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

June 24, 2019
(House Rules)

STATEMENT OF ADMINISTRATION POLICY

H.R. 3351 — Financial Services and General Government Appropriations Act, 2020
(Rep. Lowey, D-NY)

The Administration opposes House passage of H.R. 3351, making appropriations for financial services and general government for the fiscal year (FY) ending September 30, 2020, and for other purposes. The Administration is strongly opposed to the budgetary framework that underlies this and other appropriations bills being considered by the House of Representatives. This framework would raise the discretionary spending caps by more than $350 billion in fiscal years (FY) 2020 and 2021 and does not reflect either a House-passed budget resolution or a bipartisan, bicameral agreement. It would put the Federal Government on track to add nearly $2 trillion to deficits over 10 years, adding significantly to the national debt, which is already more than $22 trillion and rising.

In addition, the House Democrats' framework continues to adhere to the misguided and unfounded notion that increases to defense spending must be matched or exceeded by increases to non-defense spending. In fact, the appropriations bills under consideration would provide more than twice as much additional funding in FY 2020 for non-defense programs as for defense programs, relative to FY 2019 levels. Investing in our national security remains a key Administration priority, but strengthening our defense does not require additional non-defense discretionary spending.

Overall, according to the Congressional Budget Office, the bill would appropriate $25.0 billion, which is $0.4 billion, or 1.6 percent, above the FY 2020 Budget request and $1.8 billion above the FY 2019 enacted level. In addition, this legislation includes a number of particularly problematic provisions implicating key Administration priorities, including provisions that would restrict the Administration's ability to secure the southern border, impose restrictions on the Administration's management of the Executive Branch, and allow for Government-funded abortions in the District of Columbia.

If H.R. 3351 were presented to the President in its current form, his advisors would recommend that he veto it.

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

Department of the Treasury

Border Security Infrastructure. The Administration believes that it is essential to fully secure the border, the bedrock of a functioning immigration system. Language in section 126 of the bill would severely undermine the Administration's efforts to do so by restricting the use of certain amounts in the Treasury Forfeiture Fund. Such amounts are permanently authorized for law enforcement activities of any Federal agency. The Administration strongly opposes this language, which would hamstring the development of border security infrastructure.

Committee on Foreign Investment in the United States (CFIUS). The Administration appreciates that the bill provides sufficient resources to support anticipated increases in CFIUS caseload volumes and the investments required to successfully implement the Foreign Investment Risk Review Modernization Act of 2018.

Community Development Financial Institutions (CDFI) Fund. The Administration is disappointed that the bill provides $286 million above the amount requested in the FY 2020 Budget for the CDFI Fund. The Federal Government should not be allocating taxpayer funds to the mature CDFI industry, which should have ready access to private capital. The requested amount of $14 million is sufficient to support ongoing CDFI Fund activities.

<u>Executive Office of the President</u>

Poverty Measure. The Administration strongly opposes language in section 634 of the bill that would preclude funds from being used to make changes to the Official Poverty Measure. The provision would prevent the Office of Management and Budget (OMB) from completing its statutory responsibilities under the Paperwork Reduction Act of 1995 and would also undermine the established process for reviewing and updating these standards, which is intended to ensure the objectivity and relevance of Federal statistical data.

Apportionment Reporting. The Administration strongly objects to section 204 of the bill that would require OMB to create an automated system and website through which each OMB-approved apportionment would be publicly posted, and would require OMB to provide a monthly report to the appropriations committees documenting all apportionment requests that have been with OMB for 30 days or more without being approved. This reporting requirement is unnecessarily onerous as it would require thousands of documents to be posted online each year.

Restrictions on Withholding under the Impoundment Control Act of 1974 (ICA). The Administration strongly objects to section 750 of the bill which would prohibit withholding from obligation any budget authority proposed for rescission or deferral pursuant to the ICA within 60 days of the expiration of that budget authority. In addition, this provision would treat any violation of this prohibition as if it were an Antideficiency Act violation. This provision would undermine long-standing budget law and impinge on the President's ability to exercise fiscal management of the Executive Branch, including by proposing rescissions.

Supervision of the Executive Branch. The Administration is disappointed that the bill includes certain provisions that seek to interfere with the President's supervision of the Executive Branch, such as one purporting to bar OMB from expending funds to alter the annual work plan of the Army Corps of Engineers, in contravention of the separation of powers between the Executive Branch and the Congress.

General Services Administration (GSA)

Federal Buildings Fund (FBF). The Administration is disappointed that the bill continues to underfund the General Services Administration's (GSA) capital program. The diversion of receipts fails to provide Federal agencies with the commercial equivalent space and services that agencies pay for in rent. The bill fails to fund critical construction, renovation, and consolidation priorities within the FBF capital program, including the next phase of construction at the Department of Homeland Security's consolidated headquarters at St. Elizabeths. Since FY 2011, the Congress has redirected approximately $8 billion in GSA rent receipts to other congressional priorities.

Federal Capital Revolving Fund. The Administration continues to support the establishment of a Federal Capital Revolving Fund (FCRF), a new budgetary mechanism for large civilian real property projects. The Administration transmitted legislative language in June 2018 and looks forward to working with the Congress to enact the FCRF proposal.

Federal Information Technology (IT) Modernization. The Administration appreciates the continued support for the Technology Modernization Fund with an increase in funding over FY2019 enacted levels. However, the Administration urges the Congress to provide the full $150 million requested level, which would support a more rapid transition of legacy systems and the adoption of more commercial technology.

Small Business Administration (SBA)

Entrepreneurial Development Programs. The Administration is concerned that the bill provides $282 million in funding for SBA entrepreneurial development programs, $100 million above the FY 2020 Budget request. In addition, the Administration is disappointed that the Congress has failed to include the reforms proposed in the FY 2020 Budget request to create a competitive set-aside for the Small Business Development Centers program and to allow for data sharing, which would enable the program to better measure and evaluate effectiveness.

District of Columbia (D.C.)

D.C. Restrictions. The Administration strongly objects to section 802 of the bill which would amend a previously-enacted provision and would allow for Government-funded abortion in D.C.

School Improvement. The Administration is disappointed that the bill provides less for School Improvement than the FY 2020 Budget request; the $53 million provided is $38 million less than the FY 2020 Budget request. The requested funding is needed to meet family demand for the D.C. Opportunity Scholarship Program (OSP) and provide additional support for D.C. public schools and public charter schools. Instead, the bill would continue to provide funding for the poorly-targeted Tuition Assistance Grants program. In addition, the Administration is concerned that the bill requires private schools participating in the OSP to certify with the Department of Education that they comply with Federal requirements for which they do not receive funds to implement. The unprecedented application of such requirements would severely limit private schools' ability to participate in OSP and therefore seriously reduce the number of high-quality educational options to which disadvantaged D.C. families have access.

Other Independent Agencies

National Archives and Records Administration (NARA). The Administration appreciates the inclusion of the $22 million requested to implement NARA's electronic records initiative, which is part of the Administration's Government Reform Plan. These funds would help NARA modernize its work processes and accelerate important electronic records activities.

Public Buildings Reform Board (PBRB). The bill fails to fund PBRB and the Asset Proceeds and Space Management Fund, both of which were established under Federal Asset Sales and Transfer Act of 2016. The Board recently began operations, given that a sufficient number of Board members have been appointed and, absent appropriations in FY 2020, the PBRB would be unable to carry out its mission.

Election Assistance Commission. The Administration is disappointed that the bill includes $600 million in unrequested funds for additional election security grants to States. Securing election infrastructure is a partnership between Federal, State, and local governments and private sector entities. States have only begun to expend the $380 million received for election security grants in FY 2018. Additional support from the Federal Government should only be provided once existing funds have been deployed.

Other Issues

Office of Personnel Management (OPM) Reorganization. The Administration continues to stress structural and organizational reform at OPM, and strongly opposes the inclusion of language in section 632 of the bill prohibiting the merger of OPM with GSA. Reform is needed to better align resources with mission and create long-term stability, sustainability, and increased operational excellence. In addition, the Administration is also concerned with language in this section prohibiting interagency agreements between GSA and OPM. Interagency agreements are routinely entered into by agencies for cross-agency support and are mission-critical for OPM to continue to operate. As worded, the provision would create increased risk of IT system failures, including those with sensitive information concerning current and former Federal employees and their families.

Across-the-Board Civilian Pay Increase. The Administration continues to support the alignment of pay with strategic human capital objectives. A 3.1 percent pay increase presents long-term fixed costs, yet fails to address the most strategic human capital issues facing the Federal workforce.

Collective Bargaining Agreements (CBA). The Administration strongly opposes section 749, which prevents agencies from addressing language in their CBAs that violate Government-wide requirements and limits the authority of the Federal Service Impasses Panel to resolve bargaining impasses. By stipulating that a CBA shall remain in full force and effect until a new bargaining agreement is reached through mutual consent, this provision effectively traps agencies and forces them to remain party to agreements that do not advance the effectiveness or efficiency of the agency's mission.

Public-Private Competition. The Administration is disappointed that the bill continues the moratorium preventing agencies from using public-private competition as a tool for determining whether specific work of the Government should be performed by Federal workers or contractors. Such a tool would enable more efficient use of resources, helping to achieve important goals of the Administration, including those laid out in the President's Management Agenda.

Constitutional Concerns

Certain provisions of the bill raise constitutional concerns. For instance, a provision purporting to bar OMB from expending funds to alter the annual work plan of the Army Corps of Engineers would interfere with the President's supervision of the Executive Branch, a necessary feature of his constitutional duty to take care that the laws be faithfully executed. Other provisions would contravene the constitutional separation of powers between the Executive Branch and the Congress, and still another could infringe on the President's constitutional authority to control the disclosure of information that is subject to executive privilege. The Administration looks forward to working with the Congress to address these concerns.

The Administration looks forward to working with the Congress as the FY 2020 appropriations process moves forward.

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