



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

September 6, 2007  
(Senate)

## STATEMENT OF ADMINISTRATION POLICY

### H.R. 2764 – State, Foreign Operations, and Related Programs Appropriations Act, 2008

(Sponsor: Sen. Byrd (D), West Virginia)

While the Administration appreciates that H.R. 2764 does not exceed the President's request in total for the programs funded by the bill, it is below the President's request level, making it difficult to implement important policy objectives. In addition, the Administration strongly opposes this legislation because it includes provisions that are inconsistent with the Administration's international family planning policy. Consistent with the President's letter of May 3, 2007, if the President were presented a bill such as H.R. 2764 that weakens current Federal policies and laws on abortion, he would veto the bill.

Specifically, the Administration strongly opposes section 622 of the bill, which permits contracts and grants for organizations regardless of whether they perform or actively promote abortion as a method of family planning and is contrary to the Administration's Mexico City policy. The Administration also strongly opposes the Committee's changes to the Kemp-Kasten language, which are inconsistent with and would weaken current policy. Finally, the Administration is concerned that H.R. 2764 would undermine the evidence-based, balanced "ABC" approach to prevention in the President's Emergency Plan for AIDS Relief.

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. The Democratic Budget Resolution and subsequent spending allocations adopted by the Senate Appropriations Committee exceed the President's discretionary spending topline by \$22 billion, causing a 9 percent increase in FY 2008 discretionary spending. In addition, the Administration opposes the Senate 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 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, eliminate wasteful earmarks, 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 appreciates the Committee's support for important activities such as the President's Emergency Plan for AIDS Relief and economic and disaster assistance programs.

However, the Administration has concerns with several actions taken by the Committee, as discussed below.

### Millennium Challenge Account (MCC)

The Administration strongly opposes the Committee's reduction to the MCC. The Committee bill provides \$1.2 billion for the MCC, a \$1.8 billion reduction from the request and \$552 million below the FY 2007 level. A reduction of this magnitude is unacceptable and would severely undermine MCC's efforts to reduce poverty in countries that practice good governance, particularly in Africa, and make it more difficult for the United States to meet its commitment to double aid to Africa by 2010. Even the House-passed level of \$1.8 billion will preclude the MCC from entering into compacts already under negotiation with critical countries such as Jordan or Ukraine in FY 2008. The Senate's lower level would compound this problem and would dramatically diminish the incentive for countries to make important political and economic reforms needed to become eligible for an MCC compact.

### Global HIV/AIDS – Emergency Plan for AIDS Relief

The Administration appreciates the Committee's strong support for the President's Emergency Plan for AIDS Relief, especially funding for the bilateral focus country programs. However, the Administration is concerned about the magnitude of the increase for the Global Fund to Fight AIDS, Tuberculosis, and Malaria. The Global Fund is an important partner in the President's Emergency Plan, but it needs to show further progress in meeting benchmarks for grant performance, transparency, and accountability. As the largest contributor to the Fund, the United States must have assurances that the Fund is achieving its intended results.

### Malaria

The Administration urges full funding of malaria programs. The \$30 million reduction from the President's request threatens robust bilateral programs in several malaria-prone countries where the U.S. Government can deliver considerable results in preventing and treating this disease.

### Assistance to Colombia

The Administration strongly opposes the \$29 million overall reduction in assistance to Colombia and the significant redirection of funding from narcotics activities to other programs. The Administration also objects to the five-percent increase in withholding of funds pending a certification by the Secretary of State. The bill would limit Colombia's ability to reduce cultivation and stem the flow of narcotics to the United States by significantly reducing assistance to Colombian security forces necessary to continue the unified campaign against narcotics trafficking and terrorist organizations.

### Cuba

The Administration strongly opposes the Committee's reduction of \$31 million from the President's request for programs in Cuba, which would prevent the Administration from implementing the recommendations of the second report of the Commission for Assistance to a Free Cuba (CAFC II), signed by the President in July 2006. This funding is critical to increasing

support for civil society opposition and helping to break the Castro regime's information blockade at a time when Cuba is on the brink of profound change. The reduction would have the United States step back from supporting independent Cuban civil society at a time when the regime has increased its repression while attempting to engineer an undemocratic succession.

#### International Organizations and Programs

The Administration is concerned that the Committee bill does not include funding for the UN Democracy Fund or the UN Entrepreneurship Fund, while providing unrequested funding for the UN Population Fund and other UN agencies. These funds are important tools the UN can use to promote democratic institutions and free market principles abroad. The Administration urges the Senate to fully fund these programs. Furthermore, the Committee bill imposes additional conditions on the Administration before it can obligate funds for the United Nations Development Program (UNDP). The conditions are not warranted particularly as the Administration is already working closely with UNDP to improve oversight.

#### Department of State Operations

The Administration appreciates the support provided for several Department of State programs. However, the Administration is concerned that reductions in the Diplomatic and Consular Programs account put at risk needed personnel increases associated with Transformational Diplomacy, enhanced foreign language training, efforts to strengthen the Office of the Coordinator for Reconstruction and Stabilization, and upgrades in worldwide security.

#### Embassy Security, Construction, and Maintenance

The Administration appreciates the Committee's support for the Department of State's management of overseas property assets. However, the Administration is concerned that the bill reduces funding for security construction by \$158 million. Such a reduction significantly impacts the Department's ability to provide safe and secure facilities for U.S. Government personnel working overseas.

#### International Boundary and Water Commission

The Administration appreciates the Committee's support for construction in the United States of secondary wastewater treatment capability at the South Bay International Wastewater Treatment Plant (SBIWTP). This funding supports a cost effective solution to help stop the continued discharge of improperly treated effluent into the Pacific Ocean and to bring the SBIWTP into compliance with the Clean Water Act.

#### Broadcasting Board of Governors (BBG)

The Administration is concerned that the Committee directs BBG to continue radio broadcasting in several languages not supported by the President's request. The budget request proposed shifting funding from these programs to fund broadcasting improvements that will reach larger audiences in support of U.S. foreign policy objectives. The Administration is disappointed that the Committee directs a funding level for Cuba broadcasting that is \$5 million below the President's request.

## United States Institute of Peace (USIP)

The Administration is concerned that the bill reduces funding for USIP by \$5 million from the President's request. The reduction will constrain existing USIP programs in Iraq and Afghanistan and prevent proposed expansions of USIP conflict prevention and post-conflict stability programs.

## USAID Capital Investment Fund

The Administration urges the Committee to fully fund USAID's Capital Investment Fund. The reduction of \$35 million will preclude USAID from contributing its share of the Department of State's Capital Security Cost Sharing (CSCS) program to construct secure diplomatic facilities worldwide. All agencies with overseas presence pay a share of the CSCS program with funds appropriated to each respective agency. Many new embassy construction projects would not include space for USAID employees if USAID's contribution is not fully funded. Further, this reduction will seriously impair on going development and deployment of USAID's procurement systems, which would continue to inhibit the Agency's ability to report on its contracts and grants portfolio.

## Management of Democracy Programs and Policy

The Administration objects to the Committee's directive that the Assistant Secretary for Democracy and Human Rights be responsible for all policy, funding, and programming decisions. This directive potentially interferes with the Secretary's decision to delegate such responsibilities.

## Restrictions

The Committee bill includes a number of problematic restrictions. These restrictions apply to specific countries such as Libya, with respect to which use of funds are banned absent claims resolution, at a time when US engagement is crucial to achieving a broad bilateral agenda. Similarly, restrictions on countries such as Indonesia, Philippines, Pakistan, Sri Lanka and Guatemala related to human rights concerns threaten to prevent important military cooperation. The Administration takes these concerns into account in its diplomacy with such countries and objects to the constraints on assistance that often is designed to promote the desired conduct.

The Administration also objects to restrictions on providing military assistance for cluster munitions or countries that recruit or use child soldiers. Currently, the sales of cluster munitions are subject to safeguards, and the Administration vigilantly pursues efforts to prevent the use of children in combat.

## Sudan

The Administration is concerned that the bill does not include an exception to the prohibition on assistance to the Government of Sudan that is in current law. Specifically, prior year appropriations acts have excluded the Three Areas of Southern Kordofan/Nuba Mountains State, Blue Nile State, and Abyei from this prohibition. Failure to exclude these areas will result in the

limitation or discontinuation of USAID programs in these areas, which are increasingly fragile and where the risks of conflict are elevated. These Three Areas are addressed under the 2005 Comprehensive Peace Agreement between Government of the Sudan and the Sudan People's Liberation Movement/Sudan People's Liberation Army.

### Constitutional Concerns

Provisions of the bill that purport to direct or burden the conduct of foreign relations, including negotiations and communications with foreign countries or international organizations, and requirements to consult with the Committees before making or implementing foreign policy decisions, should be amended to delete such direction or burden, or be made permissive, to make the provisions consistent with the constitutional authority of the President to conduct the Nation's foreign relations and to supervise the unitary Executive Branch. Such provisions include sections 106, 606(a) and (e), 612, 614, 634(j), 638(b), 643(b), 647, 656(b) and (e), 659, 660, 662(b), 669, 670(g), 673(e), 676, 682(a), 684(a), and 692.

Section 104 of the bill purports 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) and should be amended to specify that the provision is subject to the authority of the President.

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