federal receipts by prohibiting the IRS from employing private collection agencies to supplement its collection workforce. Private collection agencies (PCAs) are expected to yield a net of \$54 million in FY 2007, and \$1.4 billion over ten years. Similar measures instituted by various States have met with success, allowing for more efficient collections while safeguarding the privacy rights of individual taxpayers.

The Administration also objects to section 206, which prohibits the IRS from providing taxpayers with free electronic income tax filing except through the Free File program. Free File provides a useful service to millions of taxpayers, and the Administration has no plans to replace it. However, the Administration believes taxpayers have a right to easy, inexpensive tax filing, and it is inappropriate and unnecessary to legislatively limit the IRS' options for providing services to taxpayers.

The Administration urges the House to enact the proposal to collect and spend receipts from new user fees at the Alcohol and Tobacco Tax and Trade Bureau (TTB). Enactment of these fees would allow TTB to recover the costs of providing regulatory services that benefit the alcohol industry.

District of Columbia (D.C.)

The Administration appreciates the Committee's full funding of the President's request for the school improvement program, the resident tuition support program, and the Water and Sewer Authority. The Administration also appreciates the provision of needed funds for the Navy Yard Metro and D.C. Courts facilities improvements. The Administration is concerned, however, that the bill does not provide any resources for the library capital project and encourages funding for this initiative.

Executive Office of the President

The Administration urges the House to adopt the President's request for the consolidation of the White House accounts, particularly with regard to the Office of Policy Development that has functions and responsibilities integral to policy development included within the mission of the White House Office. The consolidation initiative provides the most effective means for the President to immediately realign or reallocate available resources and staff in response to changing needs or emergent national priorities.

The House is urged to expand the Enterprise Services initiative to include rent and rent-related responsibilities for the Office of Management and Budget (OMB) and the Office of National Drug Control Policy (ONDCP). The Executive Office of the President (EOP) centrally manages the overall allocation of office space for all EOP components, to include OMB and ONDCP. Accordingly, including rent expenses for OMB and ONDCP under Enterprise Services provides sound business management in efficiently administering this funding responsibility as a single entity, rather than at the component level. The House is also urged to improve the President's flexibility and effectiveness by expanding the authority to transfer up to 10 percent of budgetary resources within the Executive Office of the President accounts.

The Administration strongly objects to language that would severely constrain the Administration's review of Federal water projects conducted under Executive Order 12322, which ensures that projects provide the highest returns to the Nation and are consistent with established environmental and economic principles and guidelines. Under this Executive Order, OMB conducts a rigorous and diligent review of water resource projects to ensure that taxpayer dollars are well spent, which the bill's arbitrary time constraints could preclude.

The Administration is concerned about the Committee's reduction of the ONDCP's Youth Anti-Drug Media Campaign funding by \$20 million from the level requested by the President and urges Congress to increase funding for this program, which represents the principal Federal anti-drug messaging program.

General Services Administration

The Administration is pleased that the Committee provides the majority of the President's request for projects in the Federal Buildings Fund, but it is very concerned that funding is not provided for the Coast Guard Facility at St. Elizabeth's, in Washington, D.C. The Coast Guard Headquarters project is the first phase of the development of this important site. The Administration is concerned that delaying funding for the Coast Guard facility will subject the project to cost escalations and delay the overall project.

United States Postal Service (USPS)

The Administration opposes the \$29 million the Committee provided to the USPS for revenue forgone for reduced rate mail. In 2003, the Administration worked with the Congress to re-estimate the pension costs of the Postal Service, and the Congress enacted significant pension reforms. USPS has benefited from pension savings of approximately \$3 billion per year as a result of that legislation, more than compensating the organization for the loss of this small revenue forgone appropriation. Going forward, USPS should cover its expenses while minimizing costs to the taxpayers.

Civilian Pay

The Administration strongly opposes the 2.7 percent increase for Federal employee pay and urges the House to adopt the President's proposal. The Committee proposal exceeds the President's request (resulting in additional costs of approximately \$600 million in FY 2007), plus it exceeds the required statutory base pay increase, and the average increase in private-sector pay, measured by the Employment Cost Index. Any recruitment or retention challenges facing the Federal Government are limited to a few areas and occupations and are not addressed by arbitrary across-the board increases.

In addition, the Administration urges deletion of the provision that applies the 2.7-percent increase to civilian employees of the Department of Homeland Security and Department of Defense (DOD). The provision is ambiguous as to how the increase would be applied to employees covered under these departments' modernized pay systems and will unnecessarily complicate their implementation. In particular, DOD has begun implementation of

its National Security Personnel System (NSPS) and should be allowed to exercise the flexible authority Congress provided.

The Administration also strongly opposes the provision relating to pay adjustments for prevailing rate employees that would continue to disregard the prevailing rate principle for Federal blue-collar employees by granting them General Schedule white-collar pay increases that have no relation to the corresponding market data. This provision will result in the Federal Government continuing to pay Federal blue-collar employees at rates higher than those in the private sector and will perpetuate a host of technical and equity pay problems.

Office of Personnel Management (OPM)

The Administration strongly urges the House to include the requested \$26.7 million to enable OPM's Retirement Systems Modernization project to continue moving forward. This project will vastly improve the speed and accuracy of retirement benefits services for Federal employees and annuitants, improve retirement planning capabilities, and yield significant cost savings when completed.

President's Management Agenda

The Administration is very concerned about several provisions that would impede the Administration's efforts to implement the President's Management Agenda (PMA). The Committee's bill contains a number of provisions that would seriously impair the Administration's ability to carry out high value management reform initiatives.

The Administration strongly objects to requirements in section 939 that would effectively require all but the smallest public-private competitions to be decided on the basis of lowest cost alone. By marginalizing the consideration of quality, this provision would weaken competitive sourcing as a management tool to encourage cost-effective, innovative thinking that will achieve the best overall value for the taxpayer. The procedural details of section 939 also weaken efforts under the Administration's Lines of Business initiative to migrate shared services to either Federal shared service centers or the private sector through public-private competition and eliminate costly and redundant technology investments in common commercial functions, such as accounting services. On a Government-wide basis, the improvements set in motion by public-private 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 Administration urges the House to modify the requirements to permit decisions on the basis of both cost and quality.

The Administration strongly objects to provisions in the bill that reduce the E-Gov Fund from the \$5 million requested to \$3 million, as well as denying authority to transfer up to \$40 million in GSA surplus revenues for E-Gov Fund purposes. The Administration also objects to requirements that the House and Senate Committees on Appropriations approve all transfers of funds for E-Gov initiatives, which slows down and sometimes blocks important E-Gov initiatives. In addition, the bill reduces the ceiling on the funds agencies are permitted to transfer to GSA in support of Council-sponsored interagency management improvement initiatives from \$17 million to \$10 million.

The Administration also asks the Committee to include a provision in section 938 stating that submission of this report shall fulfill reprogramming procedures and requirements for E-Gov initiatives in this or any other appropriations Act.

Potential Amendments

The Administration understands that an amendment may be offered that would weaken current sanctions against Cuba. The Administration believes that it is essential to maintain sanctions and travel restrictions to deny economic resources to the Castro regime. The licensing process helps to ensure that humanitarian and cultural travel facilitates genuine exchanges between U.S. travelers and ordinary Cuban citizens and that any sales to Cuba are done within the bounds of the law. Lifting the sanctions now, or limiting our ability to enforce them, would provide assistance to a repressive regime at the expense of the Cuban people. If the final version of the bill contained such a provision, the President would veto the bill.

The Administration understands that an amendment may be offered to prohibit the use of funds to implement a final rule regarding foreign investment in U.S. airlines. The proposed rule would facilitate a landmark agreement with the European Union that would provide significant benefits to consumers as well as the domestic passenger and cargo airline industry. The Administration has worked with Congress to address concerns with the final rule and recently extended the final comment period by an additional 60 days. The Administration strongly opposes any amendment that would prevent the Department of Transportation from finalizing its rule.

Constitutional Concerns

Several provisions of the bill purport to require approval of the Committees prior to the obligation of funds or other Executive Branch action to implement the law. These include sections 201, 211, 212, 217, 218, 602, 703, 810, 811, 914, 923, 937, and 938; and under the headings, "Salaries and Expenses" and "Working Capital Fund," Office of the Secretary, "Administrative Expenses," Federal Transit Administration, Department of Transportation; "Salaries and Expenses," Departmental Offices and "Business Systems Modernization," Internal Revenue Service, Department of Treasury; and "Limitation on Availability of Revenue," Federal Building Fund, General Services Administration. 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*.

Provisions in the bill purport to condition execution of a law upon compliance with documents, such as congressional committee reports, that do not have the force of law because they do not comply with the bicameralism and presentment requirements of the Constitution. Such provisions include sections 312 and 810 and language under the headings "Salaries and Expenses," Office of Management and Budget and "Limitation on Availability of Revenue," Federal Building Fund, General Services Administration. Such provisions should be amended to eliminate references to such documents. Further, language under the heading "Salaries and Expenses," Office of Management and Budget, that relates to agricultural marketing orders and transcripts should be deleted as inconsistent with the President's constitutional authority to supervise the unitary Executive Branch.

To ensure consistency with the constitutional authority of the President to supervise the unitary Executive Branch, language under the heading, "Office of the Inspector General," Department of Housing and Urban Development, that purports to grant independent authority should be amended to specify that the authority granted or prohibition imposed is subject to the authority of the President.

Provisions of the bill, including sections 918 and 920, that purport to require or authorize disclosure of information to Congress that would conflict with the Constitution's commitment to the President of authority to supervise the unitary executive branch, and to define and control access to the Nation's national security secrets as recognized by the Supreme Court in *Department of the Navy v. Egan* (1988), should be amended to specify that the provisions are subject to the authority of the President.

Provisions of the bill, including sections 508 and 704, that purport to direct or regulate the content of the President's budget submissions, which are recommendations for enactment of laws appropriating funds, should be deleted, as they are inconsistent with the Constitution's vesting in the President of the exclusive authority to recommend for the consideration of Congress such measures as the President judges necessary and expedient.

Provisions of the bill relating to programs for Native Hawaiians should be amended to provide for implementation of such programs to the extent consistent with the requirement of the Due Process Clause of the Fifth Amendment to afford all persons equal protection of the laws.
