



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

May 17, 2005
(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 2360 – Department of Homeland Security Appropriations Bill, FY 2006

(Sponsors: Lewis (R), California; Obey (D), Wisconsin)

The Administration supports House passage of the FY 2006 Department of Homeland Security Appropriations Bill, as reported by the House Committee.

The Administration applauds the Committee for reporting this bill in a timely manner and looks forward to working with Congress to ensure that the FY 2006 appropriations bills do not exceed the \$843 billion discretionary funding level proposed in the President's FY 2006 Budget and contained in the FY 2006 Congressional Budget Resolution. Sustaining the economy's expansion requires strong Federal spending discipline. The President's Budget includes over 150 savings and reforms and was the first to propose reducing non-security discretionary spending since the Reagan Administration. The Administration urges Congress to shift funding from lower priorities and, as assumed in the Budget Resolution, to hold spending in the non-security discretionary category below last year's level.

Given the need for responsible spending restraint, the Administration urges Congress to fully fund unavoidable obligations, such as the disaster relief account in this bill. The Administration looks forward to working with Congress to ensure that its priorities, such as the Domestic Nuclear Detection Office (DNDO), Coast Guard's Deepwater capitalization, and the Department of Homeland Security's (DHS) human resources system initiative (MAX HR) are met within that overall total.

Domestic Nuclear Detection Office

The Administration appreciates the Committee's support for the creation of DNDO, but strongly recommends that the full funding requested be provided. This initiative is a top priority of the Administration and failure to fully fund DNDO will delay the development, testing, and deployment of new technologies for detecting radiological and nuclear materials in cargo, at our borders, and elsewhere. DNDO already has procedures in place to utilize the requested full funding, and we should not delay improving our capability to defend against catastrophic threats.

Coast Guard Deepwater Program

The Administration strongly recommends that the full funding level of \$966 million be provided for the Coast Guard's Deepwater capitalization program. The level of funds provided in the Committee bill, a reduction of nearly half of the request, will stall the replacement of the Coast Guard's aging air and sea assets. With the greater homeland security role the Coast Guard has assumed, full funding of the budget request for Deepwater and deployment of its capabilities are essential.

MAX Human Resources System Initiative

The Administration is strongly opposed to any effort to reduce or eliminate funding for DHS's MAX HR. This human resource management system will meet the diverse personnel pay and benefit requirements of DHS. The funding requested for FY 2006 is critical to the deployment of MAX HR department-wide.

Border and Transportation Security

The Administration is concerned that the Committee did not include the requested increase in aviation-security passenger fees. The House is urged to include this provision to ensure that the direct beneficiaries of aviation-security measures bear a greater share of the cost of implementing and maintaining a secure screening system.

The Administration supports the Committee's efforts to improve border security and control by providing resources to hire and deploy 1,000 new Border Patrol agents and nearly 600 new immigration enforcement agents and investigators to fund nearly 4,000 additional detention beds. The Administration is committed to working with Congress to implement an immigration enforcement strategy that will improve our law enforcement authorities' operational control of our Nation's borders.

The bill does not include language proposed by the Administration to consolidate DHS screening programs within the Office of the Undersecretary for Border and Transportation Security. The Administration believes the Office of Screening Coordination and Operations is important to developing a comprehensive approach to terrorist screening that supports homeland security – in immigration, law enforcement, intelligence, counterintelligence, and protection of the border, transportation system, and critical infrastructure.

State and Local Programs

The Administration appreciates the support for the President's request for State and local preparedness programs, especially the increased flexibility to award State-based grants according to homeland security risks and threats. However, reductions to several programs put at risk key Administration initiatives to protect crucial infrastructure, secure high-risk urban areas, and prepare our citizens. Also, the Committee's mandate to double the share of funding allocated to emergency medical services is inconsistent with the principle of allocating funds based on risk and threat.

Emergency Preparedness and Response

The Administration's request for disaster relief appropriations is under-funded by more than \$100 million. The requested funding level is based on the five-year average of total disaster costs excluding large, one-time events. Full funding of the disaster relief program is important to ensure that DHS is able to respond appropriately to the Nation's unforeseen emergencies and natural disasters.

Competitive Sourcing

The Administration strongly opposes section 520, which imposes a legislative restriction on the use of competitive sourcing for work performed by the Immigration Information Officers at the U.S. Citizenship and Immigration Services (USCIS). Management decisions about public-private competition, and accountability for results, should be vested with the USCIS. Agencies across the Government are using competitive sourcing in a reasoned and responsible manner to reduce costs and improve program performance. On a Government-wide basis, competitions completed in FYs 2003 and 2004 are expected to generate \$2.5 billion in savings over the next 3 to 5 years. The House is urged to strike this restriction.

Reporting Requirements

While the Administration understands the need for prompt delivery of reports to Congress and makes every effort to comply with deadlines, the Committee's requirement of delivery of reports of complicated matters before receiving funding could inhibit the Department's efforts to secure the homeland.

Constitutional Concerns

The Administration objects to a number of provisions in the bill that would purport to require Committee approval or GAO action before Executive Branch execution. 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*.

A number of provisions purport to condition the use of appropriations on the prior review and approval of plans by specified individuals and offices. These provisions raise constitutional concerns because they infringe on the President's power to oversee his subordinates in the unitary Executive Branch.

Section 513 requires that the Commandant of the Coast Guard submit annually to Congress "a list of approved but unfunded Coast Guard priorities and the funds needed for each priority." To the extent that this provision is viewed as requiring the Commandant to make a legislative recommendation, it violates the Constitution's Recommendation Clause, which vests that authority in the President, and it should be deleted. Moreover, the provision would apply only to the extent consistent with the President's supervision of the unitary Executive Branch. The Administration is willing to work with the Committee on alternative ways to provide a better understanding of Coast Guard capital planning.

Section 528 purports to require that the Privacy Officer report to Congress without Executive Branch clearance. This provision is inconsistent with the President's constitutional authority to coordinate and supervise all replies and comments from the Executive Branch to Congress in supervising the unitary Executive Branch. The Administration requests that this requirement be deleted.

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