



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

June 26, 2007
(House Rules)

STATEMENT OF ADMINISTRATION POLICY
H.R. 2829 – Financial Services and General Government Appropriations Act, 2008
(Sponsor: Obey (D), Wisconsin)

The Administration commends the Committee for not exceeding the President's request in total for the programs funded by this bill. However, the Administration opposes a number of provisions in the Committee-reported bill.

The President has proposed a responsible plan for a balanced budget by 2012 through spending restraint and without raising taxes. To achieve this important goal, the Administration supports a responsible discretionary spending total of not more than \$933 billion in FY 2008, which is a \$60 billion increase over the FY 2007 enacted level. However, the Democratic Budget Resolution and subsequent spending allocations adopted by the House Appropriations Committee exceed the President's discretionary spending topline by \$22 billion causing a 9 percent increase in FY 2008 discretionary spending and 10 percent increase in the deficit if the entire amount were expended in FY 2008. In addition, the Administration opposes the House Appropriations Committee's plan to shift \$3.5 billion from the Defense appropriations bill to non-defense spending, which is inconsistent with the Democrats' Budget Resolution and risks diminishing America's war fighting capacity.

The Administration is concerned that an amendment may be offered on the Floor that would weaken current sanctions against Cuba. The Administration believes that it is critical to maintain sanctions and travel restrictions to deny economic resources to the Castro regime. 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 a provision that weakens current restrictions against Cuba, the President would veto the bill.

In addition, the Administration would strongly oppose any amendment that would substantially change Federal policies and law on abortion and use taxpayer dollars for the destruction of human life. If the final bill presented to the President were to contain such provisions, the President would veto the bill.

The President has called on Congress to reform the earmarking process that has led to wasteful and unnecessary spending. Specifically, he called on Congress to provide greater transparency and full disclosure of earmarks, to put them in the language of the bill itself, and to cut the cost and number by at least half. The Administration opposes any efforts to shield earmarks from public scrutiny and urges Congress to bring full transparency to the earmarking process and to cut the cost and number of earmarks by at least half.

The Administration would like to take this opportunity to share additional views regarding the

Committee's version of the bill.

Department of the Treasury

The Administration supports the bill's funding level for the Office of Terrorism and Financial Intelligence, the Department's role as chair of the Committee on Foreign Investment in the United States, and its lead role in key strategic economic policy dialogues with countries like China. The Administration also supports the requested increases for the Internal Revenue Service (IRS) included in the bill, particularly the \$406 million for enforcement included as part of the Budget's proposed program integrity cap adjustment. These resources are needed by the IRS to narrow the "tax gap" between taxes owed and taxes paid.

The Administration strongly objects to section 106, which would severely curtail, if not end, IRS private debt collection, even though this program will yield a net benefit to taxpayers of \$22 million in FY 2007. Terminating this program would cost taxpayers an estimated \$63 million in FY 2008 and at least \$1.5 billion over the next 10 years. The Government Accountability Office (GAO) also reported that the IRS has made "major progress" in addressing the critical success factors outlined by GAO, including ensuring that both taxpayer rights and the security of taxpayer information are protected.

The Administration strongly objects to funding for the Community Development Financial Institutions Fund that exceeds the request by over \$70 million, and in particular the report language that directs not less than \$14 million be spent on the Bank Enterprise Award (BEA) Program. The BEA Program provides funds to for-profit banks based on their past activity, and has not demonstrated that its awards increase lending and financial services in economically distressed communities.

The Administration is extremely concerned about reprogramming restrictions that would hinder the Administration's abilities to meet emerging issues on a timely basis. For example, in the IRS accounts, unexpected changes in workload driven by taxpayer demands such as an increased number of telephone inquiries often require the Service to move funds quickly to maintain performance. Such a low threshold for reprogramming, which amounts to a 0.04 percent change in the Taxpayer Service account and a 0.02 percent change in the Enforcement account, would necessitate frequent reprogramming notifications that could inhibit the IRS and Treasury from being able to respond quickly to emerging needs.

District of Columbia (D.C.)

The Administration supports the bill'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 supports the provision of needed funds for D.C. library improvements and reducing the backlog of unsolved murder cases in the District.

The Administration strongly opposes the bill's exclusion of a longstanding provision that disallows the use of Federal funds to register unmarried, cohabitating couples in the District, to enable them to qualify for benefits on the same basis as legally married couples. Under Federal law, legal marriage is the union between a man and a woman. Federal tax dollars are not used to extend employment benefits to domestic partners of Federal employees, and D.C. should not

enjoy an exception to this rule. If the final version of H.R. 2829 does not include this longstanding provision, the President's senior advisors would recommend he veto the bill.

The Administration also strongly opposes lifting the ban on funding for needle distribution programs to illegal drug users in the District of Columbia. Needle distribution programs facilitate illegal drug use. Drug use prevention and treatment programs are superior public health alternatives because these programs reduce both the sharing of contaminated needles and the harms of illegal drug use.

In addition, the Administration opposes the bill's provision that would allow the District to use local taxpayer dollars to hire lobbyists to advocate for statehood and voting representation. The Administration also opposes the exclusion of a current-law provision that prevents the use of Federal funds to pay the salaries and expenses of D.C.'s "shadow" senators and representative.

Election Assistance Commission (EAC)

The Administration strongly objects to \$300 million provided for grants to States to implement voting system requirements and upgrades in the Help America Vote Act of 2002 (HAVA), as additional Federal funds are not needed to accomplish the purpose of the Act. Although administration of elections is primarily a State and local responsibility, nearly \$3 billion has already been appropriated to States to implement HAVA since 2002, and States have made substantial improvements to the integrity of voting processes. Over \$1.3 billion in unspent funds remain available and, in addition, States can retain interest earned on their unspent federal grants. This unusual authority has provided over \$150 million in interest earnings that States may use for HAVA-related expenditures. Moreover, some States are returning unused prior appropriations.

Small Business Administration (SBA)

The Administration strongly opposes the addition of \$80 million of taxpayer-funded credit subsidy for SBA's 7(a) loan guarantee program. The program has provided record levels of lending for the past three years, during which the program has operated on a zero-subsidy basis at fee rates consistent with historical levels. Relying on appropriated subsidies risks returning the program to uncertain loan availability and destroying the stability that both borrowers and lenders agree is crucial for this widely-used program.

The Administration also strongly opposes the more than \$30 million of earmarks for small business development activities that were added to the bill in Committee. These activities should compete for funding through the merit-based business development assistance programs of SBA and other Federal agencies. Altogether, the bill provides almost \$100 million of unrequested funding for technical assistance activities, including these earmarks.

Executive Office of the President (EOP)

The Administration supports full funding of the President's request and urges the House to adopt the expanded Enterprise Services initiative. EOP centrally manages the overall allocation of office space. Therefore, including rent expenses under Enterprise Services allows for more efficient administration from a single entity, rather than at the component level. The

Administration is disappointed that the Committee has not fully funded the National Youth Anti-Drug Media Campaign at the requested \$130 million level, which eliminates multi-cultural and parent-focused advertising and risks reversing the gains made in reducing teen drug use over the past five years.

The House is urged to enhance the President's flexibility by expanding the authority to transfer up to 10 percent of budgetary resources among EOP accounts and to adopt the consolidation proposal for the White House accounts. This initiative reduces the large administrative accounting requirement to report on separate small appropriations, enables EOP to exercise best business practices, and presents the most effective means for the President to realign available resources in response to changing needs or emergent national priorities.

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.

Civilian Pay

The Administration strongly opposes the 3.5 percent increase for Federal employee pay and urges the House to adopt the President's proposal. The Committee proposal exceeds the President's request and the average increase in private-sector pay, measured by the Employment Cost Index. This arbitrary across-the-board increase would cost agencies over \$600 million in FY 2008 and would not target any specific recruitment or retention challenges.

In addition, the Administration urges deletion of the provision that mandates the form of pay increases for civilian employees of the Departments of Homeland Security and Defense (DOD). The provision backs away from the concept of pay-for-performance and is ambiguous as to how the increase would be applied. In particular, DOD should be able to fully exercise its congressionally-approved pay flexibilities in order to recruit and retain a talented civilian workforce that is crucial the Department's efforts in the Global War on Terror.

The Administration also strongly opposes the provision relating to pay adjustments for prevailing rate employees, which would 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.

The President's Management Agenda and E-Government

The Administration urges Congress to (a) provide the \$5 million requested for the General Services Administration's (GSA's) Electronic Government Fund for government wide information technology systems; (b) authorize agency transfers to GSA's Government-wide Policy account at the request level of \$17 million to support Government-wide financial, information technology, and other management activities; and (c) grant authority to retain up to

\$40 million in uncommitted balances from the Acquisition Services Fund for allocation to Federal agencies for Government-wide Electronic Government projects, in coordination with OMB and the Committees on Appropriation.

The Administration opposes the restriction on E-Government interagency funding transfers. As required by the Clinger-Cohen Act and the E-Government Act, agencies are working together as one Federal enterprise to reduce duplicative information technology investments while improving service delivery and lowering overall costs. OMB will work directly with the individual subcommittees so that initiatives can move forward without disruption. The Administration also requests that Congress allow OMB's E-Government report to fulfill all reprogramming procedures and requirements for E-Government initiatives in this or any other appropriations Act.

Competitive Sourcing

The Administration strongly opposes language in section 738 that unnecessarily delays, complicates, and undermines the use of public-private competition in determining the most efficient performance of commercial activities. Section 738 undercuts the level playing field for public-private competition by creating uneven protest rights. It also imposes intrusive data requirements concerning the provision of fringe benefits that fail to recognize the various ways contractors effectively provide benefits to their employees and marginalizes the consideration of quality in determining the best provider for the taxpayer. On a government-wide basis, competitions conducted over the last four years are expected to produce nearly \$7 billion in savings, with the majority of savings to be achieved in the next 5-7 years. The House is urged to strike this language.

Constitutional Concerns

Several provisions of the bill purport to require approval of the Committees prior to Executive Branch action. These include sections 111, 112, 117, 118, 202, 503, 610, 611, 713, 736, and 737; and under the headings, "Salaries and Expenses," Departmental Offices, and "Business Systems Modernization," Internal Revenue Service, Department of the Treasury; "Federal Drug Control Programs, High Intensity Drug Trafficking Areas Program," Office of National Drug Policy Control; "Federal Buildings Fund," Real Property Activities, and "Policy and Operations," General Activities, General Services Administration; and "Electronic Records Archives," National Archives and Records Administration. Because these provisions would contradict the Supreme Court's ruling in *INS v. Chadha*, they should be changed to require only notification of Congress.

The execution of a law cannot constitutionally be conditioned upon compliance with documents that do not have the force of law because they do not comply with the Bicameralism and Presentment requirements of the Constitution. Language under the heading, "Salaries and Expenses, Office of Management and Budget," purporting to require compliance with the statement of conference managers, should be revised to eliminate references to that document.

Recognizing the Executive Branch's constitutional entitlement to communicate with Congress, section 804 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.

Section 717 of the bill purports 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). The Administration strongly opposes this provision unless it is amended to make clear that the provision is subject to the authority of the President.

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