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

July 13, 2011
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 2434 – Financial Services and General Government Appropriations Act, 2012
(Rep. Rogers, R-KY)

This Statement of Administration Policy provides the Administration's views on H.R. 2434, making appropriations for financial services and general government programs for the fiscal year ending September 30, 2012. The Administration is committed to ensuring the Nation lives within its means and reducing the deficit so that the Nation can compete in the global economy and win the future. That is why the President put forth a comprehensive fiscal framework that reduces the deficit by $4 trillion, supports economic growth and long-term job creation, protects critical investments, and meets the commitments made to provide dignity and security to Americans no matter their circumstances.

The Administration strongly opposes a number of provisions in this bill. If the President is presented with a bill that undermines either the Affordable Care Act or the Dodd-Frank Wall Street Reform and Consumer Protection Act through funding limits or other restrictions, or reverses current policies on Cuba, his senior advisors would recommend a veto.

While overall funding limits and subsequent allocations remain unclear pending the outcome of ongoing bipartisan, bicameral discussions between the Administration and congressional leadership on the Nation's long-term fiscal picture, the Administration has concerns regarding the level of resources the bill would provide for a number of programs in a way that undermines core government functions, investments key to economic growth and job creation, as well as national security, including:

Department of the Treasury

Internal Revenue Service (IRS). The level of funding provided for the IRS would seriously degrade the quality of services provided to taxpayers and would increase the deficit. Tax enforcement and compliance activities typically return $7 or more on each taxpayer dollar spent. The bill would erode taxpayer service to the extent that only one out of every two taxpayers would be able to reach an IRS customer service representative, and would lead to over 4,200 full-time staff reductions and reduce overall revenue collections by $4 billion annually, costing taxpayers far more than the near-term savings generated.

Community Development Financial Institutions (CDFI) Fund. The level of funding provided in the bill would reduce the Treasury Department's capacity to provide credit, capital, and financial services to low and moderate-income persons and small businesses in underserved communities. The bill also includes language that could bar CDFI funds from being used for programs such as the Healthy Food Financing Initiative, designed to increase the availability of affordable, healthy food outlets in underserved urban and rural communities where there is little or no access to healthy food.

Financial Research Fund (FRF). The Administration objects to the funding level for the FRF, as it would compromise oversight and analyses of financial market risks by restricting its independent funding. FRF supports the Financial Stability Oversight Council (FSOC) and the Office of Financial Research (OFR), as authorized by the Dodd-Frank Wall Street Reform and Consumer Protection Act; undercutting FSOC and OFR resources would impede their ability to identify risks to the financial stability of the Nation, promote market discipline, and respond to emerging threats to the U.S. financial system's stability.

<u>Other Independent Agencies</u>

Consumer Financial Protection Bureau (CFPB). The Administration opposes the alteration of CFPB's mandatory funding structure as authorized by the Dodd-Frank Wall Street Reform and Consumer Protection Act, which would compromise the Bureau's independence, as well as limitations on the Bureau's expenditures to levels that would severely undercut the agency's statutory responsibility to oversee consumer financial products such as mortgages and credit cards. Not only would the bill's funding limitation severely curtail hiring and start-up investments that are already underway, but it would also impede supervision, limit the Bureau's consumer response services, prevent the ramping up of citizen financial literacy improvements, and delay the implementation of financial protection programs for older Americans.

Securities and Exchange Commission (SEC). The Administration opposes the funding level for the SEC, which would compromise the Commission's current market oversight and enforcement activities, including policing the securities and derivatives marketplace; undermine the SEC's ability to effectively carry out responsibilities authorized under the Dodd-Frank Wall Street Reform and Consumer Protection Act; and severely compromise critical information technology investments that would prevent fraudulent investment schemes. Limiting SEC's expenditures does not result in any budgetary savings, since SEC is fully funded by fees on financial transactions and the overall fee level is by statute set to equal the spending level appropriated. In addition, section 623 of the bill, which bars the SEC from using amounts in its Reserve Fund as authorized by the Dodd-Frank Act, is problematic because it would significantly undermine SEC's ability to fund long-term projects that improve the Commission's efficiency and effectiveness.

Election Assistance Commission (EAC). The bill would limit EAC's activities to protect the integrity of elections and undermine the agency's role as part of the Nation's election system infrastructure. Not only would the level of resources provided in the bill require a 50-percent reduction in staff, it would also limit the agency's ability to perform its statutorily required duties, including the certification of voting systems and the maintenance of a clearinghouse of election administration information.

Federal Communications Commission (FCC). The funding level for FCC would make it increasingly difficult to manage its expanded responsibilities, such as auctioning additional spectrum, overseeing mergers, and reforming the Universal Service Fund. Because FCC is fully funded by fees, this reduction would not save taxpayer dollars.

National Archives and Records Administration (NARA). The bill provides inadequate funding for NARA to effectively perform its core operations, including providing Federal agencies and the public with access to Federal Government records in paper, electronic, and other forms.

Executive Office of the President (EOP)

EOP Funding. The level of resources provided in the bill would significantly impact the EOP's role in assisting the President in carrying out his constitutional duties as head of the Executive Branch, including protecting national security interests, developing policies to address the challenges facing the Nation, reducing the deficit and spending taxpayer dollars more cost-effectively, and managing the Federal agencies.

General Services Administration (GSA)

Federal Buildings Fund. The bill provides insufficient resources to operate the existing GSA buildings portfolio, including lease payments to private lessors, utility payments, and janitorial services. The bill also provides no resources for high priority capital projects including several modernization projects that would increase efficiency and reduce costs.

Office of Personnel Management (OPM)

OPM's New Statutory Responsibilities. The funding level provided by the bill would limit OPM's ability to implement and administer new statutory responsibilities.

The bill includes the following problematic policy and language issues that are beyond the scope of funding legislation:

Department of the Treasury. The Administration opposes sections 107 and 108 of the bill, which would place significant restrictions on the Department's ability to adequately implement the Affordable Care Act, and would delay the planning and construction of a system to administer the critical premium assistance tax credit and the ability to reconcile it with IRS's core systems. These sections would prevent both appropriated and transferred funds from the Department of Health and Human Services from being used by the Department to administer the law.

Office of Financial Stability (OFS). Section 127 of the bill would set an unprecedented limit on appropriated expenditure by OFS, which would severely limit OFS's ability to effectively and efficiently administer the Troubled Asset Relief Program (TARP), including protecting taxpayer investments held by TARP and providing housing program support.

Home Affordable Modification Program (HAMP). Section 129 of the bill would terminate HAMP and thereby increase the number of avoidable foreclosures, as many struggling homeowners would no longer have an opportunity to reduce their mortgage payments to a sustainable level through the program. HAMP has greatly contributed to standardizing the treatment of millions of delinquent home loans, bringing greater certainty to struggling homeowners. It is a key tool to stabilizing the housing market by preventing avoidable foreclosures, protecting home values, and preserving homeownership.

Presidential Election Campaign Fund. Section 620 of the bill would effectively terminate the Nation's Presidential election public financing system, expanding the power of corporations and special interests in the Nation's elections. This language would force many candidates into an endless cycle of fundraising at the expense of engagement with voters on the issues, and would place a premium on access to large donor or special interest support, narrowing the field of otherwise worthy candidates.

Federal Communications Commission (FCC). Section 621 of the bill would prohibit the FCC from promoting open Internet practices that prevent unnecessary discrimination across content carried by Internet service providers. The FCC has carefully crafted rules to promote competition while balancing the technical needs of Internet providers.

District of Columbia Needle Exchange Restriction. Section 807 of the bill restricts the use of Federal funds for the District's needle exchange programs. This is contrary to current practice and the Administration’s policy to allow funds to be used in locations where local authorities deem needle exchange programs to be effective and appropriate.

District of Columbia Abortion Restriction. Section 810 of the bill prevents the District of Columbia from using its own funds for abortions, which undermines the principle of states' rights and of D.C. home rule. Longstanding Federal policy already prohibits Federal funds from being used for abortions, except in cases of rape or incest, or when the life of the woman would be endangered.

Consumer Product Safety Commission's (CPSC's) Product Safety Database. Section 622 of the bill prohibits the use of funds for CPSC's public product safety database, SaferProducts.gov. This website allows the public to submit and review reports of harm or risk of harm related to the use of consumer products, and it also allows manufacturers to respond directly to each report. The funding restriction, which will eliminate the database, is inconsistent with the Administration's transparency goals, limiting the information available to consumers and manufacturers about hazardous or potentially hazardous products.

Fighting Fraud, Waste, and Abuse. The Administration is concerned with sections 740 and 741 of the bill and looks forward to working with the Congress to achieve the intended purpose of protecting the interest of the Nation's taxpayers, which is consistent with the Administration's efforts to fight fraud, waste, and abuse in Federal contracts, grants, and other Federal assistance.

Cuban Family Travel and Remittances. The Administration opposes section 901 of the bill, which would reverse the President's policy on family travel and remittances to Cuba. This section would undo the President's efforts to increase contact between divided Cuban families, undermine the enhancement of the Cuban people's economic independence and support for private sector activity in Cuba that come from increased remittances from family members, and therefore isolate the Cuban people and make them more dependent on Cuban authorities.

Constitutional Concerns. Multiple provisions of the bill raise constitutional concerns. Section 203 would prohibit the use of funds for officers or employees of the Executive Office of the President "to prepare, sign, or approve statements abrogating legislation passed by the House of Representatives and the Senate and signed by the President." Contrary to the implication of section 203, Presidential signing statements do not abrogate legislation. They indicate how the Executive Branch will apply acts of the Congress to ensure faithful execution of the laws. To the extent section 203 purports to prevent the President from making use of his immediate aides in the Executive Office of the President to prepare any statement articulating the conclusion that a particular provision of law is unconstitutional and therefore will not be executed, in whole or in part, this provision would impermissibly encroach upon the President's constitutional authority to execute and interpret Federal laws, including the Constitution. Section 632 would prohibit the use of funds for several positions that involve providing advice directly to the President. It also would deny funding for any "substantially similar positions." As the President indicated in an April 15, 2011 statement regarding virtually identical provisions in prior legislation, the President has well-established authority to supervise and oversee the Executive Branch, and to obtain advice in furtherance of this supervisory authority. The President also has the prerogative to obtain advice that will assist him in carrying out his constitutional responsibilities, and do so not only from Executive Branch officials and employees outside the White House, but also from advisors within it. Finally, Section 713 is phrased in a manner that could be construed to require the Executive Branch to disclose, without discretion, certain classified and other privileged information, in which case it would intrude on the President's discharge of his constitutional authorities.

The Administration looks forward to working with the Congress as the fiscal year 2012 appropriations process moves forward to ensure the Administration can support enactment of the legislation.

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