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

September 14, 2004
(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 5025 – Departments of Transportation and Treasury and Independent Agencies Appropriations Bill, 2005

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

The Administration supports House passage of the FY 2005 Departments of Transportation and Treasury and Independent Agencies Appropriations Bill.

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 fully fund unavoidable obligations and not to include any emergency funding, including contingent emergencies, unless mutually agreed upon in advance by both the Congress and the Administration.

The Administration has several concerns with the Committee bill and looks forward to working with the Congress as the process moves forward.

Competitive Sourcing

The Administration strongly objects to section 645, which would effectively require that public-private competitions involving work performed by more than 10 employees be decided strictly on the basis of lowest cost; this provision would effectively prohibit the consideration of quality in evaluating these competitions. This requirement represents a step backwards in the Administration's efforts to make competitive sourcing a viable management tool not only for reducing costs but also for improving the quality of service in order to achieve the best overall value for our citizens. If the final version of the bill contains this provision, the President's senior advisors would recommend that he veto the bill.

Matricula Consular Card

The Administration objects to the provision that would prevent the Treasury Department from spending any funds to issue or enforce regulations that do not preclude acceptance by financial institutions of the Matricula Consular card as a form of identification. This provision would prevent the Treasury from enforcing regulations issued under section 326 of the USA PATRIOT Act. The Administration, including the Department of Justice and the FBI, believe that it is appropriate that these regulations provide a flexible standard that accommodates local conditions as well as innovation in verification techniques, not a list of documents or methods that must or must not be used. The Administration strongly opposes this provision and supports efforts to remove it from the bill during Floor consideration.

Civilian Pay and the Human Capital Performance Fund

The Administration urges the House to adopt the President's proposal for Federal employee pay. The 3.5 percent increase proposed by the Committee exceeds the President's request by $2.2 billion, and provides a percentage increase that exceeds inflation, the statutory base pay increase, and the average increase in private-sector pay, measured by the Employment Cost Index. A higher across-the-board pay raise would not allow the Federal Government to target pay raises to attract employees with critical skills. The Administration also opposes the provision that would restrict the Administration’s flexibility to adjust locality pay areas to meet changing needs and conditions.

The Administration opposes the provision specifying a 3.5 percent across-the-board increase for Department of Homeland Security (DHS) and Department of Defense (DOD) civilian employees. This provision would limit flexibility as DHS and DOD use the new authorities conferred upon them by the Congress to design and implement a modern personnel and pay system that best meets their needs. In addition, the Administration opposes the provision relating to pay adjustments for blue-collar employees, which would disregard the results of local blue-collar wage surveys and provide a pay increase identical to local General Schedule employees. These provisions could result in paying blue-collar employees at rates higher than local labor markets and would create a host of technical and equity problems.

The Administration also is very concerned that the bill does not fully fund the President’s request for a $300 million Human Capital Performance Fund. The Fund is a more targeted approach to move the Federal pay system into one that would promote high performance.

Department of Transportation (DOT)

The Administration supports an extension of the war risk insurance program for domestic carriers for one year provided that the Committee works with the Administration to modify its language to ensure that air carriers more equitably share in the risks associated with this program. Also, the Administration is strongly opposed to the requirement that war risk insurance be provided to manufacturers. This expansion is unwarranted and would subject taxpayers to significant additional liabilities.

The Administration is concerned that the Committee did not provide the $160 million requested for the new DOT headquarters project. The building has been leased at Congressional direction and built to DOT’s specifications. If it is not completed, due to the inability of DOT to fulfill its build out obligations, lease payments will still need to be made on a vacant building.

The Administration objects to sections 142 and 143 of the bill, which prohibit the use of funds to implement or enforce the hours-of-service final rule as it applies to operators of utility service vehicles. The Administration is opposed to the bill’s expansion of hours-of-service exemptions for utility service vehicle operators.

The Administration is pleased that the Committee provides the request of $900 million for Amtrak operations, capital, and infrastructure maintenance. The Administration urges the Congress to institute operational and structural reforms, consistent with the Administration's proposed Amtrak reauthorization bill. The Administration opposes additional funding that would perpetuate the status quo and interfere with these needed reforms.

The Administration is concerned the Committee reduced the Federal Aviation Administration's (FAA) operating account by $125 million from the request. This funding level will affect FAA's ability to implement its new Air Traffic Organization which is aimed at streamlining agency operations. It may also result in an inability by the FAA to replace retiring controllers and technicians.

Department of the Treasury

The Administration is concerned about the level of funding provided to the Internal Revenue Service (IRS) and Departmental Offices. The proposed level for the IRS is $382 million below the request and would eliminate increases in tax enforcement, leading to reduced revenue and poorer tax compliance. The Committee level for Departmental Offices is $8 million below the request and reinstates the statutory funding floor for the Office of Foreign Assets Control (OFAC). The Report also declares that "the Committee assumes that no new office [referring to the Office of Terrorism and Financial Intelligence] has been created."

The Administration supports removing the OFAC floor to give the Secretary flexibility as he deploys resources across the Department in the financial war on terror, and requests that the funding levels for the Departmental Offices be provided at the requested level so critical efforts of the Department, especially the Office of Terrorism and Financial Intelligence, can be carried out. This new office is a critical component in the Administration's efforts in the financial war on terror.

Executive Office of the President (EXOP)

The Administration strongly urges the House to provide the requested funding for the many EXOP offices, projects, and programs reduced in the bill, including funding for the Homeland Security Council, the Office of Administration, the Office of Management and Budget, and the Office of Policy Development. The funding levels in the bill would result in staffing reductions and other measures that would severely impair the ability of the President to fulfill his responsibilities to the detriment of the Government as a whole. The Administration urges that the Homeland Security Council remain part of the White House Office and urges the House to continue to fund the homeland council consistent with the way it is funded in the current fiscal year. In addition, the Administration continues to support the proposed consolidated appropriation for EXOP and is disappointed that the Committee failed to adopt it.

The Administration is concerned that the Committee continues the common services (core enterprises) pilot project within the Office of Administration and does not support the transfer authority requested by the Administration. While some economies of scale may be met under the common services pilot project, the transfer authority requested by the Administration would allow EXOP agencies the flexibility to address unexpected requirements and needs that may be outside the program.

The Administration urges the House to fully fund the President's request for the National Youth Anti-Drug Media Campaign, the Drug-Free Communities Support Program, and the World Anti-Doping Agency dues, and to reduce the amount provided for the High Intensity Drug Trafficking Areas Program to the level of funding requested, with no restrictive language.

General Services Administration (GSA) and Electronic Government Fund

The Administration is pleased that the Committee provided the funding requested for GSA's appropriated accounts, as well as the requested authority to retain $1 million in the Presidential Transition account to train incoming appointees for the second term of an incumbent President. The Administration is deeply concerned, however, that the Committee did not provide the requested authority to retain up to $40 million in excess revenues collected by the General Supply Fund for electronic government projects. Many electronic government projects benefit multiple agencies and do not easily lend themselves to funding from the budgets of individual agencies. The Administration strongly urges restoration of the requested authority.

Other Issues

The Administration urges the Committee to adopt the proposed repeal of the Continued Dumping and Subsidy Offset Act of 2000, which would enable the United States to comply with its international trade commitments, eliminate the possibility that other nations will impose retaliatory tariffs on American exporters, remove an unwarranted subsidy, and provide hundreds of millions of dollars of useful savings to the taxpayer annually.

Potential Amendments

Weakening Cuba Travel Sanctions: The Administration understands that an amendment may be offered on the House Floor 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 brutal 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 boundary of the law. Lifting the sanctions now, or limiting our ability to enforce them, would provide a helping hand to a desperate and 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.

Mexico-Domiciled Motor Carriers: Section 350 of the FY 2002 Department of Transportation and Related Agencies Appropriations Act (Public Law 107-87) set forth 22 safety-related requirements that the Department of Transportation was to satisfy prior to granting operating authority to long-haul Mexican carriers. The Department of Transportation met all 22 of these safety-related requirements, and on November 27, 2002, the President signed a Memorandum to the Secretary of Transportation authorizing the Department to act on applications submitted by Mexico-domiciled motor carriers seeking operating authority for cross-border truck and cross-border scheduled bus services.

The Administration understands an amendment may be offered that would impose new requirements beyond the 22 imposed in Public Law 107-87. The Administration would strongly object to any provision that imposes any new or additional requirements for Mexican carriers. If the final version of this bill contains any language that would effectively prevent the Administration from fulfilling its NAFTA obligations, the President's senior advisors would recommend that he veto the bill.

Competitive Sourcing: The Administration understands that an amendment may be offered on the House Floor that would effectively shut down the Administration's Competitive Sourcing initiative to fundamentally improve the performance of the government's many commercial activities. The Administration seeks to improve the performance of government services based on the common sense principle of competition -- a proven way of protecting taxpayers' dollars while providing better service and performance enhancements. Now is the wrong time to short-circuit implementation of this principle, especially since numerous agencies are starting to make real progress in this area. Prohibiting funding for public-private competitions is akin to mandating a monopoly regardless of the impact on services to citizens and the added costs to taxpayers. If the final version of the bill contained such a provision, the President's senior advisors would recommend that he veto the bill.

Constitutional Concerns

The Administration objects to a number of provisions in the bill that would purport to require Committee approval before Executive Branch execution. These provisions should be changed to require only notification of Congress, since any other interpretation would contradict the Supreme Court ruling in *INS v. Chadha*.

Section 618 would prohibit the use of funds to pay the salary of any Federal officer or employee who takes certain actions interfering with the communications between other Federal employees and members of Congress or subcommittees of Congress in connection with agency matters. This provision raises constitutional concerns in that it would limit the ability of the President and his appointees to supervise and control the work of subordinate officers and employees, and to supervise the dissemination of privileged or sensitive Government information. The provision could only be implemented in a manner consistent with the President's constitutional authorities.

The Administration also objects to section 641 of the bill, relating to assignment of executive branch employees to perform functions in the legislative branch. The executive branch could implement the provision only to the extent consistent with the President's constitutional authority to supervise the unitary executive branch and as Commander in Chief, and recognizing that the President cannot be compelled to give up the authority of his office as a condition of receiving the funds necessary to carrying out the duties of his office.

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