

BUDGET AND PROGRAM

NEWSLETTER

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VOL. XLV NO. 7

Washington, February 15, 2019

No shutdown.

No continuing resolution.

President Trump... signed a \$333 billion omnibus package that funds the seven remaining FY 2019 appropriation bills.

Hill approval was overwhelming, veto-proof. Senate vote was 83-16, while the House adopted the conference report, 300-128.

At the same time... Mr. Trump declared a national emergency, potentially enabling him to shift military construction or disaster aid funding for border barrier costs.

Even though telegraphed for weeks... it caught many on the Hill by surprise. Immediate criticism from both sides of the aisle ensued.

Thus begins... a new fight.

Many questions concerning it remain unanswered. Democrats said they will challenge any attempts to shift money without congressional approval. A number of Republicans also have qualms - including believing it sets a bad precedent for future administrations to follow. Nothing on this scale has been seen before.

In the overall... Presidents have the power by statute to order military construction projects in times of war or "national emergency."

But since Sept 11, 2001... it has never been used for a project that Congress declined to fund - or a project anywhere near the size of a border wall, as much as \$25B when associated technical and infrastructure improvement are included.

In all the years since... it has been tapped for 18 small scale projects - that collectively cost \$1.4B.

All except one... were built overseas. The lone exception was \$35M for WMD security measures - spread across five states in 2001.

The most expensive... was a Navy compound that cost \$228M at Camp Lemonnier in Djibouti in 2013.

Although there is much pushback - even some Democrats concede he may have the executive authority to proceed.

House Armed Services chairman, Adam Smith (D-Wash)... "Unfortunately, the short answer is yes." Even so, he said - "I think the President would be wide open to a court challenge saying - 'Where is the emergency?' You have to establish that in order to do it."

Opinions on his authority vary - a broad legal fight lays ahead, likely winding its way eventually to the Supreme Court, where depending on the outcome - striking down or upholding it... justices could redefine Presidential powers.

Where would the money come from? To supplement the \$1.375B, the White House says it would reprogram \$2.5B from Pentagon initiatives that support counter-drug operations for law enforcement agencies and about \$3.6B from unobligated military construction accounts under nat'l emergency declaration. Also in the mix, \$600M from the Treasury Forfeiture Fund. In all... up to \$8B in total.

DOD... has signaled that the \$3.6B would not come from military housing but instead from projects to upgrade training and other military facilities. And initially, from projects that had been funded but that weren't scheduled to begin until after Sept 30, 2019. The FY 2020 defense budget - "will make plans to backfill these accounts" according to the White House on Friday.

The President... says he wants the money to build 234 miles of barriers along the nearly 2,000-mile border with Mexico. No details on specific locations have been given. About 654 miles of the border currently has some physical barrier, with much of the rest having natural borders such as mountains or the Rio Grande.

With passage of the omnibus... the President has secured \$1.375 to build 55 miles of new physical barriers - based off existing fencing prototypes, but not allowing for concrete wall building. However, language does permit so-called "steel slats" - which Mr. Trump has endorsed.

Another late sticking point in negotiations - concerned ICE detention beds.

Democrats... sought to cap the overall daily population limit to 35,520 with a ceiling of 16,500 beds for undocumented immigrants already in the United States.

The backdrop... is that last year, Congress funded an average daily population of 40,520. Negotiators settled on allowing an average of 45,274 for FY 2019. Presently, ICE is holding over 49,000.

The final agreement... also provides a 1.9% pay raise for civilian employees.

Let's take a brief look at the various appropriation bills:

- Agriculture - is provided \$23B (+\$32M over FY 2018) in discretionary funding.

FDA... is one of the larger components - moving to \$3.1B (+269M). Much of it is funded by \$2.6B in various user fees such as prescription drug user fees - which dwarfs them all at \$1B. Food and Inspection Service trimmed \$7M while APHIS moves \$30M higher to \$1,014M.

- Commerce-Justice-Science - set for \$64.1B (+\$4.5B).

Dept of Commerce... nudges higher to \$11.4B (+\$277M). Within it, Bureau of Census vaults to \$3.8B (+\$1B). NOAA skids to \$5.4B (-\$485). The reason? "Procurement, acquisition and construction" dives \$535M to \$1.8B.

Dept of Justice tacks on \$638M to \$30.9B. Federal law enforcement agencies are provided \$21.8B (+\$445M). Largest chunk goes to FBI at \$9.6B (+\$177M). Conferees lead off with the fight on the opioid epidemic - it's a central concern. Federal Prison System moves to \$7.5B (+\$238M).

NASA... climbs to \$21.5B (+764M). Its science budget vaults to \$6.9B (+\$684M) while space technology jumps to \$926M (+22%).

- Interior-Environment - provided \$35.5B (+\$300M).

EPA set for \$8.8B (flat). Most of the major categories - are precisely the same as FY 2018 - to the dollar. One example - Science & Technology (\$703.473M).

The agreement... does not include any requested funds for workforce reshaping and conferees "do not expect the agency to consolidate or close any regional offices in FY 2019."

Within 30 days... EPA is to submit its annual operating plan for 2019 - which is to detail how it intends to allocate funds at the program project level.

Nat'l Park System... nudges \$20M higher to \$3.22B.

U. S. Fish and Wildlife... eases to \$1.58B (-\$17M).

Indian Health Service (HHS)... is largest component by far at \$5.6B (+\$152M).

- State-Foreign Operations... at \$54.2B. Of this amount, \$8B is for overseas contingency operations (OCO). Base funding is \$46.2B (+\$4.3B).

OCO dollars play an outsized role in parts of the bill. One example, diplomatic programs are allocated \$5.9B in base funding but an additional \$3.2B in OCO monies.

- Financial Services... set for \$23.4B. IRS provided \$11.3B (-\$128M). Within it, the operations support budget increases \$90M to \$3.7B, while the business systems modernization account jumps 36% to \$150M.

- Transportation-HUD... provided \$71B in discretionary BA (+\$779M). Dept of Transportation... at \$26.5B (-\$771M). FAA operations budget rises to \$10.4B (+\$200M). However, its airport discretionary grants are cut in half - falling \$500M, while its facilities & equipment budget is trimmed \$250M to \$3B.

- Homeland Security... is at the center of it all. Provided \$49.4B in net discretionary appropriations. An additional \$12B in disaster relief and \$165M in OCO funds for the Coast Guard brings the discretionary level to \$61.6B.

Customs and Border Protection (CBP) at \$15B (+\$942M). The agreement funds a total of 600 new CBP for deployment and "encourages the use of available funds" to hire an additional 600.

We will take a much closer look at this bill next week - and the remaining appropriations in the weeks to follow.

Senior Executive Association... has released a report that examines federal workforce capabilities.

One area zeroed in on... is employee stress or "increased work overload." You may relate to it, is framed as such:

"Digital technologies provide for improved individual capabilities, however they also add to the expectations of public service - including the expectation of 24/7 availability, an increasing volume of emails read and data sets to analyze, increased interruptions during the day through different modes of communication, and multiple demands for attention throughout the course of the week."

Further on:

"Social media channels are now weaponized to take out an employee or group resulting in a chilling workplace climate and constant anxiety about the potential of false allegations for executives striving to do their best."

Also in the mix:

"Lack of rewards for action and innovation, yet clear risk of penalties, leading to 'analysis paralysis' lest a decision later be judged wrong or politics misconstrue well-intended actions."

As such, the federal workforce has evolved into one that is "fatally risk adverse."

Senior Executive Service - also states that "compounding the challenge" is the following statistics

- Between 2017-2018... almost 20% of the 8,281 SES members - departed gov't. That institutional knowledge is now gone.
- Federal workers over 60 years old outnumber those under 30... 5 to 1.
- Last major revision to federal hiring was 1978... predating the internet.
- There has been a lack of keeping up "with a rapidly changing world, opening enormous vulnerabilities and attack surfaces."

Question: Has the gov't reached a point where critical operations might fail in stressful events that are likely to occur?

Answer: "Based on the data collected in this [43 page] study, it appears the answer to this critical question is yes."

China angst.

A recent Defense Intelligence Agency report... states that the U.S. will now - have to be able to look for a Chinese military that is "active everywhere."

This means - the U.S. "will have to interact with them, engage with them, deal with them, monitor them more broadly than we've ever had to before, when they were very regionally focused and near their own shores."

And it goes beyond traditional means - Beijing can now reach anywhere on the globe with its space, cyberspace and nuclear capabilities even though its military can't deploy conventional forces so pervasively.

Looming large - is their relentless quest for "information dominance." They see it as the key for inflicting defeat in modern wars. The report cautions on their improving anti-satellite progress that could target communication systems equating to an attack to "blind and deafen" the enemy.

Titled - "China Military Power: Modernizing a Force to Fight and Win." Begun in 2017...it is the 3rd annual report on China, runs 140 pages. Is crammed with details on Chinese defense and military goals strategy, plans and intentions along with a deep look into the military organization and structure itself.

In its latest negotiations strategy... the Taliban met in Russia (Feb 6-8), with the previous President of Afghanistan, Hamid Karzai, along with his former nat'l security advisor Hanif Atmar - who is running against Afghan President Ashraf Ghani in elections set for July.

Sidelined twice from peace talks (the other being Taliban-U.S.) in less than two weeks...the move underscores how feeble the current gov't is viewed.

This is a goal of the Taliban. But deeper than that - according to one expert on Afghan politics - to "also weaken the country's political process and the idea of constitutional rule."

The head of the 10-person Taliban delegation in Moscow - Muhammad Stanikzai - said the withdrawal of foreign troops will lead to peace.

Of note - in a recent separate matter, he told a pro-Taliban website that Afghan security forces would dissolve after a U.S. withdrawal and that under a potential peace pact, the army and police would be rebuilt under a different title...and include some Taliban.

Senate Armed Services Committee chairman, James Inhofe (R-Oklahoma)... says that he would begrudgingly support a huge increase - an "exaggerated" increase in DOD's war (OCO) budget - for programs unconnected to warfare - if that is what is necessary to boost defense dollars.

The number he has in mind... \$750B for nat'l security spending (function 050) in FY 2020 vs \$716B in the current year. About 95% goes to DOD, with most of the remainder to DOE nuclear energy programs.

He said, how the budget is blended between OCO and base funding - is secondary to arriving at the \$750B figure.

As it is... congressional aides say they expect a \$750B figure to be proposed by the White House and to include a whopping \$150B (perhaps as high as \$174B) for OCO accounts - more than double the current war budget of \$69B.

Figures are still subject to change - though aides believe that is unlikely. Entire programs... such as the Army's accounts for ammunition and training would be shifted over to the war account, according to some sources.

You may be surprised to learn... that no one has ever been held criminally responsible for violation of the decades old Anti-Deficiency Act and only two officials have ever been suspended.

The Act... prohibits gov't from incurring obligations or making expenditures without congressional appropriations, shutdown threats are intimately tied to it.