Department of Defense Conference Appeals

FY15 National Defense Authorization Bill

October 2014

Office of the Assistant Secretary of Defense, Legislative Affairs

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Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Offensive Anti-Surface Warfare Weapon Development (OASuW)

Appeal Citation: H. Rpt. 113-446, pp. 392, 407, 428, and 477; S. Rpt. 113-176, pp. 741, 746, 755, and 772

Appropriations: Research, Development, Test and Evaluation, Navy; Weapons Procurement, Navy; Aircraft Procurement, Air Force; and Working Capital Fund, DECA

Summary: The Senate deleted all of the funding for the OASuW program (reduction of $202.9 million) to halt program pending analysis demonstrating need. The House supports the President's budget request.

	Budget Authority (Dollars in Millions)				
Item	Budget	House	Senate	House Appeal	Senate Appeal
Offensive Anti-Surface Warfare Weapon Development (Research, Development, Test, and Evaluation, Navy, H. Rpt. p. 428, S. Rpt. p. 755, line 82, 0604786N)	202.9	202.9	0.0	202.9	202.9
Offset – Maintain minimum sustaining rate of production (Weapons Procurement, Navy, H. Rpt. p. 392, S. Rpt. p. 741, line 3)	194.3	276.3	276.3	194.3	194.3
Offset – C-130 avionics modernization Program (Aircraft Procurement, Air Force, H. Rpt. p. 407, S. Rpt. p. 746, line 50)	35.9	109.7	83.5	35.9	35.9
Offset – Restore Commissary Cut (Working Capital Fund, DECA, H. Rpt. p. 477, S. Rpt. p. 772) **	1,114.7	1,214.7	1,314.7	1,114.7	1,114.7
Offset – Spending Reduction Account	0.0	0.0	0.0	0.0	126.7

**This offset is used in the Offensive Anti-Surface Warfare Weapon Development (OASuW) and Unobligated Balances and Contract Services Reductions appeal.

DoD Position/Impact: The Department objects to the Senate deleting the $202.9 million requested for the OASuW effort because it would delay the program by over two years, enlarge a U.S. capability gap, and create unacceptable warfighter risk. This program addresses urgent anti-surface warfare capability gaps identified by the Combatant Command (COCOM) responsible for supporting the Department's rebalancing of the force structure and program investments toward the Asia-Pacific Theater of Operations in a Pacific Fleet (PACFLT) Urgent Operational Needs Statement (UONS) initially submitted in 2008 and reissued in 2014. Requirements for a near-term solution were further

defined in the Department of the Navy's January 2014 Request for Accelerated Acquisition of OASuW Increment 1.

Eliminating the FY 2015 funding prevents the program from meeting the 2018 maritime threat, creates a larger U.S. capability gap, and places U.S. forces at unacceptable risk. The OASuW path-forward is aligned with COCOM priorities as stated in the 2008 UONS that was reissued in February 2014. The OASuW Increment 1/Long Range Anti-Ship Missile (LRASM) solution leverages Department investments to enable delivery of required capabilities in the most expeditious and economical manner at the lowest risk.

Based on the OASuW Analysis of Alternatives (AoA) and subsequent studies, the Department determined that the LRASM was best positioned to provide the required robust solution to the 2018 threat, capable of adapting to changes in near-term threat capabilities, and providing a path for future capability growth. The program is leveraging the technology investments from the Defense Advanced Research Program Agency (DARPA) program which culminated in 2013 with two successful end-to-end flight demonstrations of a fully integrated system meeting all demonstration program objectives in a representative environment defined by the Pacific Combatant Command (PACOM) and PACFLT. LRASM is the only material solution that meets the defined requirements and schedule with the capacity to address accelerated near-term technology maturity and advances of the adversary to pace the threat into the near future.

The Fiscal Year 2015 President's Budget requests $202.9 million in the Research, Development, Test and Evaluation, Navy appropriation for the continued development and technology transition of the demonstrated LRASM system in support of the air launched early operational capability (EOC) as defined by the Services and directed by the Deputy Secretary of Defense. The House provision recommends the $202.9 million, the full amount requested in the President's Budget request, for the continued development of Increment I and to initiate an OASuW AoA update for Increment II of the OASuW weapon. The Department plans to meet these objectives by leveraging existing contracts in FY2015 to mature LRASM technologies and prepare for the award of an integration and fielding contract to deliver an air launched EOC in 2018 to meet the most urgent requirements. The Department plans to pursue a competitive acquisition strategy for OASuW Increment 2 to meet the full 2024 OASuW requirements against demanding maritime threats. The long-term OASuW/Increment 2 strategy does not preclude the potential for a family of systems solution that can be air, surface, and subsurface launched.

The additional $82.0 million added to the Senate authorization for the Tomahawk program is not required. The Department has assessed potential contingency operations (worst case) and determined that sufficient Tomahawk inventory is available until a Next Generation Land Attack Weapon (NGLAW) can be introduced. Continued Tomahawk procurements will impair the Department's ability to resource the development and fielding of an NGLAW capability in a timely manner. Recommend $82.0 million be redirected from this congressional enhancement to restore this congressional mark.

The additional $47.6 million added to the Senate authorization for C-130 program is not required. There is a less expensive alternative to the Avionics Modernization Program (AMP) and both a congressionally-directed independent study by Federally Funded Research and Development Center and a U.S. Government Accountability Office review confirmed this approach. In its findings, the Institute for Defense Analysis stated that the U.S. Air Force should not pursue AMP and that a more cost effective alternative is available. Retaining AMP would require future

expenditures of over $3.0 billion to complete this program and are not available given the Department's fiscal constraints and current priorities. The modified program costs considerably less than AMP and will ensure that DoD's C-130 fleet can operate as needed in accordance with future global access and air traffic management requirements. Recommend $25.0 million be redirected from this congressional enhancement to restore this congressional mark.

The additional $200.0 million added to the Senate authorization for Working Capital Fund, Defense Commissary Agency (DECA) program is not required. The Department supports the proposed total $1.0 billion decrease to the DeCA's budget over the next three years, leaving approximately $400.0 million annually thereafter to subsidize the operation of overseas and remote and isolated commissaries in the United States, as part of its effort to slow the growth. Recommend $95.9 million be redirected from this congressional enhancement to restore this congressional mark.

The additional $126.7 million which remains from the congressional adds offsets in the Senate authorization is not required. Recommend $126.7 million be redirected from this congressional enhancement to the spending reduction account.

The Department urges conferees to support the House position of $202.9 million. Increase to overall funding authorization levels associated with this appeal are offset from lower priority activities, to keep the overall authorization funding levels within the FY 2015 security caps of the Bipartisan Budget Act of 2013.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Unmanned Carrier-Launched Airborne Surveillance and Strike System (UCLASS)

Appeal Citation: H. Rpt. 113-446, pp. 65-67, 395, 425, 427, and 429; S. Rpt. 113-176, pp. 355, 357, and 359

Appropriations: Research, Development, Test and Evaluation, Navy and Shipbuilding Conversation, Navy

Summary: The House would prohibit the Navy from awarding a contract for the UCLASS air vehicle segment until the Secretary of Defense completes an additional requirements review and provides the results to the congressional defense committees, and reduces funding by $203.0 million in the authorization. The Senate supports the President's budget request.

	Budget Authority (Dollars in Millions)				
Item	Budget	House	Senate	House Appeal	Senate Appeal
Unmanned Carrier Launched Airborne Surveillance and Strike (UCLASS) System (Research, Development, Test and Evaluation, Navy, H. Rpt. p. 429, S. Rpt. p. 359, line 112, 0604404N)	403.0	200.0	403.0	403.0	403.0
Offset – Program requirement (Shipbuilding, Conversion, Navy, H. Rpt. p. 395, line 009A)	0.0	100.0	0.0	0.0	0.0
Offset – Service Life extension for the AGOR ships (Research, Development, Test and Evaluation, Navy, H. Rpt. 425, S. Rpt. p. 355, line 010, 0602435N)*	45.4	65.4	45.4	46.5	45.4
Offset – Acceleration of the ACV Increment 1.1 Program (Research, Development, Test and Evaluation, Navy, H. Rpt. 427, S. Rpt. p. 427, line 053, 0603611M)	105.7	190.8	38.0	105.7	38.0
Offset – Spending Reduction Account	0.0	0.0	0.0	1.0	0.0

*This offset is used in Unmanned Carrier-Launched Airborne Surveillance and Strike System (UCLASS) and Unobligated Balances and Contract Services Reductions appeals.

DoD Position/Impact: The Department objects the House reduction of $203.0 million for UCLASS and the prohibition of awarding a contract until the Secretary of Defense conducts an additional requirements review as they will increase total program cost and jeopardize the program's continued viability.

The Department urges conferees to support the Senate position of $403.0 million. The Department opposes the House provision in the FY15 language because the additional requirements review would be duplicative and would cause further delays in Air Vehicle development resulting in an increase of total

program cost, potentially reducing competition by jeopardizing continued industry investment/participation by one or more participants, and question the program's continued viability.

The UCLASS program satisfies capability gaps for sea-based intelligence, surveillance and reconnaissance and targeting capability from the aircraft carrier which has been validated by the Joint Requirements Oversight Council (JROC). The Department has conducted extensive campaign, system requirements and alternatives analysis in order to inform the development of UCLASS requirements to meet the JROC validated capability gaps. The Office of the Secretary of Defense Cost Assessment and Program Evaluation (CAPE) has reviewed and certified the Analysis of Alternatives (AoA). In accordance with Section 213 of the Fiscal Year 2012 National Defense Authorization Act (NDAA) (Public Law 112-81) and Section 212 of the Fiscal Year 2013 NDAA (Public Law 112-239), the Department submitted the directed reports and certification regarding the UCLASS threshold and objective Key Performance Parameters, the achievability of the requirements, and compliance of the Acquisition Strategy with the Weapons Systems Acquisition Reform Act of 2009 (Public Law 111-23) and the Department of Defense Instruction 5000.02 to the four Congressional Defense Committees. The Secretary of the Navy, Chief of Naval Operations, and the Service Acquisition Executive have reviewed and concurred that the UCLASS Draft Air Segment Request for Proposal (RFP) is consistent with the approved requirements. In light of the extensive analysis underpinnng the UCLASS requirements and acquisition strategy, the Department believes that the requirements review directed by the House prior to air vehicle segment contract award is duplicative and would have significant impacts on the UCLASS program and its ability to meet critical needs of the Department for an unmanned sea-based ISR and targeting capability in the 2020 timeframe.

The proposed FY2015 reduction prevents the program from awarding the Technology Maturation and Risk Reduction contract on schedule and will significantly delay the UCLASS program, increase the program's total cost, jeopardize continued industry investment/participation by one or more participants thereby reducing competition and question the program's overall continued viability.

The additional $100.0 million added to the House authorization for the Advance Procurement (CY) program for LCS is not required. LCS does not require Advance Procurement for single year ship procurements. Because FY 2015 is the last year of the current dual award block buy contracts, and a follow-on acquisition strategy is not yet in place, there is no benefit to providing Advance Procurement funds for the program in FY 2015. Recommend $100.0 million be redirected from this congressional enhancement to restore this congressional mark.

The additional $18.9 million added to the House authorization for the Ocean Warfighting Environment Applied Research program is not required. It is not necessary to perform a service life extension for one of the Auxiliary General Oceanographic Research (AGOR) ships. The AGOR program received FY 2013 funding to complete a mid-life refit which will allow the ship to meet its required 30-year service life. Recommend $18.9 million be redirected from this congressional enhancement to restore this congressional mark.

The additional $85.1 million added to the House authorization for the Marine Corps Assault Vehicles program is not required. There is no current requirement to accelerate the Armored Combat Vehicle 1.1 program nor is the program ready to expend the additional funding the House proposes to add in FY 2015. The Program is currently planning to release an Engineering and Manufacturing Development Request for Proposal to industry in FY 2015 to award a contract in early FY 2016. Recommend $85.1 million be redirected from this congressional enhancement to restore this congressional mark.

The additional $1.0 million which remains from the congressional adds offsets in the House authorization is not required. Recommend $1.0 million be redirected from this congressional enhancement to the spending reduction account.

The Department urges conferees to support the Senate position of $403.0 million. Increase to overall funding authorization levels associated with this appeal are offset from lower priority activities, to keep the overall authorization funding levels within the FY 2015 security caps of the Bipartisan Budget Act of 2013.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Littoral Combat Ship

Appeal Citation: H. Rpt. 113-446, pp. 395 and 389; S. Rpt. 113-176, pp. 323 and 318

Appropriation: Shipbuilding Conversion, Navy and Aircraft Procurement, Navy

Summary: The House includes a reduction of one Littoral Combat Ship (LCS) from the three requested, resulting in a reduction of $450.0 million. The Senate supports the President's budget request.

	Budget Authority (Dollars in Millions)				
Item	Budget	House	Senate	House Appeal	Senate Appeal
Littoral Combat Ship (Shipbuilding, Conversion, Navy, H. Rpt. p. 395, S. Rpt. 323, line 009)	1,427.0	977.0	1,427.0	1,427.0	1,427.0
Offset – Additional EA-18G aircraft (Aircraft Procurement, Navy, H. Rpt. p. 389, S. Rpt. 318, line 001)	43.5	493.5	68.5	43.5	43.5

DoD Position/Impact: The Department objects to the House reduction of $450.0 million for the Littoral Combat Ship (LCS) program. Reducing the number of LCS in FY 2015 will result in a delay of deployable assets and may require extended use of legacy Mine Countermeasure and Patrol Craft ships to meet Combatant Commander's force requirements. In the LCS rotational crewing model, an individual ship cannot deploy until there is a sister ship available for homeport training. Further reductions will cause a delay in the delivery of the second ships in each hull pairing for LCS 21/23 and LCS 22/24. The block buy contracts include a stable procurement of two ships per year from each shipyard from FY 2012-2015 and allow the industry teams to put long term vendor contracts in place providing Navy with highly competitive pricing for the duration of the block buy contract(s). It is unlikely the industry teams will be able to re-create these competitive prices for single ship procurement or through renegotiation. Additionally, prime contractors may lose preferred vendors due to the high cost to maintain production lines for low volume specialty items (i.e. ship reduction gears). The loss of one ship in FY 2015 will increase the cost of the two remaining ships, possibly jeopardizing the Navy's ability to meet the congressionally mandated cost cap set forth in the 2010 National Defense Authorization Act.

The additional $450.0 million added to the House authorization for the EA-18G program is not required. The EA-18G is the only Airborne Electronic Attack aircraft for the Department, but there is no validated requirement for additional aircraft. Keeping the EA-18G production line open is cost prohibitive for the Department. Recommend $450.0 million be redirected from this congressional enhancement to restore this congressional mark.

The Department urges conferees to support the Senate position of $1,427.0 million. Increase to overall funding authorization levels associated with this appeal are offset from lower priority activities, to keep the overall authorization funding levels within the FY 2015 security caps of the Bipartisan Budget Act of 2013.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Elimination of the Authority to Abolish Arsenals

Appeal Citation: S. 2410, sec. 323; S.Rpt. 113-176, pg. 66

Language/Provision: The Senate provision would amend 10 U.S.C. 4532 to eliminate the Secretary of the Army's authority to abolish arsenals. It would also require the Secretary to maintain those critical capabilities identified in the "Army Organic Industrial Base Strategy Report."

DoD Position/Impact: The Department objects to the Senate provision. The Army needs the authority to close facilities that are not critical to security and responsive to potential surging demands. The Army faces a continually adapting threat, with evolving capabilities that require changes across the entire industrial base. It is imperative that the Army retains the flexibility to concentrate efforts where needed. Losing the authority to close arsenals and focus efforts on the critical production capabilities undermines the Army's careful stewardship of precious taxpayer dollars and potentially dilutes the Army's ability to meet critical emerging warfighter demands.

10 U.S.C. 4532(a) includes a provision to use factories or arsenals owned by the United States when it can be done on an economical basis. Directing the preservation of current production capabilities and forcing their use would undermine any incentive to improve efficiency, and drive the costs of the products of those facilities out of a competitive environment.

Additionally, the proposed Senate section 323(a)(2) would lock the Army into a fixed set of capabilities, and not allow adjustment in response to changing demands or development of superior capabilities in the very robust commercial industrial base. The Senate provision could also have the unintended effect of inhibiting innovation and growth in the private sector.

Lastly, the Department has confirmed with Committee staff that the citation of the "Army Organic Industrial Base Strategy Report" in Senate section 323 (in the reported version of the bill S. 2410) is in error. Instead, the correct reference was to the "Report to Congress on Critical Manufacturing Capabilities and Capacities" which was transmitted to the Congress in August 2013, and included Army input identifying critical manufacturing capabilities in the arsenals.

The Department urges exclusion of the Senate provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Exercise of Reversionary Interest, Camp Gruber, Oklahoma

Appeal Citation: HR 4435, sec. 2847; S. 2410, sec. 2834

Language/Provision: House section 2847 would require the Secretary of the Army to perform a business case analysis to assess the merits of reacquiring State of Oklahoma property that was formerly part of Camp Gruber, Oklahoma. If the Secretary determines that a reversion of the property is needed for national defense purposes, the Secretary shall exercise reversionary rights contained in the property deed and request the State of Oklahoma (Oklahoma Department of Wildlife) to reconvey the property to the United States. The Secretary shall then convey the property, without consideration, back to the State of Oklahoma for use by the Oklahoma Military Department for military maneuver space.

The corresponding Senate provision (S. 2410, sec. 2834) would authorize the Secretary of the Army to assume administrative jurisdiction of State of Oklahoma property adjacent to Camp Gruber, Oklahoma, upon a determination by the Secretary that such property is needed for national defense purposes.

DoD Position/Impact: The Department objects to the House provision because the business case analysis that it would require has already been performed and does not form a basis for the Secretary of the Army to determine that reversion of the property is needed for national defense purposes. Further, the property reversion and reconveyance procedure that would follow from such a determination under the House provision is an unnecessarily burdensome and expensive means to enable use of the property by the Oklahoma Military Department for military maneuver space.

The Senate provision is also predicated upon a determination by the Secretary of the Army that reversion of the property is needed for national defense purposes. The applicable property deed contains a provision that already provides the Army and the General Services Administration (GSA) sufficient authority to revert property title to the United States if it is ever needed for national defense purposes. Consequently, the Senate proposal provides no additional authority and its enactment at this time could be misconstrued to indicate an Army intent to revert and reacquire property for which a requirement has not been established, an undesirable precedent.

The House and Senate provisions are each predicated on a determination by the Secretary of the Army that the property is needed for national defense purposes, but a basis for such a determination has not been established. Consequently, neither provision would achieve the intended outcome of greater access to the property by the Oklahoma Military Department for military maneuver space.

The Department believes there is a preferable course of action, within existing authorities, under which the Oklahoma Military Department and Oklahoma Department of Wildlife Conservation would prepare a mutually satisfactory proposed agreement that specifies how military training and wildlife conservation on the property will be integrated and managed. The Army would assist the State in working with the GSA, which has deed oversight and enforcement responsibility, to facilitate the proposed agreement while taking account of the wildlife conservation provisions of the property deed. Additional authority to pursue this course of action does not appear necessary at this time.

The Department urges exclusion of both the House and Senate provisions.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Arsenal Installation Reutilization Authority

Appeal Citation: H.R. 4435, sec. 2813

Language/Provision: House section 2813 would amend the general leasing authority of the Military Departments to establish a unique leasing regime specific to military manufacturing arsenals. The House section would require that the Secretary concerned delegate leasing authority to arsenal commanders, and would specify purposes for which the authority may be used. It would provide for lease terms up to 25 years, and create an exception to the general requirement for a Secretarial determination that a lease term greater than five years would promote the national defense or be in the public interest.

The Senate bill included no similar provision.

DoD Position/Impact: The Department objects to the House provision because it would vest a significant, unprecedented statutory authority in arsenal commanders that would be detrimental to good order and management of Department property and resources.

The provision would grant arsenal commanders authority to make major long-term decisions regarding use of Department property, in cases where such commanders may not have sufficient information on which to base such decisions. The Department requires the discretion to set delegations at levels which ensure decision-making is well informed and well vetted while also being expedient.

The provision would mandate the delegation of leasing authority to commanders who do not have the technical training and experience in real estate matters to lease property. As a general matter, authority to lease property on behalf of the Department is delegated through the chain of command to subject matter experts who have appropriate real estate training and experience. Rather than placing this subject matter expertise at each installation and arsenal, real estate contracting is generally conducted at regional offices which also have the appropriate legal, fiscal, and related support staff with subject matter expertise. A separate statutory delegation of this nature would disrupt that practice to the detriment of all stakeholders.

The provision would also limit leases at arsenals under this authority to terms not to exceed 25 years. This constraint on lease terms would unnecessarily and inexplicably limit the Department's options when seeking to reduce Army costs and leverage private investment at arsenals through long-term leases.

Lastly, the House provision would create a separate framework for leasing property at arsenals unique from the framework used at all other military installations. It would also establish a separate set of statutory purposes for which the authority would be used at arsenals, distinct from the general authority. These differences would result in unnecessary inconsistencies and inefficiencies in the management of arsenals relative to management of other military installations. The Department is not aware of any particular characteristics of arsenals, or past problems regarding leasing of property at arsenals, which would call for treating arsenals differently from other types of military installations with respect to this authority.

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Requirement to Utilize Design-Bid-Build Procedures

Appeal Citation: H.R. 4435, sec. 805

Language/Provision: House section 805 would amend 41 U.S.C. 3309, and 10 U.S.C. 2305a, to preclude use of one-step design-build acquisition procedures for non-military construction projects under $1.0 million. The effect of the section would necessitate use of design-bid-build procedures for non-military construction projects under $1.0 million.

The Senate bill does not contain a similar provision.

DoD Position/Impact: The Department strongly objects to House section 805 because it would unduly limit contracting officers' authorities to effectively and efficiently award contracts, and adversely impact non-military construction, (e.g. projects that are repair or maintenance, civil works, foreign military sales, or interagency) under $1.0 million. The requirement that the Department utilize design-bid-build procedures would severely limit an agency's flexibility in choosing the best acquisition approach. Further, it would limit an agency's ability to meet the needs of the particular project and mission, hindering the timely award of smaller projects, which often go to small businesses.

Design-bid-build procedures significantly increase execution schedules because the full design must be separately solicited and awarded. The construction contract may be solicited and awarded only after the design is complete. Completion of a 100 percent design package for solicitation introduces substantial lead-time into the process. The advantage of a design-build contract is that it permits the award of a design and construction contract simultaneously. Smaller projects, such as critical installation repair projects, usually involve one-year funds, which are not normally received at the installation level until the third quarter of the fiscal year. These types of projects may not be awardable under a design-bid-build requirement, because the lead-time required for completion of the 100 percent design prior to construction contract solicitation and award would preclude award within the fiscal year prior to expiration of the funds.

The House requirement would discourage contractor innovation, increase liability for design, increase project delivery time, and increase total project cost through more change orders. Under design-bid-build, the design and construction are not integrated. Each phase is implemented separately and cannot start until the previous has been completed; unlike design build where the phases overlap each other to ensure a quick delivery. Mandating the use of the design-bid-build acquisition approach would lead to inefficient designs, increased errors, higher costs, delays, and disputes. Moreover, the design-build approach fosters innovative solutions, reduces liability and establishes a single point of responsibility. To preclude use of one-step design-build acquisition procedures for non-military construction projects would limit contractors' ingenuity and their ability to develop solutions that meet the Government's needs efficiently.

House section 805 also includes a provision that a contracting officer determination to include more than five offerors, to enter the second phase of a two-phase design-build competition, must be approved by the Head of the Agency (HOA). The HOA for Army contracts is the Secretary of the Army. Such a high approval level would substantially reduce efficiency in acquisitions, especially in the case of awarding multiple award contracts under a two-phase design-build procedure where more than five offerors can be necessary to increase competition in the final award pool. It is the Department's view that this approval level should be maintained within the Contracting Activity.

The Department urges exclusion of the House provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Transportation of supplies from nonprofit organizations.

Appeal Citation: H.R. 4435, sec. 1090B

Language/Provision: House section 1090B would allow the Department of Defense, at the discretion of the Secretary, to transport goods supplied by nonprofit organizations to members of the Armed Forces.

The Senate bill does not include a similar provision.

DoD Position/Impact: The Department views this provision as unnecessary because the Department currently has the authority to transport goods supplied by nonprofit organizations.

Considering airlift resources are reserved for high priority cargo, the Department generally recommends nonprofit organizations to OurMilitary.mil to connect with other organizations that have existing transportation arrangements. OurMilitary.mil is the nationwide program launched by the Department to assist organizations in supporting our military at home and abroad.

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Transportation on military aircraft on a space-available basis for disabled veterans with a service-connected, permanent disability rated as total

Appeal Citation: H.R. 4435, sec. 622

Language/Provision: House section 622 would require the Secretary of Defense to provide space-available transportation for any veteran with a service-connected, permanent disability rated as total. Additionally, the language requires the space-available transportation to be provided at no additional cost to the Department and with no aircraft modification on scheduled and unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Air Mobility Command.

The Senate bill includes no similar provision.

DoD Position/Impact: The Department objects to the House provision because it would automatically add additional categories of travelers before completion of the Department's review of the space-available program as required by the FY13 NDAA. The FY13 NDAA, section 622, requires the Department to make a determination for establishing a space-available travel program with categories of individuals, and provide a report to Congress. The Department's review considers additional categories of individuals—including disabled veterans, impacts on seat availability for active duty members and their families, air terminal resource reductions, aircraft and mission reductions, and procedures for entering DoD installations. The report to Congress is currently in coordination within the Department.

Ongoing analysis indicates that the House provision could increase the number of eligible space-available travelers to over 100,000 travelers. An increase of this magnitude would decrease travel opportunities for uniformed Service members and their families—the primary recipients of the space-available travel privilege:

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Program Manager Development Strategy, Tenure, and Accountability

Appeal Citation: S. 2410, secs. 841, 842, 843

Language/Provision: Senate section 841 would require the Secretary of Defense to develop a comprehensive strategy that includes common templates for enhancing the role of Department of Defense program managers. Senate sections 842 and 843 would require a single program manager be assigned to an acquisition program's development period before Milestone B approval (sec. 842) and execution period after Milestone B approval (sec. 843), regardless of the length of each period. Narrow waiver authority would be granted for only the section 843 provision.

The House did not include similar provisions.

DoD Position/Impact: The Department objects to the Senate provisions because the use of common data gathering and analysis templates and tools for program management and oversight will frequently hinder necessary tailoring and optimized outcomes. The Department objects to Senate sections 842 and 843 because they would mandate tenure lengths without regard to unique program and acquisition workforce characteristics, needs and strategies. Mandating tenure lengths in this manner can lead to sub-optimized performance and results.

Concerning Senate section 841, while notional practices are defined for program execution, data collection, and oversight, the many variables associated with programs make every program unique. Therefore, practices often will be tailored to optimize outcomes and the use of available resources. Mandating the use of common tools and practices will detract from optimized outcomes by encouraging workers to view the templates and tools as a goal. Therefore, it is better to determine how best to customize work and reports for a given program and environment rather than allowing standard data and formats become the focus of an acquisition effort.

Senate sections 842 and 843 would mandate that all programs have a single program manager during development (pre-Milestone B) and execution (post Milestone B to delivery of the first production units). Mandating tenure length in this manner could be problematic for a number of reasons:

- The length of these periods can vary considerably from program to program. For larger programs, these periods can reach or exceed ten years. Senate provisions restrict Department leadership from making changes even when doing so would be in the best interest of the program (e.g.: when new skills are needed as the program or program environment changes).
- Program managers leading more than one program would remain in place for overly long periods since the programs schedules are usually staggered with only some overlap;
- Officer and government civilian career paths would be greatly altered for those in positions longer than four year periods. Succession in these positions would be greatly reduced, thereby impacting the number of program managers eligible for promotion and limiting the number of people who will move into the program manager position. Each of these possibilities could negatively impact recruitment, retention, and the size of selection pools for program managers and program executive officers which are all important elements for managing a professional workforce;
- The Senate provision allows for very narrow exception authority for the execution tenure period, but with no exceptions provided for the development tenure period.

The Department urges amendment of Senate section 841 by deleting references to common templates and tools, to ensure program execution and oversight are optimized by addressing individual program characteristics. The Department urges exclusion of Senate sections 842 and 843, because the language is overly restrictive and will likely have unintended consequences on program and workforce performance.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Prohibition on Conducting Additional Base Realignment and Closure (BRAC) Round.

Appeal Citation: H.R. 4435, sec. 2711; S. 2410, sec. 2702

Language/Provision: Both House section 2711 and Senate section 2702 specify that nothing in the final FY15 NDAA Act could authorize a BRAC round.

DoD Position/Impact: The Department is facing a serious problem created by the tension of declining budgets, reductions in force structure, and limited flexibility to adapt our infrastructure accordingly. There is an urgent need to find a way to strike the right balance, so infrastructure does not drain resources from the warfighter. The Department's goal is a BRAC focused on efficiency and savings, and it is a goal that departmental leadership believes is eminently achievable.

Without authorization for a new round of BRAC, DoD will not be able to properly align the military's infrastructure with the needs of the evolving force structure, which is critical to ensuring that limited resources are available for the highest priorities of the warfighter and national security.

The Department urges exclusion of the House and Senate provisions, and inclusion by the Congress of an authorization for a new BRAC round.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Consultation Requirement in Connection with Department of Defense Major Land Acquisitions

Appeal Citation: H.R. 4435, sec. 2811

Language/Provision: House section 2811 would amend 10 U.S.C. 2664 to limit a Military Department's major land acquisition authority. The term "major land acquisition" means, "any land acquisition not covered by the authority to acquire low-cost interests in land under section 2663(c)" of title 10. The House provision would require the Department to consult with the chief executive officer of the State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or the territory or the possession in which the land is located to determine options for completing the real property acquisition before being authorized to proceed with the acquisition.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House section 2811 because any consultation or notification will have little effect on proposed acquisition decisions that are based on true documented requirements filling an identified military need. The House provision would also create undue confusion among the states over a perception of an increase in their limits of authority for federal land acquisitions, while duplicating actions already undertaken when complying with the National Environmental Policy Act (NEPA).

Additionally, the House provision is not clear as to what constitutes consultations in determining "options for completing the real property acquisition." Due to the tendency of state or local government representatives to demand state approval prior to acquisition, the Department is wary of the addition of nonessential processes and actions to an already lengthy list of administrative requirements that, in sum, threaten to undermine the ability of the Department to make necessary provision for America's defense.

The Department urges exclusion of the House provision.

Department of Defense Appeal
FY 15 National Defense Authorization Bill

Subject: Biannual Certification by Combatant Command (COCOM) Commanders on Use of Open-Air Burn Pits

Appeal Citation: H.R. 4435, sec. 312

Language/Provision: House section 312 would require COCOM commanders conducting contingency operations to provide biannual certifications to Congress that any open-air burn pits are being used in compliance with regulations, and if the commander finds no feasible alternative, the Secretary of Defense would initially report such noncompliance not later than thirty days after such determination and periodically thereafter.

DoD Position/Impact: The Department objects to House section 312 because it would pose an unnecessary and undesirable drain on the limited resources of COCOM commanders.

As a result of section 317 of the FY 2010 NDAA (P.L. 111-84), the use of open-air burn pits for disposal of listed wastes at regulated installations has virtually ceased. Nevertheless, House section 312 would require every COCOM commander involved in a contingency operation, which constitutes most commanders at any particular time, to provide biannual certifications that their commands are in compliance with the Department of Defense instruction (DoDI 4715.19) on open-air burn pits. Section 317 of the FY10 NDAA has been extraordinarily successful in the elimination of the use of burn pits for hazardous and toxic materials. The House provision's subsequent addition of administrative regulations to achieve a goal already completed would not provide any additional protection for the troops. If the House provision is enacted, however, it will divert the attention and consume the time of COCOM commanders better spent on accomplishing their missions and ensuring the safe return of their forces.

The Department urges exclusion of the House provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: National Historic Landmark and National Register of Historic Places Objections and Removals for Reasons of National Security

Appeal Citation: H.R. 4435, sec. 2816

Language/Provision: House section 2816 would amend the National Historic Preservation Act (NHPA) to authorize Federal agencies to object for reasons of national security to the inclusion of federally managed properties in the National Register of Historic Places (National Register). House section 2816 would also require the Secretary of the Interior to remove already listed Federal properties from the National Register if the managing agency requests such removal for reasons of national security. A national security reason is defined broadly to include "any impact the inclusion or designation would have on use of the property for military training or readiness purposes."

The Senate included no similar provision.

DoD Position/Impact: The Department objects to House section 2816 because its proposed amendment to the NHPA is not necessary to ensure that the Department of Defense (DoD) has access to the lands it needs to test and train in fulfillment its national defense mission. Further, the amendment does not consider the existing provision in the NHPA that authorizes a waiver of the Act's requirements for "imminent threat[s] to the national security." DoD's programs and policies for cultural resources management promote the defense mission by encouraging and maintaining public support for the military, and enhance the quality of life for our military men and women, their families, and the public by facilitating a strong connection to our shared history, culture, and traditions. Further, compliance with the NHPA promotes efficiencies and facilitates consultation with internal and external stakeholders, which has fostered positive and productive partnerships with Federal, tribal, state, and local governmental agencies, non-governmental organizations, and the general public.

When historic properties that may be affected by the DoD undertakings are listed in, or determined eligible for listing in the National Register, the Department works with its state, tribal and Federal partners to develop mutually acceptable agreements that address the potential consequences of its actions on the affected historic properties without impeding mission-critical military testing and training. Without exception, that collaborative process has proven successful in the past. Should the Department encounter a situation where it cannot reach an acceptable agreement that preserves military readiness imperatives, the Department can, in accordance with the regulations implementing the NHPA, after a final comment from the Advisory Council on Historic Preservation, terminate all consultation and make a final decision. Based on past experience, the Department does not believe that compliance with the NHPA, including the National Register nomination process, threatens DoD's needs or its ability to meet its vital national defense mission.

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Congressional Authorization Required for MilCon Projects Accepted from Host In-kind Contributions

Appeal Citation: S. 2410, sec. 2801; S.Rpt. 113-176, pgs. 269-270

Language/Provision: Senate section 2801 would amend 10 U.S.C. 2687a(f), and 10 U.S.C 2802(d)(1), to require that any military construction project or facility improvement may be accepted as an "in-kind contribution" by a host nation under bilateral agreements only if such military construction project or facility improvement has been authorized by law. The Senate Armed Services Committee expressed its concern that past in-kind contributions from partner nations to support the overseas presence of U.S. military forces in South Korea and Japan may have been used to fund construction projects the Committee would not have knowingly authorized.

The House included no similar provision.

DoD Position/Impact: The Department strongly objects to the Senate provision because it would expand the congressional authorization requirement for military construction projects to include those MilCon projects funded by host nations with in-kind contributions provided by host nations under bilateral international agreements. These burden sharing agreements are held with sovereign countries, such as Japan and Korea, which have budgeting and appropriating processes independent and substantively different from those used by the United States Government. If Congress fails to provide necessary project authorizations within appropriate timeframes or at sufficient scope, the United States risks losing millions of dollars in burden sharing contributions needed to build critical facilities for use by U.S. forces.

Host nations also benefit from providing in-kind contributions because the funds are ultimately invested in construction projects that stimulate the host nations' local economies through the provision of jobs for their construction industry. Moreover, if host nations perceive that United States' military commanders overseas have lost the authority to select projects based on local assessments of military needs, they may become unwilling to provide in-kind support at the same robust levels, and host country governments will insist on inserting themselves more substantially into project selection process, reducing the Department's ability to address strategic requirements in the Pacific and other theaters.

The Department urges exclusion of the Senate provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Modification of Authority to Carry Out Unspecified Minor Military Construction

Appeal Citation: H.R. 4435, sec. 2802; S. 2410, sec. 2803

Language/Provision: House section 2802 would modify the Department's authority to carry out unspecified minor construction (UMC) projects currently provided by 10 U.S.C. 2805 in two ways. First, House section 2802 would increase the dollar limits that apply to three provisions of UMC authority (the limit on general UMC projects, the limit on UMC projects funded with Operations and Maintenance appropriations, and the limit applying to congressional notifications), while eliminating the special authority at a higher dollar limit for UMC projects to correct threats to life, health, or safety. Second, the House provision would amend 10 U.S.C. 280 to establish a location-based adjustment to all of its dollar limits/thresholds, using the area construction cost index published by the Department for the prior fiscal year.

Senate section 2803 would increase the dollar limit for UMC projects to correct threats to life, health, or safety.

DoD Position/Impact: The Department supports the House version because it more-fully addresses critical shortcomings in existing authorities for unspecified minor military construction (UMC) projects.

Both the House and Senate versions provide some relief to shortcomings of existing UMC authorities. However, the Senate version is narrowly focused on a single existing dollar limit—for projects to correct life, health, or safety issues. It ignores the effects of inflation on the other important UMC dollar limits in 10 U.S.C. 2805, and also fails to incorporate any adjustments to dollar limits based on location and the associated impact on construction market prices and buying power. On the other hand, the House version would increase three UMC dollar limits, while also providing for location-based adjustments to all UMC dollar limits to accommodate regional differences in construction prices that can render UMC authority impotent in high-cost construction markets. In doing so, the House version substantially adopts two legislative proposals submitted by the Department to correct critical shortcomings in existing UMC authorities.

Although the House version would eliminate the special authority for UMC projects to correct threats to life, health, or safety—the sole authority increased by the Senate version—the House version is still preferable to the Senate version. By increasing the dollar limit for general UMC authority from $2 million to $3 million, the House version would compensate for the loss of special authority for life/health/safety projects (currently limited to $3 million). The House version represents a comprehensive solution for the Department by restoring the utility of UMC authorities, whereas the Senate version does not.

The Department urges adoption of the House version.

Priority Department of Defense Appeal
FY 2015 National Defense Authorizations Bill

Subject: Limitation on Planning, Design, Refurbishing, or Construction of Biofuels Refineries

Appeal Citation: H.R. 4435, sec. 317

Language/Provision: House section 317 would prohibit the Secretary of Defense from entering "into a contract for the planning, design, refurbishing, or construction of a biofuels refinery [or] any other facility or infrastructure used to refine biofuels unless such planning, design, refurbishing, or construction is specifically authorized by law."

The Senate did not include a similar provision.

DoD Position/Impact: DoD strongly objects to section 317, because it would set a precedent for restricting DoD's options for investing in projects that advance energy diversification goals.

Current biofuel refinery planning, design, refurbishing, and construction efforts are already authorized under the Defense Production Act (DPA) and are being pursued in collaboration with the Department of Energy (DOE) with funds already appropriated. While the House provision would not prevent transition to the DPA Advanced Drop-In Biofuels Production Project (ADBPP) Phase II construction phase, which will be initiated in the autumn of 2014, it would prohibit the award of any new contracts for the planning, design, refurbishing, or construction of new biofuel refineries after the FY15 NDAA's enactment. As DoD is the current Executive Agent for the DPA Title III program, the House provision could prevent the issuance of future DPA biofuel project contracts, regardless of the source. DoD's most recent contribution to the DPA biofuels project was made with FY13 funds, although DOE is continuing to contribute funds towards the DPA Title III program to advance biofuel technology deployment and commercialization. Additionally, as DPA projects require at least 50% private cost share, this provision could prevent mobilization of millions of dollars of private sector capital funds for domestic fuel production facilities, with little to no positive impact on DoD's budgets.

Lastly, if enacted House section 317 may prohibit DoD from entering into contracts for other fuel production facilities that offer strategic or tactical benefits for military operations. For example, the DoD may be prevented from investing or co-investing in facilities capable of refining multiple types of fuels (e.g., biofuels and fossil fuels), or investing in small-scale units capable of producing fuels in remote locations (e.g., the modular waste-to-fuels units currently being tested by the Air Force's Advanced Power Technology Office).

The Department strongly urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Limitation on Procurement of Alternative Fuels

Appeal Citation: H.R. 4435, sec. 316; S. 2410, sec. 313

Language/Provision: House section 316 would require that "none of the amounts authorized to be appropriated by this Act or otherwise made available for the Department of Defense may be used to purchase or produce biofuels until … the cost of the biofuel is equal to the cost of conventional fuels purchased by the Department (or) the Budget Control Act of 2011 (Public Law 112–25), and the sequestration in effect by reason of such Act, are no longer in effect." Exceptions to this requirement are made for research, development, testing, and certification.

Senate section 313 would prohibit any DoD "funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2015" to be "obligated or expended to make a bulk purchase of a drop-in fuel for operational purposes unless the cost of that drop-in fuel is cost-competitive with the cost of a traditional fuel available for the same purpose."

The intent of both provisions is to forbid the bulk purchase of biofuels unless they are cost-competitive (as non-bulk purchases are typically for R&D). The Senate provision would also forbid purchase of other non-cost competitive alternative fuels, including those derived from natural gas or coal.

DoD Position/Impact: DoD strongly objects to both the House and Senate sections because it believes the intent of both provisions is already captured by existing DoD policy and practice, and if enacted a strict interpretation of these provisions—particularly of the House provision—may have negative consequences.

Both provisions would limit the Department's ability to diversify its fuel feed-stocks to include sources other than petroleum. The House and Senate provisions would limit procurement of fuels derived from biofuel feed-stocks (e.g., municipal waste, agricultural waste or products, or forestry waste), and the Senate provision would further limit procurement of fuels derived from non-biofuel non-petroleum feed-stocks (e.g., natural gas and coal).

Under existing policy, the DoD will only purchase alternative fuels in bulk if able "to meet requirements at the best value to the government, including cost" (DoD Alternative Fuels Policy, 2012). Under current practice, the Defense Logistics Agency (DLA) Energy takes extensive steps to minimize the total cost of fuel acquisitions via the Bid Evaluation Model (BEM); the BEM takes all offer prices, transportation, storage, fees/taxes, etc. into account. Due to the lack of clarity in both House and Senate provisions on the definition of "cost," either may restrict the BEM's ability to select suppliers that offer fuel at a higher sales price but at a lowered delivered cost than competitors (e.g., due to logistics costs). Therefore, these provisions could actually result in DoD overpaying for fuel supplies. The House provision could also prevent DoD from procuring fuels derived from alternative feed-stocks due to a price difference of as little as one penny per barrel compared to petroleum-derived fuels, regardless of potential improvements to performance, maintenance, or strategic benefits.

Additionally, for the Department's non-tactical vehicles, House section 316 may prevent DoD from purchasing domestic biofuels already widely in use, such as ethanol (e.g., blended in the form of E85) for flex fuel vehicles or biodiesel (e.g., blended in the form of B20), as required by existing Congressional mandates, Executive Orders, and Presidential Memoranda.

The Department strongly urges exclusion of both the House and Senate provisions.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Exemption of DoD from Alternative Fuel Procurement Restriction

Appeal Citation: H.R. 4435, sec. 314

Language/Provision: House section 314 would exempt the Department of Defense from complying with section 526 of the Energy Independence and Security Act of 2007 (Public Law 110–140; 42 U.S.C. 17142). Section 526 forbids Federal agencies from purchasing alternative fuels for mobility-related uses that have greater greenhouse gas emissions than petroleum fuels.

The Senate bill does not include a similar provision.

DoD Position/Impact: DoD strongly objects to the House provision.

42 U.S.C. 526 provides a useful, reasonable, and environmentally sound baseline for developing alternative fuels that U.S. military forces (and the commercial sector) will need in the future. Section 526 has never interfered with or restricted the Department's ability to purchase fuels necessary for military operations, and it is not expected to adversely impact DoD's ability to procure fuels needed to operate in the foreseeable future.

Section 526 is also consistent with guidance in the 2014 Quadrennial Defense Review, which directs DoD to take "actions to increase energy and water security, including investments in energy efficiency, new technologies, and renewable energy," and to consider climate change "which will continue to affect the operating environment [for] missions that U.S. Armed Forces undertake."

The Department strongly urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: 60-day Congressional Notice of Bulk Purchase of Alternative Fuels for Operational Use

Appeal Citation: H.R. 4435, sec. 315

Language/Provision: House section 315 would require that "[n]ot later than 60 days before making a bulk purchase of alternative fuels intended for operational use, the Secretary of Defense shall submit to the congressional defense committees notice of the intent to make such a purchase. Such notice shall include the total quantity of fuel, the cost, and the type of funding intended to be used to make the purchase."

The Senate did not include a similar provision.

DoD Position/Impact: DoD strongly objects to House section 315, which if enacted would be burdensome, impractical, and set a precedent for excessive reporting and analytical requirements.

As a result of efforts by the DoD and the commercial sector to certify alternative fuels for use in aviation, ships, ground vehicles and equipment, specifications for many of the fuels that DoD consumes (e.g., F-76, JP-5, JP-8, Jet A, diesel fuels) have been updated to permit petroleum-biofuel blends. In addition, DoD is moving away from JP-8 and toward purchasing commercial Jet A. This commercial specification now permits blending of biofuels produced through any of three different processes. By the end of calendar year 2014, the majority of fuels that the Defense Logistics Agency (DLA) historically purchased under military specification JP-8 for use in the contiguous United States (CONUS) will be purchased under the Jet-A commercial specification. The decision to purchase Jet-A fuel, instead of JP-8 fuel, is a cost-saving and flexibility-enhancing measure. Complying with House section 315 would undermine and undercut these savings, as DoD would need to develop new analytical tools and/or supplier surveying techniques to test every batch of fuel purchased for the purpose of reporting the results to Congress.

The Department strongly urges exclusion of the House provisions.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Limitation on Availability of Funds for Moored Training Ship (MTS) Program

Appeal Citation: H.R. 4435, sec. 124; H.Rpt. 113-446, pg. 44

Language/Provision: House section 124 would require: (1) the Chairman of the Joint Requirements Oversight Council (JROC) to review and approve the need for two additional moored training ships; (2) the Director of Cost Assessment and Program Evaluation (CAPE) to review and certify the cost estimates of the moored training ship program; and (3) the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD AT&L) to review and approve the budget, schedule, and construction plans for two additional moored training ships. Twenty-percent of obligated funds would be fenced until these requirements are met.

The Senate version of the bill contains no such provision.

DoD Position/Impact: The Department objects to the House provision. Recapitalizing the Moored Training Ships represents a replacement of existing capabilities and is required to ensure adequate manning of the nuclear fleet. Qualifying nuclear operators with MTS's has been validated through their use as training platforms over the past three decades. The MTS conversion budget, schedule, and construction plans went through a detailed review process within the Department of the Navy in order to validate the funding requirement for the MTS conversion.

The MTS Conversion Program will be used solely for training nuclear operators, which is expressly within the statutory responsibilities of the Director, Naval Nuclear Propulsion (NNP). The majority of the work involved in the conversion is the installation of nuclear safety and nuclear support systems, and the requisite expertise to design, construct, test, and procure the MTS Conversions falls within the Naval Nuclear Propulsion Program. Accordingly the Director, NNP is the Acquisition Executive for the MTS Conversion Program.

The Department recognizes the House Armed Services Committee's concern regarding the significant change to the cost estimate for the MTS Conversion Program, and acknowledges that a CAPE review of the Program's cost has the opportunity to provide useful insight into and validation of the current cost estimate. Naval Reactors is planning to commence a CAPE review of the cost estimate in July 2014, working toward completion of that review prior to enactment of the FY 2015 National Defense Authorization Act (NDAA).

The Department urges the exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Limitation on availability of funds for mission modules for littoral combat ship

Appeal Citation: H.R. 4435, sec. 125; S. 2410, sec. 122

Language/Provision: House section 125 would restrict DoD from obligating or expending FY15 authorizations for the procurement of additional mission modules for the Littoral Combat Ship (LCS) program until the Secretary of the Navy submits to the congressional defense committees the following: 1) the Milestone B program goals for cost, schedule, and performance for each increment; and 2) certification by the Director of Operational Test and Evaluation (DOT&E) with respect to the total number for each module type that is required to perform all necessary operational testing.

Senate section 122 would require the DOT&E to report on the test and evaluation master plan for the LCS seaframes and mission modules not later than 60 days after enactment of the FY15 NDAA.

DoD Position/Impact: The Department objects to the House provision and supports the Senate provision. DoD objects to the House provision because any delay in procurement of LCS mission packages (MP) will disrupt testing, training, and maintenance and would also have a significant operational impact on deployments. If the proposed FY 2015 acquisition of one Mine Countermeasures (MCM) and two Surface Warfare (SUW) mission packages is deferred, then there would only be 14 deployable MP for 16 LCS ships in FY 2017. A deferral of mission equipment procurement would result in an insufficient number of mission packages by FY 2017 to meet all integration, testing, and operational requirements.

Further, a delay will result in additional cost to the Mission Modules program. Several fixed price contracts for MCM and SUW mission systems and common equipment will be broken and need to be re-negotiated, which will result in unit cost increases for all mission system procurements. Additionally, a halt in the acquisition of mission modules in FY 2015 will stop the production lines for the Mark 46 30mm gun weapon system, SUW and MCM mission package support containers, the AN/AQS-20A mine-hunting sonar, Remote Multi-Mission Vehicle, the Mission Package Computing Environment, the Multi-Vehicle Communications Systems, and the Common Mission Package Trainer (CMPT). There will be a cost associated with the restart of each production line in FY 2016.

The House provision directing Navy to submit the cost, schedule, and performance targets that were established for each increment at Milestone B is also unnecessary. The Selected Acquisition Report (SAR) provided to Congress with the FY 2015 President's Budget contains all Under Secretary of Defense for Acquisition, Technology and Logistics (USD (AT&L))-established targets, in accordance with the Acquisition Program Baseline (APB). Navy has cost, schedule, and performance targets for the program's single acquisition increment that were set at the program's single Milestone B. With a few schedule-related exceptions, USD(AT&L) declined to establish specific targets in the APB for each fielding increment because those will be set forth in a series of JROC-approved Capability Production Documents (CPDs). Assistant Secretary of the Navy, Research Development and Acquisition (ASN (RDA)) explained this CPD strategy to Congress, in detail, in a report required by the FY13 NDAA (P.L. 112-239, sec. 241) transmitted on March 1, 2013.

Navy submitted the Milestone B Acquisition Decision Memorandum (ADM) and 2366b certification and waivers to the relevant Congressional committees with the LCS Mission Module SAR. The Milestone B ADM codifies the 27 OPN Mission Packages as the minimum quantity required to satisfy 10 U.S.C. 2400(b). Navy worked with DOT&E on the Milestone B review in July 2013, at which low-rate initial production (LRIP) quantities and the production-representative assets needed for testing and evaluation were specifically discussed. ASN RDA accepted the program's proposal of 27 OPN Mission Packages, without modification, as the quantity needed to meet testing, training, and operational requirements. A smaller number would mean an insufficient number of Mission Packages would be available for testing because operational requirements and training would take precedence.

The Department urges adoption of the Senate provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Definition of Combatant and Support Vessels for the Annual Plan on Construction of Naval Vessels

Appeal Citation: H.R. 4435, sec. 1021

Language/Provision: House section 1021 would define the term "combatant and support vessel" that is used to support the Department of the Navy's 30-year shipbuilding plan and exclude patrol coastal ships, non-commissioned combatant craft specifically designed for combat roles, or ships that are designated for potential mobilization.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision because it would prevent counting ships as part of the Navy's battle force that validly support missions as assigned in the Defense Strategic Guidance (DSG).

The House provision would disallow ship types routinely requested by the Combatant Commanders and allocated through the Global Force Management Allocation Plan to be counted in the Navy's battle force on a case-by-case basis with the recommendation of the Chief of Naval Operations and approved by the Secretary of the Navy, specifically Patrol Coastal Ships (PCs), Hospital Ships (T-AHs), and the High Speed Transport, USNS GUAM (HST 1).

The Secretary of the Navy modified the ship counting methodology recently to be more inclusive of certain conditional scenarios, which provide flexibility to the Combatant Commanders, assesses the near-term environment and changing situations faced in meeting the demands of the Defense Strategic Guidance, while ensuring that the ship types needed to execute the DSG are captured. This could include forward deployed Naval forces, whether self-deployable or non-self-deployable, to be added to the battle force count dependent on the mission, location, and required capabilities. It also adds consistency to the battle force counting methodology.

If adopted, the House provision would result in the Navy's battle force ship count not accurately representing the ships assigned to and supporting Combatant Commanders in carrying out the direction provided in the DSG.

The Department urges exclusion of the House provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Language prohibiting the expenditure of funds to issue regulations under the Sunken Military Craft Act (SCMA).

Appeal Citation: H.R. 4435, sec. 1027

Language/Provision: House section 1027 would prohibit the expenditure of funds to issue regulations under the SCMA for permitting activities otherwise forbidden by the Act.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision. It would delay promulgating necessary regulations and thereby impose restrictions on members of the public by preventing Department of the Navy (DON) from issuing permits to access non-historic sunken military craft (permits for access to historic craft can be issued under existing authority). The public could apply for such permits to engage in projects for archaeological, educational, and historical purposes that would contribute to local economies and improve the nation's understanding of its history and the sacrifices of its Service members.

Following several years of coordinated efforts, the DON published the proposed rule implementing the SMCA in January 2014. In accordance with the SMCA, the draft regulations create a DON permitting process by which acts otherwise prohibited by the SMCA may be authorized for archaeological, historical, or educational purposes. Unauthorized acts that disturb, injure, or remove sunken military craft would remain prohibited and subject to civil penalty. Activities that do not disturb, injure, or remove sunken military craft are not prohibited.

In drafting these regulations, DON coordinated informal and formal comments with all interested federal agencies and subsequently published the proposed rule for public comment. Those public comments, including comments from private and commercial salvage entities, are in the process of being considered, addressed, and incorporated in the final rule, as appropriate. The regulations would result in little to no new impacts on private or commercial entities beyond those contained in the SMCA.

Furthermore, delaying the promulgation of regulations that have been coordinated with multiple federal agencies including the Department of State will hinder the Department's ability to protect U.S. sunken military craft located in international and foreign state waters. The draft regulations provide for more effective collaboration with foreign states that wish to seek U.S. government assistance in preserving their sunken military craft located within U.S. waters. Effective cooperation with foreign states is important to U.S. interests because the majority of U.S. sunken military craft is located in international and foreign state waters, and requires action by foreign states to ensure protection and respectful treatment.

The proposed regulations clarify the violation and enforcement processes established by the SMCA, thereby empowering the DON to pursue violators of the SMCA that disturb, injure, or remove sunken military craft that are often war graves, contain ordnance or environmental hazards, and safeguard state secrets. A delay in promulgating regulations would continue to limit the ability of the DON to protect U.S. sunken military craft.

Finally, the proposed delay in promulgating these regulations will not alter the restrictions imposed by the SMCA a decade ago. Unauthorized disturbance will continue to be prohibited, while actions of the U.S., or those acting at its direction, including commercial salvage entities under contract with the U.S., will continue to be allowed. The commercial salvage industry may therefore continue to operate through federal contracts and in coordination with the U.S. Government irrespective of the promulgation of the proposed regulations.

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Prohibition on Cancellation or Modification of Avionics Modernization Program for C-130 Aircraft

Appeal Citation: H.R. 4435, sec. 131

Language/Provision: House section 131 would prohibit the Air Force from modifying or cancelling the C-130 Avionics and Modernization Program (AMP) in fiscal year 2015, and would also prohibit the Secretary of the Air Force from beginning an alternative C–130H modernization program (except for developing and installing an Automatic Dependent Surveillance Broadcast system modification for the C–130H). This section would also limit the funds for operation and maintenance of the Office of the Secretary of the Air Force to not more than 75 percent until a period of 15 days has elapsed, following the date on which the Secretary certifies to the congressional defense committees that she has obligated the funds authorized to be appropriated or otherwise made available for fiscal years prior to fiscal year 2015 for the avionics modernization program of record for C–130 aircraft.

DoD Position/Impact: The Department strongly objects to the House provision that would prevent the Air Force from canceling C-130 AMP. The Department plans to replace C-130 AMP with a less expensive, fully capable alternative that has been validated by independent study to ensure the fleet continues to meet future requirements. This provision would require the Air Force to retain the C-130 AMP program of record without considering the results of the FY13 NDAA required cost-benefit analysis study (P.L. 112-239, sec. 143), conducted by the Institute for Defense Analyses (IDA) and transmitted to the Congress in November 2013, comparing AMP to a reduced-scope C-130 modernization program. Retaining AMP is contrary to the IDA study findings which stated, "we recommend that the U.S. Air Force pursue a reduced scope option . . . It should not pursue C-130 AMP. . . There are lower cost options of nearly as much capability."

Not only does AMP currently suffer from diminishing manufacturing source (DMS) issues already, since the kits were developed 15 years ago, it wasn't designed to meet newly mandated communications, navigation, surveillance/air traffic management (CNS/ATM) requirements. These factors will require a program restart, to include Initial Operational Test and Evaluation (IOT&E), and competition prior to a new contract being awarded for production and installation.

Additionally, requiring the Air Force to retain AMP would cost over $3.2 billion to complete. Given the current budgetary environment, it is incumbent upon the Department to make decisions that are fiscally informed, hence the need to pursue a reduced scope CNS/ATM option which provides the necessary operational capability at a fraction of the cost.

The Department urges exclusion of the House provision, and adoption of a provision which would allow the Air Force to pursue an alternative program that would upgrade and modernize the C-130 airlift fleet using a reduced scope program for avionics and mission planning systems.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Limitation on Availability of Funds for Space-Based Infrared System (SBIRS) and Advanced Extremely High Frequency (AEHF) Programs

Appeal Citation: H.R. 4435, secs. 217, 218

Language/Provision: House section 217 would limit obligations to 50% of the fiscal year 2015 SBIRS' hosted payloads and wide field of view test bed RDT&E funds until completion of the ongoing analysis of alternatives (AoA), and 60 days after the Secretary of the Air Force and Commander, United States Strategic Command, jointly brief the appropriate congressional committees on their recommendations from the findings of the analysis of alternatives.

House section 218 would limit obligation or expenditure of the protected tactical demonstration and protected military satellite communications test bed alternative approaches to the AEHF program of record to 50 percent until completion of the ongoing AoA. Funding would also be limited until 60 days following a briefing to the congressional defense committees on the AoA findings and recommendations of the Secretary of the Air Force and the Commander, U.S. Strategic Command, including a cost evaluation of the Director of Cost Assessment and Program Evaluation.

The Senate bill does not include similar provisions.

DoD Position/Impact: The Department strongly objects to House section 217's restriction of the use of the SBIRS hosted payload and wide field of view test bed funds, because it would significantly narrow the decision space for a follow-on system, restrict the future competitive environment, and delay fielding of new capabilities to meet evolving threats. It is critical that risk reduction efforts be initiated in FY15 to preserve decision space to inform best technology alternatives for future SBIRS architectures while we develop an appropriate acquisition strategy. The restriction will result in a 7-month delay to the tactical wide field of view test bed launch and on-orbit demonstration. The test bed demonstration effort is required to mature technologies and provide key cost, schedule, risk, and performance data to inform the AoA and support the decision on the Space-Based Infrared System Follow-On.

The start of the follow-on analysis of alternatives was approved by the Undersecretary of Defense for Acquisition, Technology, and Logistics on 16 May 2014. The AoA is planned to be completed in October 2014, with the final report published in December 2014. Once the final analysis is complete, the Air Force, United States Strategic Command, Department of Defense, and Intelligence Community may take several months to deliberate recommendations based on the findings. With the additional 60-day restriction after the briefings to the appropriate congressional committees, the restriction would likely persist throughout the entire fiscal year. While not reducing the program budget, the limitation would in effect reduce the funding available for obligations and expenditures during the fiscal year by 50% if the conditions of the restrictions are not met by the end of the fiscal year. Failure to fully fund approved SBIRS hosted payload and wide field of view test bed efforts would delay launch and acquisition of data necessary to determine the most prudent acquisition strategy, while adding increased risk to the SBIRS follow-on system decision informed by the AoA. Lack of data from alternatives could also lead to a decision that eliminates opportunities to mature and insert new technologies and foster competition for another generation. The Department recommends reducing the restriction to 25% of the fiscal year 2015 funds, allowing the program to continue supporting the ongoing AoA while acknowledging the concerns of the committee.

For AEHF, the Department objects to House section 218 because it would decouple pivotal Space Modernization Initiatives activities and the Protected Satellite Communication System AoA. The AoA out-brief currently has not been scheduled, and there is a high probability it will not occur until the first quarter of FY15. This extension is due to the complexity of the AoA findings, increased study scope and additional cost estimating oversight. Data collected from the ongoing Protected Tactical Demonstration and test bed activities feed directly into the AoA findings and are vital to the AoA outcome. FY15 risk reduction efforts are necessary to inform programmatic decisions on an appropriate acquisition strategy. A 50% funding restriction in FY15 will delay the test bed (scheduled to begin immediately in FY15) and demonstration activities resulting in increased programmatic risk by deferring the conclusion of the AoA required to inform future architecture options necessary to meet evolving threats.

The Department urges exclusion of the House provisions.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Weather System Follow-on (WSF)

Appeal Citation: H.R. 4435, sec. 215

Language/Provision: House section 215 would limit the expenditure of seventy-five percent of FY15 funds for the weather satellite follow-on system until the Secretary of the Air Force submits to Congress a plan to meet the meteorological and oceanographic collection requirements validated by the Joint Requirements Oversight Council. The plan must include how the Secretary will launch and use existing assets of the Defense Meteorological Satellite Program (DMSP); how the Secretary will use other sources of data, such as civil and commercial satellite weather data, and international partnerships, to meet such requirements; an explanation of the relevant costs and schedule; and the requirements of the weather satellite follow-on system.

The Senate did not include a similar provision.

DoD Position/Impact: The Department strongly objects to the House provision's limitation of funds to be appropriated for the WSF program, because it would delay initiation of the acquisition planning and strategy development activities required to generate the acquisition plan directed in the House language. It also would impacts initiation of development activities to meet DoD's future environmental monitoring requirements.

WSF is an FY15 new-start program that is a critical element of DoD's space-based environmental monitoring capability, serving as the follow-on to the Defense Meteorological Satellite Program (DMSP). The 75% restriction would render the Air Force unable to initiate WSF acquisition strategy development in FY15 and delay fielding the required WSF capability by at least one year, and possibly longer. Additionally, it would curtail Air Force activities required to fulfill the House provision's direction to develop and provide a plan for how WSF, and other data sources, will be leveraged to meet the JROC's validated requirements. A portion of the FY15 budget request is specifically committed to accomplishing this analysis and acquisition strategy development.

The Air Force was able to use the FY12 funding provided by Congress to make significant progress in reducing the technical risks of key aspects of WSF development. A portion of the FY15 budget request for WSF is also committed to continue the most critical near term risk reduction efforts. The limitation of FY15 funding breaks industrial base momentum in identifying and assessing technology and limits the opportunity for the program to capitalize on those previous risk reduction investments. The end result of this break in activities is that when WSF development is finally initiated, the acquisition effort will begin with more technical risk.

WSF is intended to fulfill unique environmental sensing capability requirements that cannot be met by U.S. civil or international environmental monitoring partner satellite systems. Specifically, WSF will collect critical data to determine Ocean Surface Vector Winds (OSVW), Tropical Cyclone Intensity (TCI) and Low Earth Orbit (LEO) Energetic Charged Particle Characterization. The recently completed Space Based Environmental Monitoring (SBEM) Analysis of Alternatives (AoA) identified these three capabilities as the highest priority, nearest term capability gaps to be addressed by a WSF materiel solution, with the OSVW gap expected to materialize as early as 2015. The WSF program's specific focus on OSVW is especially critical considering DMSP does not fully meet this capability. Loss of this information would drive significant operational risk to global naval and amphibious operations which depend on timely and accurate tropical cyclone and ocean wind information. Additionally, U.S. military, civil, and commercial satellites valued in the billions of dollars could be risked without critical energetic particle information required for satellite protection and anomaly attribution.

The Department urges exclusion of the House provision in order to authorize WSF funding at the level requested in the President's Budget to ensure these capabilities will be available when needed to support U.S. national security and economic interests.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Limitation on Storage of Defense Meteorological Satellite Program satellites

Appeal Citation: S. 2410, sec. 1628

Language/Provision: Senate section 1628 would prohibit funding the storage of the last Defense Meteorological Satellite Program (DMSP) satellite (#20) unless the Secretary of Defense certifies to the congressional defense committees that the Department of Defense (DoD) intends to launch the satellite, will have sufficient funding to do so in the future years defense program, and that storing the satellite until a launch in 2020 is the most cost-effective approach to meeting the requirements of DoD.

The House did not include a similar provision.

DoD Position/Impact: DoD objects to the Senate provision because it would withhold funds from the Defense Meteorological Satellite Program (DMSP) until the Secretary of Defense certifies to Congress that the Department intends to launch the last DMSP satellite, and will have sufficient funding to do so in the Future Years Defense Program. DMSP Flight-20's extensive spacecraft and sensor Service Life Extension Program (SLEP) modifications were recently completed. With those modifications completed, the spacecraft and sensors will be re-mated and system level environmental tests will be performed on the satellite from the summer of 2014, through 2015. The most efficient and cost effective approach for processing Flight-20 is to perform the system level tests, which include thermal vacuum, acoustics, and electrical performance evaluation, serially, with minimal breaks in test flow. Any restrictions to the availability of FY15 funds could create a break in this test flow and potentially increase the overall cost and delay the availability of Flight-20 to support a launch call-up. The DoD continues assessing the full range of deployment and disposition options for DMSP Flight-20.

The Department urges exclusion of Senate section 1628.

Priority Department of Defense Appeal
FY 15 National Defense Authorization Bill

Subject: Restrictions on Cruiser and Dock Landing Ship Phased Modernization

Appeal Citation: H.R. 4435, sec. 1026; S. 2410, sec. 1022

Language/Provision: House section 1026 would limit obligations and expenditures against retiring, preparing to retire, inactivating, or placing in storage a cruiser or dock landing ship. The House provision would also require the Navy to begin upgrading two cruisers during fiscal year (FY) 2015.

Senate section 1022 would also limit obligations and expenditures against retiring, preparing to retire, inactivating, or placing in storage a cruiser or dock landing ship, except as provided: that the Navy may use the Ship Modernization, Operations, and Sustainment Fund (SMOSF) only to man, operate, equip, sustain, and modernize 11 specified cruisers and three specified dock landing ships; that the Navy retains 22 cruisers (CGs) and 12 dock landing ships (LSDs) until the end of their expected service lives; that the naval combat forces include not less than 11 operational CGs and 11 operational LSDs; that the Navy may conduct phased modernization of the CGs and LSDs using funds in the SMOSF; and that CGs may only be decommissioned when replaced by one of the CGs for which the Navy has conducted a phased modernization, or upon reaching the end of service life after phased modernization. Nevertheless, the Senate provision would authorize the Navy to implement the Phased Modernization program as proposed in the FY 2015 President's Budget.

DoD Position/Impact: The Department objects to the House provision and supports the Senate provision.

House section 1026's would limit the Navy's ability to implement a Phased Modernization program's provision of eleven modernized cruisers and three dock landing ships through the 2030s. The Navy plan would achieve this goal by taking these ships offline and recapitalizing funds that would have been spent for manpower, operations, and maintenance to conduct Phased Modernization. If the Navy plan is not followed funding will have to be expended on manpower, operations, maintenance, and modernization without the aforementioned ability to recapitalize funds. Additionally, the House provision would require the Navy to begin upgrading two cruisers in FY 2015. Lead time procurements and planning requirements are approximately one and one-half to two years for the overhaul period, which would include release of request for proposals, contracting, and long lead time materials. The House provision is thereby unaffordable over the long term, and neither does it provide sufficient time to appropriately plan the modernization availability nor sufficient lead time to procure the required long lead-time materials. In addition to SMOSF, the House provision would require additional funding of $4.3 billion over the period FY 2015, through FY 2019. The additional funding requirement would derive from keeping all cruisers active, which will increase manpower, operations, and maintenance costs.

House section 1026 would alter the Navy's proposed CG/LSD Phased Modernization plan, and diminish the Navy's ability to retain cruiser-specific Air Defense Commander's capabilities into the 2040s, by requiring more funds up front and requiring a longer time in service to before completing Phased Modernization. This language would also restrict the Navy's ability to effectively modernize the remaining LSD inventory. Keeping CGs in service now will lead to a point in the mid-2020s when it will no longer be cost effective to modernize the ships. The CG-47 class has a service life of 35 years. Without modernization, the 11 ships selected for phased modernization (CGs 63-73) will reach the end of their service lives in the FY 2026 to FY 2029 timeframe. The Navy plan creates a pay-back period of about 15 years, combining the average ten years of remaining service life with an extension of five years of service life resulting from the modernization. If modernized in the mid-2020s, the payback period would be limited to the extension period of only five years. The premise of the Navy's Phased modernization plan is recapitalizing and re-using the funds that would normally be expended to support a fully-manned and operating ship. The longer these ships are maintained without being modernized, the greater the expense and time required to fully modernize them and conduct the required maintenance that has been deferred. Retaining these ships in a fully manned, active,

deploying status will require the Navy to continue funding manpower and operations, funds that could be used to partially finance Phased Modernization. This would also prolong significant manning gaps in other areas requiring the Navy to divert modernization and operating funds, ultimately leading to hollowing out the readiness of the Navy force structure. Because the SMOSF only provides about one-half of the resources necessary to sustain these ships over the long-term, this overall reduction in readiness (ashore, afloat, or both) is inevitable unless the Navy is permitted to execute the Phased Modernization plan.

Finally, House section 1026 would require two combined cruiser modernizations beginning in FY 2015, which would include hull, mechanical, electrical (HM&E), and combat systems upgrades. Currently, one HM&E upgrade is scheduled to begin in FY 2014, and one Combat Systems modernization will begin in FY 2017. The lead time for procurement of the HM&E upgrade is one year. The lead time for Combat Systems procurement is two years. Due to lead time requirements, the Navy would not able to comply with the provision as written because the systems will not be available to conduct the modernizations in FY 2015.

The Department urges support for Senate section 1022.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Limitations on CVN 73 Inactivation Planning

Appeal Citation: H.R. 4435, sec. 1024; S. 2410, sec. 1021

Language/Provision: House section 1024 would limit obligations or expenditures to not more than 50 percent of the operations and maintenance funds for the Office of the Secretary of Defense until he obligates funds to commence the planning and long lead time material procurement associated with the Refueling and Complex Overhaul (RCOH) of the USS GEORGE WASHINGTON (CVN 73).

Senate section 1021 would limit obligations or expenditures for tasks connected to the inactivation of the CVN 73 to such tasks that are identical to tasks that would be necessary to conduct an RCOH.

DoD Position/Impact: The Department objects to both the House and Senate provisions.

The Department objects to the Senate section 1021's limitation on the use of funds for inactivation of CVN 73. The limitation on obligations or expenditures to support tasks that are identical to tasks that would be necessary to conduct a refueling complex overhaul (RCOH) of the ship does not take into account the larger limitations on the Defense budget under the Bipartisan Budget Control Act of 2013, and the continuing effects of sequestration. Without assurance that sequestration will be addressed and that future budget levels will be sufficient to ensure that CVN 73 can be adequately operated, maintained, crewed, and sustained in a balanced force structure that includes 11 carriers and 10 air wings, it would be unwise to restrict the Navy from commencing planning efforts for potential inactivation of CVN 73 in FY 2016, while at the same time planning for the RCOH.

The Department objects to House section 1024's proposed restriction of the obligation and expenditure of funds for Operation and Maintenance (O&M) to fifty percent of those funds authorized to be appropriated or otherwise made available to the Office of the Secretary of Defense (OSD), until funds are obligated for the planning of the RCOH of CVN 73. Limiting obligations and expenditures to not more than 50 percent of O&M funds would significantly interrupt the operations of the Department, crippling critical functions unrelated to the CVN 73 RCOH. OSD's O&M budget funds policy development, planning, resource management, fiscal, and program evaluation at the DoD level and in support of the Secretary and Deputy Secretary. This same account also funds the salaries and operating costs of the OSD staff, must-fund bills to the Department of State, Department of Homeland Security, and the General Services Administration, the Combatant Commanders' Exercise Engagement and Training Transformation program, as well as contracts to support reviews, studies, and various requirements related to the oversight and policy functions of all the OSD offices including its Principal Staff Assistants.

The Department urges rejection of both the House and Senate versions, and support for the President's Budget that provides for a force structure of 10 carriers. To do otherwise in the current budget environment will lead to the Department underfunding higher priority needs. Also, as stated above, without assurance that sequestration will be addressed it would be unwise to fund efforts to conduct the RCOH in FY 2015, only to be forced to cancel it and inactivate CVN 73 in FY 2016 due to ongoing budget restrictions.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Debarment Required of Persons Convicted of Fraudulent Use of "Made in America" Labels

Appeal Citation: H.R. 4435, sec. 828

Language/Provision: House section 828 would amend section 10 U.S.C. 2410f in order to require the Secretary of Defense to mandate debarment of persons convicted of intentionally affixing a label bearing a "Made in America" inscription, or another inscription with the same meaning, to any product sold in or shipped to the United States that is not made in America, unless waived due to the national security interest of the United States. The provision would also require an annual notification report of waivers.

The House provision would also remove the discretion of the Suspension and Debarring Officials (SDO) within the Department of Defense to follow a deliberative process, review all associated documentation and make a determination to debar. The Federal Acquisition Regulation (FAR) requirement at 9.406-2(a)(4) states a debarring official **may** debar a contractor for a conviction of or civil judgment of intentionally affixing a "Made in America" label.

There is no corresponding Senate provision.

DoD Position/Impact: The Department objects to the House provision because it would set a precedent for Congress to demand automatic debarment without consideration by SDOs. Under the current system, which affords discretion to SDOs, a person convicted of fraud would in all probability be debarred; however, suspension and debarment has a deliberative process and this provision would eliminate that process.

The Department urges exclusion of the House provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Establish Tactical Exploitation of National Capabilities (TENCAP) Executive Agent

Appeal Citation: H.R. 4435, sec. 1614

Language/Provision: House section 1614 would establish a Department of Defense Tactical Exploitation of National Capabilities (TENCAP) Executive Agent (EA), who would be appointed by the Under Secretary of Defense for Intelligence (USD(I)). It would require the EA, in coordination with the Combatant Commanders, the Military Departments and certain Defense Agencies, to provide an annual briefing to Congress on the investment activities, challenges, and opportunities in carrying out the EA's responsibilities.

The Senate did not include a similar provision.

DoD Position/Impact: The Department objects to the House provision because it would unnecessarily duplicate existing TENCAP governance processes, without regard to the additional resource burden associated with staffing a new Executive Agent, while the Department is downsizing its headquarters staffs.

A TENCAP Senior Officer Review Group (SORG) currently exists within the Department of Defense to enable formal collaboration within the TENCAP community, and ensure that TENCAP efforts continue to provide robust space and space-related capabilities to tactical-level operations. The Department's Tactical Defense Space Reconnaissance Military Exploitation of Reconnaissance and Intelligence Technology (MERIT) working group, which includes SORG representation, synchronizes investments across the TENCAP portfolio and the intelligence community. Finally, the USD(I) exercises programmatic oversight of TENCAP budgets and activities. The Department views the current processes as an effective and efficient means to achieve the desired governance of the TENCAP program.

The Department appreciates the House's support of the TENCAP program, and accordingly, the USD(I) has designated TENCAP as a special interest item in the Battlespace Awareness Portfolio for the FY 2016 budget cycle. This additional emphasis will include the reporting requirement on TENCAP investment activities, challenges, and opportunities.

The Department urges exclusion of the House provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Establish Major Force Program for Cyber Mission Forces

Appeal Citation: S. 2410, sec. 1643; S.Rpt. 113-176, pg. 227

Language/Provision: Senate section 1643 would require the Secretary of Defense, beginning in FY 2017, to establish a major force program (MFP) category and program elements for the Department of Defense (DOD) annual budget request to train, arm, and equip its Cyber Mission Forces. It would also require the Secretary to assess the feasibility and advisability of establishing a general fund transfer account to execute the MFP funds and then to provide a recommendation to the congressional defense committees by April 1, 2015. The Senate Armed Services Committee's bill report on S. 2410 directs DoD's "Principal Cyber Advisor," in coordination with the Under Secretary of Defense for Intelligence (USD(I)) and the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), to shift Military Intelligence Program (MIP) resources into this new MFP.

The House bill includes no similar provision.

DoD Position/Impact: The Department objects to the Senate provision because it is premature without first conducting a feasibility and advisability assessment. This assessment is essential to clearly examine existing and future funding activities across the MIP and associated mission and capability requirements as a means to respond to future cyber capabilities and operational needs to train, organize, equip, and effectively operate Cyber Mission Forces.

Based on the recommendations of such an assessment, the Department can more accurately address the further establishment of associated program elements, the feasibility of establishing a general fund transfer account, and whether the development of such a resource consolidation could be beneficial to the Department. To prevent the imposition of a "transfer account-like solution," marked by a highly constrained execution environment between analysis and implementation, additional time is needed, beyond FY 2017, to allow for development of possible solutions and funding options and for establishment of the Office of the Principal Cyber Advisor (PCA), which would then be in a better position to accept, direct, and execute recommended solutions in its new role.

The USD(I) is the Principal Staff Assistant and advisor to the Secretary and Deputy Secretary of Defense regarding intelligence, counterintelligence, security, sensitive activities, and other intelligence-related matters. As the MIP Executive, the USD(I) must be able to closely coordinate with the PCA and USD(P&R) during the proposed feasibility and advisability assessment to address the implications of developing a MFP for the Cyber Mission Forces.

The Department recommends exclusion of the Senate provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Designating a DoD official to ensure compliance with entering certain legal opinions into an electronic database

Appeal Citation: H.R. 4435, sec. 823

Language/Provision: The House provision would require the Secretary to designate an official to ensure that certain post-Government ethics opinions are entered into a central electronic database and then provide a report to the Congress on compliance.

There is no corresponding section in the Senate Bill.

DoD Position/Impact: The Department objects to the House provision.

The current electronic database developed by DoD to store House section 847 opinions has been in use throughout DoD only since 2012. Initial irregularities and inconsistencies in reporting are not unexpected in the rollout of such an enterprise-wide electronic reporting system. Undoubtedly, the completeness and fidelity of record keeping by the Military Departments and Defense Agencies will improve with continued use and training enhancing familiarity with the electronic database.

The recent DoD OIG report's conclusion that the electronic database was "of marginal value for management of DoD section 847 ethics opinions" was based on two discrete data points: 1) a suspicion that the Department of the Air Force had underreported section 847 opinions (because the Air Force numbers were lower than those of the Departments of the Army and Navy); and, 2) the Defense Logistics Agency's acknowledgment that while section 847 opinions had been prepared and provided to departing officials, not all had been uploaded into the central electronic database. Out of the three Military Departments, nine Combatant Commands, and 30 Defense agencies and organizations in DoD that administer the law's reporting requirements, these extremely limited aberrations hardly seem a sufficient basis on which to designate a scarce DoD resource to ensure compliance with this narrow record-keeping requirement.

Without evidence of a sustained pattern of improper reporting to the electronic database, we see no need for establishing central supervision that would replace line supervision by the 17 seventeen separate Designated Agency Ethics Officials (DAEOs). These DAEOs are responsible for supervising ethics counselor compliance with the requirement to timely prepare and upload section 847 opinions in the electronic database. A centralized supervisor would duplicate the efforts of these DAEOs without a material enhancement in compliance. Furthermore, dedicating a new person or office to provide an added layer of supervision—without a known benefit—is an inefficient use of limited personnel, especially in the current fiscal environment. Such resources could more effectively achieve the aims of House section 847 by advising officials directly to prevent conflicts of interest.

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Gifts Made for the Benefit of Military Musical Units

Appeal Citation: H.R. 4435, sec. 355

Language/Provision: House Section 355 would amend 10 U.S.C. §974(d)(1) by changing "The Secretary concerned may accept" to "The Secretary concerned shall accept," thus requiring the Department to accept private gifts of money, property, or services for the benefit of military musical units. 10 U.S.C. §974(d) was enacted only last year by section 351 of the FY14 NDAA (P.L. 113-66).

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision because mission fulfillment—rather than preferential treatment to organizations with the most resources or to certain favored donors—should be the driving factor behind decisions to execute community outreach activities. The House provision would undermine command authority and require acceptance of unsolicited gifts regardless of the Department's overall community relations goals.

In addition to compromising mission fulfillment, House section 355 would erode government-wide ethics standards aimed at avoiding the appearance of any official endorsement of non-Federal entities and tend to undermine public confidence in the military by associating performing uniformed Service members with any entity tendering a gift. House section 355 could also increase the potential for violations of fiscal, property, and personnel use policies.

As background, the recent sequestration and the likelihood of ongoing fiscal constraints led the Department to take proactive measures to evaluate community outreach activities across the country, including military band performances, to identify those that align most closely with our goals and objectives, and therefore, are most important to the Department. This has resulted in an annual comprehensive strategic outreach plan that aligns the Department's community relations objectives with the most appropriate and effective use of Department funds. By compelling acceptance of private funds for activities not consistent with the Department's community relations mission, House section 355 would degrade the Department's ability to carry out its coordinated outreach plan.

10 U.S.C. § 974(d) currently affords the Secretaries of the Military Departments the appropriate degree of authority and discretion to accept and use contributions of money, personal property, or services for the benefit of a military musical unit. This existing latitude allows the DoD to accomplish its community relations mission within prescribed policies that also serve to hold the Military Services and the Department accountable for being good stewards of the taxpayers' funds. Further, the Department recently issued interim guidance to implement 10 U.S.C. § 974(d), and should be given the time to demonstrate how it will use this new authority enacted less than one year ago.

The Department urges exclusion of the House provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Agreements with Local Civic Organizations to Support Conducting a Military Air Show or Open House

Appeal Citation: H.R. 4435, sec. 354

Language/Provision: House section 354 would amend chapter 155 of title 10, United States Code, by adding a new section that authorizes the Secretary of a Military Department to enter a contract or agreement with a non-Federal civic organization for the purpose of conducting or supporting a military airshow or open house. The new section would also authorize the Secretary concerned, or the civic organization with which the Secretary has entered into a contract or agreement, to charge the public a nominal admission fee to attend a military air show or open house.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision because the Department is fundamentally opposed to charging the public an admission fee to view military installations, aircraft, equipment or vessels. To do so is contrary to our longstanding policies that prescribe military open houses as primarily public affairs activities and not commercial events or fundraising events (DoDD 5410.18, para 4.12.3). DoD believes that such a change could have negative public affairs implications.

The public may be accustomed to paying an admission for a civilian air show, sponsored by a civilian organization. However, military air shows, open houses, and port visits on Navy vessels are a highly effective means of earning public support and developing understanding of operations, missions and requirements of the U.S. military by showcasing its people to an increasingly unfamiliar citizenry. These no-cost events allow the U.S. military to demonstrate to the American public what they are receiving in return for their tax contributions. Charging or collecting money from the public to attend these events undermines this goal. Such a policy could be perceived as a second "tax" on a publicly-funded activity and might put off many of our strongest supporters (e.g., veterans, retirees, family members, industrial partners, etc).

Part of the success of the military air show and open house events is the wide diversity of attendees garnered by free admission. Charging fees will adversely impact this diversity, possibly at the expense of the recruitment-age audience. A reduction in the number of recruitment-age attendees could impede the personnel recruiting and retention programs of the uniformed services, which are essential to DoD's mission.

Charging the public for access to our bases would inhibit the public's understanding of the U.S. military's sacrifice and selfless contribution to the national defense.

Similar objections apply for military open houses conducted overseas. Charging our country hosts to gain access to our bases may tarnish America's image abroad.

Furthermore, the authority to enter into agreements purportedly provided by House section 354 is unnecessary because the Department already has authority to contract with non-Federal organizations to support military air shows and open houses and participate in similar civilian-sponsored events. Contracts may be awarded in accordance with Title 10, United States Code, Chapter 137 (*e.g.* 10 U.S.C. §§ 2304, 2304a); DoD Directive 5410.18, para 4.12.6; and DoD Instruction 5410.19, Enclosure 11. In

addition, contracts to be funded with non-appropriated funds may be awarded in accordance with DoD Instruction 4105.67. In accordance with existing Department Community Relations policies, Armed Forces aerial demonstrations also are authorized at air shows sponsored by either non-profit or for-profit civilian organizations, provided certain criteria are met.

The aforementioned statute and policies afford the Service Secretaries an appropriate degree of authority and discretion; therefore, these additional provisions are unnecessary.

Finally, the Department objects to this provision because of its overly broad and ambiguous language, such as the definitions for "civic organizations" and "nominal fees." In addition, the provision has the following technical problems:

- Even if the Department were in favor of House section 354, the ability of the Department to use air show and open house admission fees should not be dependent on a recurring annual Appropriations process. Any such authority to collect and use air show and open house admission fees should be structurally parallel with the Department's authority to collect and use conference fees under 10 U.S.C. §2262, a provision which does not include such language subjecting collected fees to the annual Appropriations process.

- As written, the provision would permit a non-Federal civic organization to charge an admission fee to the public for access to a military installation or vessel. Such authority, even if the Department were in favor of House section 354, should be reserved for the Secretary concerned.

For these reasons, the Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Operation and Maintenance Unobligated Balances and Contract Services Reductions

Appeal Citation: H. Rpt. 113-446, pp. 377, 378, 380, 383, 406, 407, 425, 477; S. Rpt. 113-176, pp. 306, 307, 312, 335, 344, 402

Appropriations: Operation and Maintenance Accounts; Procurement Accounts; Research, Development, Test and Evaluation, Navy; and Working Capital Fund, DECA

Summary: The House decreases the Operation and Maintenance budget requests by $1,398.8 million for unobligated balances and $817.5 million reductions in contracts for facilities maintenance and other services. The Senate supported the President's Budget.

		Budget Authority (Dollars in Millions)			
Item	Budget	House	Senate	House Appeal	Senate Appeal
Unobligated Balances Reduction					
Operation and Maintenance, Air Force	------	-332.5	0.0	332.5	0.0
Operation and Maintenance, Air Force Reserve	------	-13.4	0.0	13.4	0.0
Operation and Maintenance, Air National Guard	------	-0.8	0.0	0.8	0.0
Operation and Maintenance, Army	------	-387.3	0.0	387.3	0.0
Operation and Maintenance, Army National Guard	------	-72.4	0.0	72.4	0.0
Operation and Maintenance, Army Reserve	------	-38.7	0.0	38.7	0.0
Operation and Maintenance, Defense-Wide	------	-212.9	0.0	212.9	0.0
Operation and Maintenance, Marine Corps	------	-81.5	0.0	81.5	0.0
Operation and Maintenance, Marine Corps Reserve	------	-0.1	0.0	0.1	0.0
Operation and Maintenance, Navy	------	-248.7	0.0	248.7	0.0
Operation and Maintenance, Navy Reserve	------	-10.5	0.0	10.5	0.0
Total	------	**-1,398.8**	**0.0**	**1,398.8**	**0.0**
Contract Services Reduction					
Operation and Maintenance, Air Force	------	-110.5	0.0	110.5	0.0
Operation and Maintenance, Air Force Reserve	------	-3.5	0.0	3.5	0.0
Operation and Maintenance, Air National Guard	------	-19.0	0.0	19.0	0.0
Operation and Maintenance, Army	------	-251.5	0.0	251.5	0.0
Operation and Maintenance, Army National Guard	------	-46.0	0.0	46.0	0.0
Operation and Maintenance, Army Reserve	------	-15.0	0.0	15.0	0.0
Operation and Maintenance, Defense-Wide	------	-173.0	0.0	173.0	0.0

Item	Budget	House	Senate	House Appeal	Senate Appeal
		Budget Authority (Dollars in Millions)			
Contract Services Reduction (Continued)					
Operation and Maintenance, Marine Corps	------	-27.5	0.0	27.5	0.0
Operation and Maintenance, Marine Corps Reserve	------	-2.5	0.0	2.5	0.0
Operation and Maintenance, Navy	------	-151.5	0.0	151.5	0.0
Operation and Maintenance, Navy Reserve	------	-2.5	0.0	2.5	0.0
Defense Acquisition Workforce Development Fund	------	-3.5	0.0	3.5	0.0
Cooperative Threat Reduction	------	-10.5	0.0	10.5	0.0
Overseas Humanitarian, Disaster and Civic Aid	------	-0.5	0.0	0.5	0.0
Support of International Sporting Competitions, Defense	------	-0.5	0.0	0.5	0.0
Total	------	**-817.5**	**0.0**	**817.5**	**0.0**
Offset – Incremental funding for LPD-28 (Shipbuilding, Conversion, Navy, line 010, p. 395)	------	800.0	0.0	-800.0	0.0
Offset – CVN 73 Refueling and Complex Overhaul (RCOH)					
Military Personnel, Navy	------	48.0	0.0	-48.0	0.0
MERHFC, Navy	------	1.0	0.0	-1.0	0.0
Operation and Maintenance, Navy	------	8.2	0.0	-8.2	0.0
Operation and Maintenance, Navy Reserve	------	10.2	0.0	-10.2	0.0
Aircraft Procurement, Navy	------	-53.4	0.0	53.4	0.0
Shipbuilding, Conversion, Navy	------	483.6	0.0	-483.6	0.0
Other Procurement, Navy	------	298.6	0.0	-298.6	0.0
Total	------	**796.2**	**0.0**	**-796.2**	**0.0**
Offset – ARNG Modernization–6 additional UH–60M aircraft (Aircraft Procurement, Army, p. 377, line 012)	1,237.0	1,335.4	1,382.0	1,237.0	1,237.0
Offset – Industrial Base initiative (Procurement of Weapons & Tracked Combat Vehicles, Army, H. Rpt. p. 380, line 013)	0.0	120.0	0.0	0.0	0.0
Offset – Additional FMTVs – Industrial Base initiative (Other Procurement, Army, H. Rpt. p. 383, line 005)	0.0	50.0	0.0	0.0	0.0

Item	Budget	Budget Authority (Dollars in Millions) House	Senate	House Appeal	Senate Appeal
Offset – Additional HEMTT ESP Vehicles-Industrial Base initiative (Other Procurement, Army, H. Rpt. p. 383, S. Rpt. p. 312, line 007)	28.4	78.4	28.4	28.4	28.4
Offset – Program Increase (Aircraft Procurement, Air Force, H. Rpt. p. 406, S. Rpt. p. 334, line 018)	240.2	360.2	202.4	240.2	202.4
Offset – C–130 8–Bladed Propeller upgrade ($30.0M), C-130 AMP ($35.8M), and T–56 3.5 Engine Mod ($22.6M) (Aircraft Procurement, Air Force, H. Rpt. p. 407, S. Rpt. p. 335, line 050)	35.9	109.7	83.4	21.4	21.4
Offset – Service Life extension for the AGOR ships (Research, Development, Test and Evaluation, Navy, H. Rpt. p. 425, S. Rpt. p. 355, line 010, 0602435N) *	45.4	65.4	45.7	64.3	45.4
Offset – Working Capital Fund, DECA (Working Capital Fund, DECA, H. Rpt. p. 477, S. Rpt. p. 402) **	1,114.7	1,214.7	1,314.7	1,114.7	1,114.7
Offset - Spending Reduction Account	0.0	0.0	0.0	7.8	0.0

*This offset is used in the Unmanned Carrier-Launched Airborne Surveillance and Strike System (UCLASS) and Unobligated Balances and Contract Services Reductions appeal.

**This offset is used in the Offensive Anti-Surface Warfare Weapon Development (OASuW) and Unobligated Balances and Contract Services Reductions appeal.

DoD Position/Impact: The Department objects to the House reduction of $1.4 billion for unobligated balances and $817.5 million for contract services to the Operation and Maintenance appropriations because these reductions will be applied to the same readiness and depot maintenance programs that the Congress is increasing.

The Department is committed to improving its overall financial management, fiduciary stewardship, and management emphasis of obtaining value for appropriations received, but the Department will always carry a small amount, a few tenths of one percent, in unobligated balances within the Operation and Maintenance appropriations. This conservative execution of funds, in light of US Code 1517 and the Anti-Deficiency Act, is consistent with the expectation of upward adjustments after 30 September for valid prior year charges, such as unforeseen damage, but within scope, on a contracted depot maintenance event or a performance award for a period of performance contained entirely within a fiscal year that could not be assesses until after the year closed. Hedging against the known and unknown upward obligation events against anticipated deobligations

would place fund holders at significant risk for violations.

Facility maintenance is included in contract services. Further reductions to facilities maintenance will compound the additional risk the Department has taken in this area as the FY 2015 budget submission funds only 67 percent of the validated sustainment requirement. Since FY 2012, there has been a 26% reduction ($11.5 billion to $8.4 billion in FY 2015) in facilities maintenance funding as the Department has faced sequestration and reduced funding levels. Continued reductions in facilities maintenance contracts will degrade the condition of our infrastructure resulting in larger military construction requirements sooner than anticipated. The Department has reduced other services contract funding by 15% ($9.4 billion to $8.0 billion) since FY 2012. Reductions to other services contracts will impact several critical programs and congressional special interest items across the Department, such as tuition assistance, audit readiness support, ROTC and military family programs, as well as sexual assault and suicide prevention.

The additional $800.0 million added to the House authorization for the LPD-17 program is not required. The twelfth LPD is not required. The acquisition target of 11 LPDs supports the stated Navy/USMC goal of 33 amphibious ships comprised of 11 ships of each type (LHA/LHD; LPD 17; LSD 41/49). This requirement meets the amphibious lift requirement with acceptable risk in combat support vehicle/sustainment capacity. Diverting funds to procure an additional LPD will force the Department to underfund higher priority needs. Recommend $800.0 million be redirected from this congressional enhancement to restore the congressional marks on unobligated balances and contract services.

The additional $796.2 million added to the House authorization for the CVN 73 Refueling and Complex Overhaul (RCOH) increases to DoD programs is not required. Without assurance that sequestration will be addressed and that future budget levels with be sufficient to ensure that CVN 73 can be adequately operated, maintained, crewed, and sustained in a balanced force structure that includes 11 carriers and 10 air wings, it would be unwise to fund efforts to conduct the RCOH in FY 2015, only to be forced to cancel it and inactivate CVN 73 in FY 2016 due to ongoing budget restrictions. Recommend $796.2 million be redirected from this congressional enhancement to restore the congressional marks on unobligated balances and contract services.

The additional $98.4 million added to the House authorization for the UH-60 Blackhawk M Model (MYP) program is not required. The current production of aircraft in FY15 fully supports the active and Guard component requirements. Additional aircraft are not necessary since, under the Army Aviation Restructure Initiative, the Guard receive 111 UH-60L beginning in FY15 from the active component that will quickly replace their older UH-60A. Recommend $98.4 million be redirected from the congressional enhancement to restore the congressional marks on unobligated balances and contract services.

The additional $120.0 million added to the House authorization for the ABRAMS Upgrade Program is not required. The Department's FY 2015 President's Budget took into consideration several elements of the portfolio in developing budget estimates such as the current planned Foreign Military Sales, future force structures, as well as Industrial Base concerns and determined that no additional funding was required for this program. Recommend $120.0 million be redirected from this congressional enhancement to restore the congressional marks on unobligated balances and contract services.

The additional $50.0 million added to the House authorization for the Family of Medium Tactical Vehicles (FMTV) program is not required. The Department considered all issues of minimum sustaining rates to mitigate industrial base challenges as well as potential Overseas Contingency Operations (OCO) funding which supports this program. The FY 2015 Budget Amendment for OCO contains funding to replace 286 battle-loss FMTV's ($95.6 million). Recommend $50.0 million be redirected from this congressional enhancement to restore the congressional marks on unobligated balances and contract services.

The additional $50.0 million added to the House authorization for the Family of Heavy Tactical Vehicles (FHTV) program is not required. The Department considered all issues of minimum sustaining rates to mitigate industrial base challenges as well as potential Overseas Contingency Operations (OCO) funding,

which supports this program. The FY 2015 Budget Amendment for OCO contains funding to support recapitalization of 473 HMETT variants returning from theater ($192.6 million). Recommend $50.0 million be redirected from this congressional enhancement to restore the congressional marks on unobligated balances and contract services.

The additional $120.0 million added to the House authorization for the MQ-9 program is not required. The additional eight aircraft are ahead of need. Recommend $120.0 million be redirected from this congressional enhancement to restore the congressional marks on unobligated balances and contract services.

The additional $88.4 million added to the House authorization for the C-130 program is not required. DoD plans to replace the C-130 AMP with a less expensive, fully capable alternative that has been validated by an independent study. The alternative ensures that the fleet will meet future requirements. Both a congressionally-directed independent study by an FFRDC and a GAO review confirmed the Department's approach. IDA stated that the U.S. Air Force should not pursue AMP and that a more cost-effective alternative is available. Retaining AMP would require future expenditures of over $3.0 billion to complete the program and are not available given DoD's fiscal constraints and current priorities. The modified program costs considerably less than AMP and will ensure that DoD's C-130 fleet can operate as needed in accordance with future global access and air traffic management requirements. Recommend $88.4 million be redirected from this congressional enhancement to restore the congressional marks on unobligated balances and contract services.

The additional $100.0 million added to the House authorization for Working Capital Fund, DECA program is not required. The Department supports the proposed total $1.0 billion decrease to the DeCA's budget over the next 3 years, leaving approximately $400.0 million annually thereafter to subsidize the operation of overseas and remote and isolated commissaries in the United States, as part of its effort to slow the growth. Recommend $100.0 million be redirected from this congressional enhancement to restore the congressional marks on unobligated balances and contract services.

The additional $7.8 million, which remains from the congressional adds offsets in the House authorization is not required. Recommend $7.8 million be redirected from this congressional enhancement to the spending reduction account.

The Department strongly urges conferees to support the Senate position of not reducing $1.4 billion for unobligated balances and $817.5 million for contract services in the readiness accounts. Increase to overall funding authorization levels associated with this appeal are offset from lower priority activities, to keep the overall authorization funding levels within the FY 2015 security caps of the Bipartisan Budget Act of 2013.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Military Compensation

Appeal Citation: H.R. 4435, sec. 602; S. 2410, secs. 601, 603

Language/Provision: The House bill does not address military basic pay increases for Service members. By not addressing the military basic pay increase, title 37, U.S.C. , §1009 automatically provides a 1.8 percent across-the-board increase effective January 1, 2015. This is 0.8 percent above the increase in the President's Budget. The corresponding Senate provision would provide a 1.0 percent military basic pay increase for military members consistent with the President's Budget.

The Senate bill would also authorize the Secretary of Defense to reduce the monthly amount of the Basic Allowance for Housing (BAH) by up to 5 percent of the national average for housing for a given pay grade and dependency status. Locality-based BAH rates would be reduced so that out-of-pocket expenses would be phased in over time; Service members' BAH rates would not be reduced until they undergo a permanent change of duty station. The provision was part of the Administration's official legislative package transmitted by the Department. The House included no similar provision.

DoD Position/Impact:

Military Pay Raise:

The Department objects to the automatic 1.8 percent increase for military members. Instead, we prefer the 1.0 percent across-the-board basic pay raise for these military members as requested in the President's Budget, and included in the Senate bill. The Department prefers to use special and incentive pays that can be targeted to enhance recruiting and retention in high demand/low density skill areas. The additional pay raise would create a FY 2015 cost of $534 million for the Department, which would have to be funded at the expense of military readiness and modernization efforts.

Overall, military pay is healthy and exceeds the 70th percentile of wages for comparable civilians by age and education. Junior enlisted personnel are now paid at about the 90th percentile. In terms of real earnings, the average junior enlisted member, typically with just a high school diploma, earns approximately $46,000 per year compared to the median of $24,200 for 16-24 year olds reported by the Bureau of Labor Statistics. This measure does not include the many special pays, bonuses, free medical care and a Government-paid retirement plan that members would typically receive.

A 1.0 percent basic pay raise and current, high retention rates reflected within our force allow the Department to recruit and retain the requisite force and continue to offer a competitive military pay and benefits package. It is important to emphasize that even with a lower basic pay raise, military compensation will still remain well above the 70th percentile, while achieving substantive savings. The cost of increasing the FY 2015 military pay raise by the additional 0.8 percent is $534 million in FY 2015 and approximately $3.4 billion from FY 2015 – FY 2019.

Basis Housing Allowance:

The Department supports the Senate provision because it would allow for effective operation within the financial constraints of the current budgetary environment, while maintaining the ability to recruit and retain an All-Volunteer Force. It would provide significant cost savings, starting at an estimated $391 million in FY 2015 and rising to an estimated $1.277 billion in cost savings for FY 2019. The Department's military and civilian leaders carefully considered this option to generate savings—savings needed to help close serious resource shortfalls in training, maintenance, and equipment—in the BAH program. DoD found that slowing BAH growth until an average member's out-of-pocket expenses for rent reached 5 percent achieved an appropriate and reasonable balance between the Department's need to achieve savings in the BAH program

and the need to continue to offer a generous, competitive, and sustainable package of military pay and benefits.

If BAH rates decrease in an area, whether due to changes in housing costs or changes in computation methodology, members already receiving BAH for that area would be rate-protected and continue to receive the previous years' higher BAH rate. BAH would still be based on local housing costs and fluctuate as those costs change. BAH payments would be slightly decremented from that total cost, but in a manner equitable to all Service members regardless of whether they are stationed in high- or low- cost areas. Depending on members' actual housing choices, they may or may not actually have to pay out of pocket for their housing.

Commissary:

The Department recommends that Congress include its legislative proposal submissions that would streamline statutory requirements, enabling the Defense Commissary Agency (DeCA) to become partially self-sustaining. The Department has proposed a total $1 billion decrease to the DeCA's budget over the next three years, leaving approximately $400 million annually thereafter to subsidize the operation of overseas and remote and isolated commissaries in the United States, as part of its effort to slow the growth. To achieve that end, legislation is required to change the commissary's pricing model allowing a mark-up on goods sold to enable the generation of revenue necessary to offset operating expenses.

The Department urges adoption of the Senate provisions, which authorize a 1.0 percent military basic pay increase for military members, and a reduction of the monthly amount of BAH by up to 5 percent of the national average for housing for a given pay grade and dependency status. The Department also urges inclusion of provisions that would streamline statutory requirements to allow DeCA to become partially self-sustaining. These provisions are consistent with the FY 2015 President's Budget request.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: United States Special Operations Command Preservation of the Force and Families Program (POTFF)

Appeal Citation: H. Rpt. 113-446, pp. 471 and 478; S. Rpt. 113-176, pp. 396 and 403

Appropriations: Operation Maintenance, Defense-Wide and Defense Health Program

Summary: The House reduced the United States Special Operations Command (USSOCOM) Preservation of the Force and Family, Human Performance Program (HPP) request by $23.3 million and added the funding to the Defense Health Program (DHP) for the Behavioral Health and Warrior Care Management Program in order to bolster behavioral health funding for special operations forces within the DHP appropriation. The Senate supported the President's Budget request.

	Budget Authority (Dollars in Millions)				
Item	Budget	House	Senate	House Appeal	Senate Appeal
Special Operations Command/ Operating Forces (Operation and Maintenance, Defense-Wide, H. Rpt. p.471, S. Rpt. 396, line 020)	4,762.2	4,707.9	4791.8	4,731.2	4,731.2
Offset – USSOCOM Behavioral Health and Warrior Care Management Program (Defense Health Program, H. Rpt. p. 478, S. Rpt. 403, In-House Care)	8,799.1	8,884.4	8,799.1	8,769.1	8,769.1
Offset – Spending Reduction Account	0.0	0.0	0.0	92.0	0.0

DoD Position/Impact: The Department objects to the House reduction of $23.3 million Special Operations Command/Operating Forces because shifting the USSOCOM HPP funding to the DHP will impact critical SOCOM programs that will reduce the operational readiness of the Special Operations Forces. The Assistant Secretary of Defense (Health Affairs) (ASD(HA)), in coordination and partnership with USSOCOM carefully assessed the funding required to support the non-operational behavioral health needs of the Special Operations community. Based upon this assessment, the ASD(HA) and USSOCOM determined the $14.8 million requested in the DHP appropriation adequately provides for the support of the current USSOCOM non-operational behavioral health requirements.

The additional $23.3 million added to the House appropriation for the Defense Health Program – In-House Care is not required. The Department believes funding for operational behavioral health requirements s needs to be directly managed by USSOCOM, thereby funded in USSOCOM's HPP. This funding addresses unique operational requirements which directly support special operators. The operational behavioral health resources are under the command and control of the SOCOM commanders, not the Military Health System. This is also consistent with program and funding arrangements with other Services, who are supported in garrison by the Military Health System while exercising command and control of both operational medical funding and the associated resources. Recommend $23.3 million be redirected from the Defense Health Program to restore this congressional mark.

The additional $92.0 million which remains from the congressional adds offsets in the House authorization is not required. Recommend $92.0 million be redirected from this congressional enhancement to the spending reduction account.

The Department urges conferees to support the Senate position of $23.3 million. Increase to overall funding authorization levels associated with this appeal are offset from lower priority activities, to keep the overall authorization funding levels within the FY 2015 security caps of the Bipartisan Budget Act of 2013.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Increase in Funding for Civil Military Programs

Appeal Citation: H.R. 4435, Sec. 302, p. 55 and 56

Language/Provision: H.R. 4435 includes a section 302 that increases by $55.0 million the amount authorized to be appropriated in section 4301 for Operation and Maintenance (O&M) for Civil Military Programs. As an offset, section 302 reduces by $55.0 million the amount authorized to be appropriated in section 4301 O&M specified in section 4301, for the Office of the Secretary of Defense (OSD). The Senate bill contains no similar provision.

DoD Position/Impact: The Department objects to the House reduction of $55.0 million for the O&M budget for OSD. The OSD O&M budget provides all O&M funding for the Combatant Commanders Exercise Engagement and Training Transformation (CE2T2) program, which does not have a separate funding line within the OSD O&M budget. The CE2T2 program plays a critical role in advancing DoD's joint training and mission readiness interests, supporting Combatant Command exercise and engagement priorities in support of DoD worldwide "presence" requirements and enabling the transition from current contingency operations to full-spectrum operations. Reducing the OSD O&M budget correspondingly reduces funding for the CE2T2 program, serving to undercut our Nation's mission readiness.

Moreover, DoD objects to the House increase of the O&M budget by $55.0 million for Civil Military Programs, which corresponds to the House's $55.0 million offset reduction of the OSD O&M budget. The Administration's Opportunity, Growth, and Security Initiative included $30.0 million for Civil Military Programs that would be sufficient to meet the intent of this provision.

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Requirement for Policies and Standard Checklist in Procurement of Services

Appeal Citation: H.R. 4435, sec. 826

Language/Provision: The House section would require the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) to implement a standard checklist, modeled after the Army's practices, to be used for new contract approval for services or in exercising an option under an existing contract for services. This section would also require the Comptroller General to submit a report on the implementation of the standard checklist for fiscal years 2015, 2016, and 2017.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to this House provision which would mandate that USD(P&R) issue policy implementing a standard checklist for procurement of contract for services. This legislation would hinder the Department's current efforts to establish a comprehensive contracted services acquisition policy under the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)); to ensure that such policy is synchronized fully with the responsibility of the USD(P&R) to promulgate guidance for the management of the Department's total force; and incorporating the Under Secretary of Defense (Comptroller) (USD(C)) to ensure that the contract component of the Total Force is incorporated in the Planning, Programming, Budgeting, and Execution process.

The Department takes seriously the requirement to submit to Congress an annual inventory of the activities performed during the preceding fiscal year pursuant to contracts for services. Department-wide guidance for completing and submitting this inventory is issued through coordinated effort by the USD(P&R), the USD(AT&L), and USD(C) as mandated under current law. Further, the Department supports the imperative of establishing a data collection system, and the associated questionnaires and other tools that would facilitate this data collection, in order to provide management information with regard to purchases of services. However, requiring the USD(P&R) within 120 days of the law's enactment to issue a standardized checklist that must be completed before the issuance of a solicitation for any new contract for services, or in exercising an option under an existing contract for services, will undercut the collaborative process already underway across the Department.

While we understand the intent of the House to ensure appropriate contracted services requirements, this provision will in fact undermine the Department's current efforts to develop a comprehensive, coordinated policy for the procurement of contracted services.

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Third Party Evaluation of Mental Health Care and Suicide Prevention Programs

Appeal Citation: H.R. 4435, sec. 732

Language/Provision: House section 732 would direct that a third party unaffiliated with the Department of Veterans Affairs or the Department of Defense (DoD) conduct an evaluation of the mental health care and suicide prevention programs carried out under the laws administered by each Departments' Secretary.

DoD Position/Impact: The Department of Defense objects to the House provision. There are already sufficient internal and external evaluation efforts currently in place to fully inform the direction that DoD is moving with regard to suicide prevention and behavioral healthcare systems. Contracting with an external vendor only adds to the redundancy of this effort and risks actually creating inefficiency as it could result in multiple recommendations intended to meet the same mission requirement, delivered through different mechanisms, and may actually cause conflicts in service delivery.

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Review of Military Health System Modernization Study, and Comptroller General of the United States Report on Military Health System Modernization Study of the Department of Defense

Appeal Citation: H.R. 4435, sec. 714; S. 2410, sec. 736

Language/Provision: Both the House and the Senate bills would require a GAO review of the Department's Modernization Study of the Military Health System. Both the House and Senate versions allow for a 180-day GAO review. The House version includes a 120-day waiting period following the GAO 180-day review, which would not begin until DoD provided a report with extensive facility-by-facility information dating back to 2001.

DoD Position/Impact: The Department welcomes a GAO review of the Modernization Study but objects to the House provision. The Department has two serious concerns about the House provision.

First, it would prohibit the Secretary of Defense from restructuring or realigning military medical treatment facilities until 120 days after the GAO report is supposed to be submitted to the Congress, and that GAO report is due 180 days after an extensive DoD report that has no due date but would undoubtedly take months if less than a year to complete. House section 714's prohibition would not be limited only to the facilities addressed in the Modernization Study, if enacted it could even prevent actions by the Secretary necessitated by military contingencies, facility failure, patient safety problems, or other unforeseeable circumstances.

Second, the specifications for facility-specific information dating back to 2001 are excessive, such as the accounting of TRICARE network capabilities back to 2001. Much of the requested data will be included in the Department's report of its Modernization findings and would be available for GAO's review and assessment, as specified in both the House and Senate language. During the 12 years specified in the House provision, however, significant changes have taken place in medical science, beneficiary demand, and revised health care operations based on lessons learned from contingency operations. Over this period the Department's health care facilities have changed to reflect medical practice and beneficiary demand, as well as transformation directed by the 2005 Base Realignment and Closure decisions. In addition, and more specific to the requested data, the quality has steadily improved over time. Consequently, all of these changes in the Military Health System will make comparison of the requested detail data difficult, and could yield misleading results. The Senate language does not include this extraordinary data call, but does require a GAO review of the Department's recommendations and the information that DoD considered to support those recommendations.

The Department urges exclusion of the House provision, and adoption of the Senate provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Limitation on Transfer or Elimination of Graduate Medical Education Billets

Appeal Citation: H.R. 4435, sec. 713

Language/Provision: House section 713 would effectively place a moratorium on the transfer or elimination of graduate medical education (GME) billets for two years following the beginning of the implementation of the Department of Defense (DoD) plan required by Section 731 of Public law 112-239. It would also place limits on Military Department Surgeon Generals' authority by restricting their ability to coordinate GME billets and programs (and the associated medical care provided) with the needs of the Services, and could adversely impact Service ability to comply with standards required by the Accreditation Council for Graduate Medical Education (ACGME) thereby endangering program accreditation.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to House section 713 because it would have an adverse impact on GME and Military Department Surgeon Generals' authority and oversight of GME programs. Removing Surgeon Generals' authority could potentially compromise the ability of the Services to provide care and perform militarily relevant clinical research, placing the accreditation of our training programs at risk. ACGME is the recognized accreditation authority for GME programs in the United States. ACGME accreditation is required for the credibility of military GME programs and their graduates. Failure to comply with an ACGME requirement as a result of this congressional mandate could result in loss of ACGME program accreditation.

The Department's Military Treatment Facilities are its readiness training platforms. DoD is in the midst of a deliberate process to realign its assets so that it has a ready and deployable medical force. This also includes potential realignment of GME to other hospitals that provide a greater scope and complexity of care.

The agility of the current capacity to thoughtfully add or remove GME billets according to changing needs of the Services is vital for the distribution of medical corps officers and the care they provide, and to ensuring the continued recruitment and retention of outstanding physicians to care for our military beneficiaries. Although thorough review and examination of all the implications of GME billet changes is absolutely necessary and appropriate, appropriate oversight can be provided internally, such as through Surgeon General-level approval. This allows the Services to make appropriate decisions about billets while meeting the medical needs of active duty Service members, their families and retirees.

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorizations Bill

Subject: Authority for Removal from National Cemeteries of Remains of Deceased Members of the Armed Forces Who Have No Next of Kin

Appeal Citation: H.R. 4435, sec. 594

Language/Provision: House section 594 would authorize the Secretary of the Army to remove the remains of a member of the armed forces from the Army National Military Cemetery for transfer to any other cemetery when the Service member has no known next of kin. The House provision is not part of the Administration's official legislative package transmitted by the Department.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision because it would be a breach of trust with Veterans and their families, as it may encourage third parties to try to force the Army into the difficult position of acting on requests to disinter persons who are properly interred in a National Cemetery. This action may subject the Department to litigation as third parties, with no relation to the deceased, may attempt to force the Army to move Veterans from or to a particular cemetery, despite the fact the deceased Veteran was properly interred in a National Cemetery.

The gravesites of our Nation's Veterans and their family members have been entrusted to the Army and the Department of Veterans Affairs for their perpetual care as the permanent final resting place of persons who selflessly served their country and in many cases made the ultimate sacrifice. For 150 years when a Veteran is laid to rest in a National Cemetery, his or her family, friends, and fellow Service members and Veterans have themselves been able to rest easy knowing that their loved one is permanently interred in a place of honor and respect, regardless if all relatives and those who know the Veteran eventually die themselves. The House provision endangers this long standing practice, and could encourage third parties who have no affiliation or connection to the Veteran to demand that the Army disinter and move the Veteran to a location selected neither by the Veteran, next of kin, friends, or fellow Service members living at the time of the Veteran's death. The disinterring of remains and relocation of remains is considered offensive and is prohibited in many cultures and religions. Due to the historical nature of many of those interred in National Cemeteries, the Army has no ability to determine those whose culture or religious beliefs would be violated by disinterring their remains.

The Department is also very concerned regarding the substantial risk for significant litigation as a result of this legislation. Because the House provision would provide the Secretary of the Army the authority to disinter and move properly interred persons, third parties could request persons be moved and consequent to that very approval or denial on the part of the Secretary could result in litigation regarding that decision. While this provision applies only where there is no known next of kin, it does not provide a process by which the Army can make such a determination thereby further exposing the Army to litigation over the manner and determination of the existence or who is the next of kin.

This provision is directly contrary to the trust placed by Veterans, their families, and survivors in the Department of Defense. Veterans and their families who have been interred in a National Cemetery should not have to worry that at some future point a random third party will demand the government disinter and move their remains to some other location.

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Behavioral Health Treatment of Developmental Disabilities under the TRICARE program

Appeal Citation: H.R. 4435, sec. 704

Language/Provision: House section 704 would require access to behavioral health treatment, including Applied Behavior Analysis (ABA), under TRICARE for the children of DOD armed services personnel with developmental disabilities (as defined by section 102(8) of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002(8)), including autism spectrum disorders, when prescribed by a physician.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision because covering ABA for TRICARE beneficiaries with "developmental disabilities" may not be clinically indicated, and therefore may create false expectations for parents of a disabled child for whom ABA would not help. "Developmental disabilities" encompass many physical disabilities for which ABA is never an indicated intervention. All TRICARE beneficiaries with a developmental disability currently are eligible to receive robust medical benefits, such as physician services, pharmacotherapy, speech therapy, occupational therapy; as well as behavioral interventions when indicated, including psychotherapy and neuropsychological testing. ABA has been repeatedly determined through comprehensive review of available evidence by the Defense Health Agency (DHA) to be a non-medical intervention—for autism, but not other conditions. The House provision proposes to include ABA as medical care for a host of conditions, even when it remains controversial within the medical community that ABA is a proven safe and effective medical treatment for the underlying condition of autism alone. House section 704 would mandate TRICARE coverage of ABA for a host of physical developmental disabilities that would clearly not benefit from it, diverting costly health care resources away from provision of effective evidence-based treatments for all developmental disabilities. For example, children with epilepsy or cerebral degeneration disorders could be eligible under House section 704 to receive ABA when there is no clinical evidence that ABA improves these conditions. Furthermore, the specified funding increase for Private Sector Care of $20,000,000 is insufficient. The Department estimates $67.4 million in annual costs for ABA therapy treatment for beneficiaries with non-autism diagnosis. Further, the Department estimates $40.4 million in extending ABA therapy benefits to non-active duty dependents with autism and removing the $36,000 annual cap on expenditures for all beneficiaries. In total, the Department estimates additional costs of $109 million, including phase-in and ongoing administrative costs of roughly $1.0 million as a result of the change associated with House section 704. These additional costs would almost double the current cost of providing ABA therapy to ADFM beneficiaries with ASD ($122 million in FY13) and will exponentially accelerate the growth in Government expenditures for ABA.

By mid-summer, the Defense Health Agency (DHA) plans to have a new demonstration program in place for all beneficiaries who have children with autism spectrum disorders (ASD). This new program will consolidate the current ABA programs into a single, more agile program. In crafting this new program, the DHA worked closely with military families, advocacy groups and experts in the field of ASD to address concerns with existing TRICARE ABA initiatives. The new program will make it easier for families to obtain ABA and transition them seamlessly to the new program. All families will have the ability to access ABA through a simplified process.

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Improved Consistency in Data Collection and Reporting in Armed Forces Suicide Prevention Efforts

Appeal Citation: H.R. 4435, sec. 546; S. 2410, secs. 513, 576

Language/Provision: House section 546 would require the Secretary of Defense to prescribe a policy for the development of a standard method for collecting, reporting, and assessing suicide and suicide attempt data involving members of the Armed Forces, including the Reserve Components, and their dependents.

Senate sections 513 and 576 would attempt to carry out similar requirements. Senate section 513, like House section 546, would require the Secretary of Defense to prescribe a policy for the development of a standard method for collecting, reporting, and assessing suicide data involving members of the Reserve Components. Senate section 576 would, similar to House section 546, require the development of a program to track, retain, and analyze information on the suicide deaths of dependents of members of the regular and Reserve Components of the Armed Forces; however, the Senate section would make this the responsibility of the Secretaries of the Military Departments as assigned by the Secretary of Defense, rather than the Secretary of Defense as in the House provision.

DoD Position/Impact: The Department objects to both Senate provisions because they would divide responsibilities and guidance for handling suicide data for the Reserve Components and dependents while assigning direct responsibility to the Service Secretaries, causing inefficiencies and inconsistencies. However, the Department concurs with the House provision, which would place the tracking, retaining, and analysis of these populations under one authority while holding the Secretary of Defense responsible, subject to a modification to the provision and the understanding that the Department has no mechanism for tracking the suicide attempts of military dependents.

In February 2014, the Department delivered a feasibility study entitled, "Suicide and Military Families: A Report on the Feasibility of Tracking Deaths by Suicide among Military Family Members" (as requested by S.Rpt. 113-44, page 121; H.Rpt 113-102, page 149). According to this study, the Department does not currently have a process to investigate, monitor, or receive notification of military dependents deaths. However, a proposed approach could combine death data purchased from the Centers for Disease Control and Prevention (CDC) with data already maintained by the DoD. The combined data could then be aggregated into an already-existing Suicide Data Repository (SDR) jointly held with the Department of Veterans Affairs. By aggregating this information into the SDR, the Defense Suicide Prevention Office would be able to conduct surveillance of dependent's deaths by suicide, provide the data for research, and focus strategies for increasing resilience in military family members. Because there is currently no mechanism by which the Department can track the suicide attempts of military dependents, it recommends a modification to House section 546 to eliminate that requirement.

The methodology described in the feasibility study assigns responsibility for this task at the Department level. Senate section 576 would place the tracking, retaining, and analysis of dependent suicides under the Service Secretaries. It is the Department's view that placing this responsibility at the level of the Service Secretaries could have the unintended consequence for the development of four different policies and methods to track and report on suicide data, which would decrease efficiency and lessen standardization.

The Department urges exclusion of the Senate provisions, and adoption—with modification—of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Authority for Provisional TRICARE Coverage for Emerging Health Care Products and Services

Appeal Citation: S. 2410, sec. 705

Language/Provision: Senate section 705 would authorize the Secretary of Defense, through the Assistant Secretary of Defense for Health Affairs (ASD(HA)), to provide provisional TRICARE coverage for health care products and services that have not been demonstrated to be safe and effective. The provision outlines a process whereby the Secretary of Defense, through the ASD(HA), could make a determination that such health care products and services, based on various inputs and evidence, are "likely safe and effective" and permitted for coverage for up to five years.

The House included no similar provision.

DoD Position/Impact: The Department of Defense supports the Senate provision because it would allow the Department to be more responsive in providing Military Health System beneficiaries and providers access to evolving products and services when the Secretary considers new evidence trustworthy and appropriate.

TRICARE's hierarchy of reliable evidence is a proven tool used to determine if procedures and treatments are safe and effective. While there are circumstances where evolving procedures and treatments may not have yet met the threshold of reliable evidence, this tool could still be of benefit to patients under a provisional coverage status. By utilizing the best available clinical information to select the most promising emerging procedures/treatments and developing outcomes measurements collected with tools, such as registries, DoD could gather information over time that would assist in making a definitive coverage determination. With both Military Treatment Facilities (MTFs) and TRICARE's civilian network participating there would be greater uniformity in the availability of these emerging healthcare services.

For medical devices current TRICARE federal regulation requires Food and Drug Administration (FDA) approval or clearance before TRICARE can cover, which works well unless the FDA utilizes "enforcement discretion" of its own applicable regulation regarding medical devices. A case in point is Laboratory Developed Tests (LDTs) where the FDA has not required LDTs to go through the evaluation process for safety and efficacy. Nevertheless, under the existing TRICARE program DoD cannot provide non-FDA approved LDTs to beneficiaries. This can hamper the provision of appropriate medical care since many LDTs are considered the standard of practice in the diagnosis and management of many medical conditions. In response, DoD has had to utilize its demonstration authority to allow LDTs to be internally evaluated for coverage by TRICARE. For situations like LDTs, the Senate provision would allow DoD the authority to provisionally provide coverage under the TRICARE program without using the more cumbersome approach of a demonstration project.

The Senate provision would also better align healthcare services that are provided in MTFs and the civilian network under TRICARE. Evidence based care is the foundation of care for both MTFs and purchased care. But Medicine is constantly changing and evolving and the Military Health System needs the flexibility to determine which emerging healthcare services can be appropriately provided to its beneficiaries with all necessary safeguards, transparency, and informed consent.

The Department urges adoption of the Senate provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Mental Health Assessments for Members of the Armed Forces

Appeal Citation: H.R. 4435, sec. 701; S. 2410, sec. 701

Language/Provision: House section 701 would amend section 1074m of title 10, United States Code, to require a person-to-person mental health assessment for each member of the armed forces who is deployed in support of a contingency operation once during each 180-day period during which the member is deployed. The corresponding Senate provision would require a person-to-person mental health assessment once each calendar year for each member of a regular component of the armed forces, and the Selected Reserve of an armed force, to identify mental health conditions among members of the armed forces to determine which members are in need of additional care, treatment, or other services for such conditions.

DoD Position/Impact: The Department objects to the House provision and believes that in-theater assessments could hinder mission readiness by introducing additional burdens on both medical resources and operational forces without evidence to support their effectiveness. The instruments currently used by the Department for person-to-person mental health assessments have not been validated for use in deployed settings and may result in a high number of false positive screenings as symptoms they assess are common in the deployed environment and not necessarily indicative of a mental health problem. In addition, the Department has policies that establish requirements for the early detection and management of combat and operational stress reactions, and the Services have developed ongoing programs and policies to identify, manage, and prevent stress-related disorders that could arise in a deployed setting. Trained mental health providers are often embedded within line units to routinely screen for and identify combat stress reactions in Service members, and they are ideally positioned to identify mental health problems and offer targeted interventions. Such an approach to early detection, prevention, support, and mental health services minimizes disruptions to ongoing operations, is optimal for the early detection and management of mental health concerns in the deployed setting, and makes additional mental health screening unnecessary.

The Department agrees with the intent of the Senate version requiring annual mental health assessments for each member of the armed forces, but objects to the provision's requirement that all of these assessments be person-to-person. There is no evidence demonstrating a significant benefit in requiring person-to-person assessments for individuals who have no self-reported indication of a mental health concern. The Department would request that the Senate section be revised so that a "person-to-person" assessment would be required only for individuals who indicate a potential mental health concern through a positive screening on preliminary self-report measures. The Department believes that this revision would optimize the identification of mental health concerns while minimizing unnecessary appointments which consume precious health care resources and can be perceived as burdensome to Service members. Service members will continue to have the opportunity to request a person-to-person encounter with a provider if desired.

The Department is in the process of standardizing annual Periodic Health Assessments (PHA) across all of the Services to incorporate the same screening tools that are included in the deployment health and mental health assessments required under Sections 1074f and 1074m of Title 10 U.S.C. This will allow for completion of deployment mental health assessments in conjunction with the PHA to eliminate redundancies and ensure consistency in the mental health screening processes. In addition to the annual PHA, the Department also screens for symptoms that may be early warning signs of mental health problems during routine primary care and other medical appointments.

The Department urges exclusion of the House provision, and adoption of the Senate provision amended to require a "person-to-person" assessment only for individuals who have screened positive on a preliminary self-report measures.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Prohibition on Conversion of Functions Performed by Civilian or Contractor Personnel to Performance by Military

Appeal Citation: H.R. 4435, sec. 914

Language/Provision: With limited exceptions related to functions that by law must be performed by military personnel, or those requiring specialized military expertise or operational experience, the House provision would prohibit military personnel from performing any functions converted from performance by civilian personnel or contractors, unless there is a direct link between the functions to be performed and a military occupational specialty, and the conversion to performance by military personnel is cost effective, based on pertinent DoD regulation.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision because it is far too restrictive relative to ordinary and prudent measures that would otherwise permit the Secretaries of the Military Departments to ensure continuity of operations and mission accomplishment in the event of emergency or exigent circumstances or unforeseen disruption in operations.

The Secretaries of the Military Departments need appropriate flexibilities to allow them the discretion to manage their workforces and workplaces, enabling them to address emergent or short-term challenges adversely impacting mission accomplishment. Chief among these is the ability to assign critical duties to available personnel on a temporary basis to ensure continuity of operations. Notwithstanding its limited exceptions, the proposed House provision would effectively eliminate even the simplest of available workforce flexibility measures related to assignment of work. In part because the provision does not define the term "conversion," the proposal would constrain the Department's ability to use military members, on a temporary basis, to perform critical functions, even when the military may be the only labor choice available. In particular, the House section could prohibit the temporary use of military personnel to perform financial management, installation security, training support, dining facility, or installation and depot maintenance functions regularly performed by civilian employees or contractors, absent a demonstrable significant cost savings and military occupational specialty linkage to the function—even in a period of crisis or marked budgetary uncertainty.

In fact, the House provision could be interpreted to restrict even military members who supervise civilians from completing tasks for which they are ultimately responsible in the event of a civilian employee's absence or incomplete, unsatisfactory work. This is of particular concern given that the House section does not define the term "function," and its implied definition would appear to cover everything from individual tasks to the type of work performed. The Department is best served by allowing the Secretaries of the Military Departments to exercise their best judgment and discretion in striking the appropriate balance between temporarily transferring work to military members to ensure continuity of operations and accomplishment of the mission, and maintaining the readiness, morale, recruitment and retention of such military personnel.

The Department urges exclusion of the House provision as too restrictive, with the potential to compromise continuity of operations and accomplishment of the mission.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Direct Employment Pilot Program for Members of the National Guard and Reserve

Appeal Citation: H.R. 4435, sec. 553

Language/Provision: House section 553 would require the Secretary of Defense to carry out a pilot program to enhance the efforts of the Department of Defense to provide job placement assistance and related employment services directly to members in the National Guard and Reserves.

The Senate included no similar provision.

DoD Position/Impact: The Department of Defense does not object to the overall intent of the House provision, but recommends its language be modified in order to include all of the Reserve Components. House section 553's current administration authority is 32 U.S.C. 314, a National Guard Bureau authority that does not apply to the Army Reserve, Marine Corps Reserve, Navy Reserve or Air Force Reserve. Instead, House section 553 should be accomplished under the authority established by section 582 of the FY 2008 National Defense Authorization Act (NDAA) (Public Law 110-477), as amended, which authorizes the Yellow Ribbon Reintegration Program (YRRP) to work with State-led programs of outreach to inform and educate Service members and their families about assistance and services available to them through YRRP, which includes employment assistance.

Since the passage of section 582 of the FY08 NDAA, the Office of the Assistant Secretary of Defense for Reserve Affairs has coordinated these efforts, colloquially known as "Beyond the Yellow Ribbon Programs," in close collaboration with the Adjutants General and Joint Force Headquarters in each State. By executing the provisions of the proposed House section 553 through the "Beyond the Yellow Ribbon Programs," which have established processes for supporting State-based employment initiatives, the Services' concerns would be eliminated and support provided to all National Guard and Reserve members in need of employment.

The Department prefers adoption of the House provision under the authority of section 582 of the FY08 NDAA, as amended.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Secretary of Defense Review and Report on Prevention of Suicide among Members of United States Special Operations Forces

Appeal Citation: H.R. 4435, sec. 581

Language/Provision: House section 581 would require the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness and the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, to conduct a review of Department of Defense efforts regarding the prevention of suicide among members of United States special Operations Forces and their dependents. The provision would require a report back to the Committees on Armed Services not later than 90 days after the date of enactment.

The Senate included no similar provision.

DoD Position/Impact: The Department does not object to the review in the House provision; however, the Department does not believe it can complete this review and deliver a final report to the Congress in the proposed 90 days and requests that a modification require the report within one year.

The Department shares the concerns Congress has expressed with regard to the high rate of suicide within United States Special Operations Forces and feels this review could provide helpful insights. However, taking into account past efforts of similar size and scope this study will take up to one year to complete. The House section would require the review of ten specific elements. As such, there are many initial steps that must be taken—contracting, cost evaluations, creation of a workbook, and development of an implementation plan to name a few—before the review could begin. The Department believes that the initial steps themselves would take up to 90 days, with the full review taking up to a year.

The Department urges adoption of the House provision with modification to allow a year to complete the proposed review.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Modification of Retired Pay Base for General and Flag Officers

Appeal Citation: S. 2410, sec. 622

Language/Provision: Senate section 622 would impose the Executive Schedule Level II ceilings on the retired pay base used in calculating military retired pay. The section would primarily affect general and flag officers retiring in the grades of O-9 and O-10 and would provide some, limited grandfathering.

The House included no similar provision.

DoD Position/Impact: The Department objects to the Senate provision because it would make a piecemeal change to military retirement at the same time the congressionally established Military Compensation and Retirement Modernization (MCRM) Commission is conducting its review. Overall, the Department does not object to review of or recommendations regarding retired pay calculations for general and flag officers. However, because of the complexity of the military retirement system any proposal for change should be done in the context of a review of that system holistically, and should therefore come from the congressionally established MCRM Commission.

Additionally, the Department is concerned with inconsistencies in the language of Senate section 622. The covered period in subsection (b), which affects members covered by the 'High-36' retirement system, terminates on "the last day of the first month beginning on or after the date of the enactment" of the NDAA. Subsection (c), by comparison, differs and allows members under the 'Final Pay' retirement system to be covered through December 31, 2014. Furthermore, if the National Defense Authorization Act (NDAA) is passed prior to December 31, 2014, the language creates an intervening period between the date the NDAA is passed and December 31, 2014, and would impose the reduced retirement calculation on members covered by the 'Final Pay' retirement system who retire during these months, rather than the grandfathered provisions the drafters intended. It may be possible to overcome this concern, however, by applying the December 31, 2014, date to subsection (b) as well as subsection (c), and by establishing an effective date of the section that is no earlier than December 31, 2014.

The language in Senate section 622 is also internally inconsistent in paragraph (2) of subsection (c). Paragraph (2) refers to "basic [pay] provided by law for the member's permanent grade as of December 31, 2014 (without reduction under section 203(a)(2) of title 37." Under section 601 of title 10, United States Code (U.S.C.), appointments to positions in the grade of O-9 and O-10 are temporary, and a member's permanent grade while serving as an O-9 or O-10 remains no higher than the grade of O-8. The basic pay of members serving in the grade of O-8, however, is not high enough to be limited by section 203(a)(2). Only the pay of some O-9s and all O-10s is reduced by section 203(a)(2). Therefore, the use of the term "permanent grade" and the phrase "without reduction under section 203(a)(2)" are internally inconsistent. It may be possible to overcome the inconsistency caused by the use of the term "permanent grade" by instead referring to the highest grade in which the officer was determined to have served satisfactorily on or before December 31, 2014 (a determination that would subsequently be made in conjunction with the determination of the officer's retired grade under section 1370, of title 10, U.S.C.), and the officer's years of service as computed under section 205 of title 37, U.S.C.

The Department urges the exclusion of the Senate provision, and recommends changes to military retired pay be deferred until after the MCRM Commission makes its recommendations.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Retroactive Award of Army Combat Action Badge

Appeal Citation: H.R. 4435, sec. 572

Language/Provision: House section 572 would authorize the Secretary of the Army to award the Army Combat Action Badge (CAB) to a person who, while a member of the Army, participated in combat during which the person personally engaged, or was personally engaged by, the enemy at any time during the period beginning on December 7, 1941, and ending on September 18, 2001.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision to authorize the retroactive award of the CAB prior to September 18, 2001, because it would provide the Secretary of the Army with authority that he already possesses while unnecessarily limiting his policy making authority.

The CAB was established by the Chief of Staff of the Army on May 2, 2005, to provide special recognition to Soldiers who personally engaged, or were engaged by, the enemy on or after September 18, 2001. It was created by the Army, as policy under provisions of the Army Awards Program, to answer requests by field commanders in Afghanistan and Iraq who wanted a means to recognize the greatly expanded ground combat role of non-infantry Soldiers in the Global War on Terrorism. For this reason, the effective date for the CAB was established as September 18, 2001, the date the President signed Senate Joint Resolution 23, authorizing the use of military force against those responsible for the terrorist attacks against the United States. As a matter of policy, the Secretary of the Army currently has the authority to revise the policy to authorize retroactive award of the CAB. Therefore, the House provision is not necessary since it would provide the Secretary of the Army with authority that he already possesses, while unnecessarily infringing upon his policy making authority.

Current Army policy does not authorize retroactive award of the CAB prior to September 18, 2001 for several reasons. First, a comprehensive list of Service members who may meet the eligibility criteria for the CAB does not exist. There were approximately 16 million individuals who served in WWII alone, and the time and resources that would be required to examine the millions of military personnel records from December 7, 1941, through September 18, 2001, would be prohibitive. Therefore, it would be incumbent upon military veterans to provide proof of eligibility for the badge. Second, the lack of a comprehensive list of CAB qualifying veterans would result in disparate treatment of veterans, as some would have the necessary documents and eye-witness statements to verify CAB eligibility and others would not. The likelihood of disparate treatment is increased by the 1973 fire at the National Personnel Records Center, which destroyed approximately 17 million official military personnel records. Furthermore, the specific criterion for awarding the CAB requires a minimum of two independent eye-witness statements to confirm the Soldier's actual engagement with the enemy. Many deserving veterans would be unable to meet this requirement, resulting in increased disparate treatment of veterans of earlier conflicts. Finally, each generation of Army leaders has done its best to provide Soldiers with the appropriate recognition. Past leadership considered, but chose not to introduce, a badge such as the CAB. These leaders believed the battlefield of their era placed such extraordinary demands upon infantrymen and their accompanying medics that awards were necessary for which only they were eligible, and for which there was no counterpart. The Department respects these leaders and their wisdom concerning the soldiers who were in their charge.

The Department urges exclusion of the House provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Authority to Require Employees of the Department of Defense and Members of the Army, Navy, Air Force, and Marine Corps to Occupy Quarters on a Rental Basis While Performing Official Travel

Appeal Citation: H.R. 4435, sec. 922; S. 2410, sec. 1083

Language/Provision: House section 922 would amend title 5, United States Code (USC), to authorize the Secretary of Defense to establish a Government lodging program, as well as require its use by Service members and Department of Defense (DoD) civilian employees performing official travel. The corresponding Senate provision (section 1083) would also amend title 5, USC, to authorize the Secretary of Defense to establish a Government lodging program, require its use, evaluate the use of the authority, estimate savings, and assess the quality of lodging. The House provision, however, includes language stating that the requirement, (with respect to a DoD employee) for DoD employees and Uniformed Service members performing duty on official travel to occupy adequate quarters on a rental basis when available, may not be construed to be subject to negotiation under any provision of title 5, USC. The Senate provision excludes this language and therefore may negate its potential benefits.

DoD Position/Impact: The Department supports the House provision because it includes the language related to potential negotiation of the aforementioned official travel requirement, ensuring that both qualitative and monetary benefits can be realized. The House provision would ensure that the Department is exempted from prolonged negotiations with bargaining units over this authority.

Under the House provision, the Secretary of Defense would be permitted to direct the use of cost-effective, adequate Government quarters, or the use of Government-leased quarters or lodging arranged through a Government program by Uniformed Service members and civilian employees performing official travel. In addition to cost savings, this proposal would bring numerous other benefits, such as additional amenities, one-stop booking and voucher processing through the Defense Travel System (DTS) , and upgraded quality standards. Approved lodging would be more secure (e.g., internal room access, secure locks), or located on secure installations or in more secure areas. Facilities participating in the program would need to meet specific standards (e.g., size, compliance with The Hotel and Motel Fire Safety Act of 1990 (P.L. 101-391), non-smoking) and include more amenities (e.g., internet, parking). Also, contacting DoD travelers in case of emergency would be more efficient. Additionally, the proposal would help DoD to follow industry best practices.

The Department urges adoption of the House provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Department of Defense Medicare-Eligible Retiree Health Care Fund Matters

Appeal Citation: S. 2410, sec. 721

Language/Provision: Senate section 721 would modify the method by which the Federal Government makes accrual payments into the Medicare-Eligible Retiree Health Care Fund (MERHCF) – changing from the current method of a single annual normal cost contribution made at the beginning of the fiscal year by each of the Uniformed Services to monthly normal cost contributions beginning in FY 2016. In addition, this provision would change the source of normal cost contribution funding from permanent, indefinite appropriations of the general fund of the Treasury (but scored against the Department's discretionary topline) back to military personnel funds appropriated to each of the Uniformed Services. Finally, the provision would authorize the Secretary of Defense to adjust the normal cost contribution actuarial determination during the year of execution in the event Congress enacts significant benefit changes after the fiscal year begins. This would allow the Secretary to change the level of payments into the fund during the fiscal year to account for the change in law, and to realize attendant discretionary savings earlier.

The House included no similar provision.

DoD Position/Impact: The Department objects to the Senate provision's proposed change from an annual to monthly contribution process, because it would increase the annual normal cost contributions paid into the Medicare-Eligible Retiree Health Care Fund by an estimated $200 million each year beginning in FY 2016 and increasing annually thereafter. The DoD Office of the Actuary estimates that annual MERHCF per capita normal costs would increase by about one-half year of interest to compensate for lost interest due to receiving and investing monthly payments, versus a one-time payment from the Uniformed Services at the beginning of the fiscal year.

The Department appreciates the Senate's incorporation of an execution year adjustment process for the normal cost contribution actuarial determination but prefers that it be a single adjustment as requested in the Administration's legislative proposal.

The Department urges adoption of an amended version of the Senate provision so that the current single annual normal cost contribution payment process is retained in current law.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Electronic Tracking of Certain Reserve Duty

Appeal Citation: H.R. 4435, sec. 514

Language/Provision: House section 514 would require the Secretary of Defense to establish an electronic means by which members of the Ready Reserve of the Armed Forces can track their operational active-duty service performed after January 28, 2008, under section 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10, United States Code. The tour calculator shall specify early retirement credit authorized for each qualifying tour of active duty, as well as cumulative early reserve retirement credit authorized to date under section 12731(f) of such title.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision. The House provision would be costly to the Military Services and leave the Department with little flexibility in conveying this important information to the Service member. Placing such administrative requirements on the services would consume limited resources and man-hours.

The Department urges exclusion of the House provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Program on Medication management in the Department of Defense and Pilot Program on Medication Therapy Management under TRICARE Program.

Appeal Citation: H.R. 4435, sec 725; S. 2410, sec. 724

Language/Provision: Senate section 724 would direct the Secretary of Defense to carry out a program of comprehensive, uniform medication management in military treatment facilities. The corresponding House section (725) would require the Secretary to carry out a pilot program to evaluate the feasibility and desirability of including medication therapy management as part of the TRICARE program, including both the direct care system and the purchased care system.

DoD Position/Impact: The Department supports both provisions and recommends an amalgam of the two.

The Department supports the Senate section 724 because it recognizes the value of medication therapy management, which already exists in varying degrees throughout the Military Health System. The Senate provision delineates and directs the implementation of a comprehensive, uniform medication management program across the three Services in military medical treatment facilities, establishing clinical pharmacy services for our active duty and active duty family members most at need. The Senate provision includes specific elements consistent with the objectives of improving the medication use within the Department.

House section 725 has the added benefit of including a pilot effort in the purchased care sector. It is appropriate that this be approached as a pilot because there are many specifics concerning authorized providers, covered services, reimbursement levels, and the like that need to be worked out in the purchased care context. The Department agrees this is a project worthy of pursuit.

These efforts provide useful experiences in further developing clinical services in the direct care and purchased care systems that can be beneficial to the Military Health System.

The Department urges adoption of both the House and Senate provisions.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Database on Military Technician Positions

Appeal Citation: S. 2410, sec. 512

Language/Provision: Senate section 512 would require the Secretary of Defense, in consultation with the Secretaries of the Military Departments, to establish and maintain a centralized database of information on military technician positions.

The House included no similar provision.

DoD Position/Impact: The Department objects to the Senate provision. While the Department supports increased transparency regarding the allocation and duties of Reserve Component full-time support manning, its view is that manpower requirements and authorizations are the purview of the Military Departments and best managed at that level.

Additionally, the language in Senate section 512 seems to propose a centralized database similar to Defense Civilian Personnel Data System (DCPDS). DCPDS is a live transactional system that accounts for all actions involving the civilian personnel lifecycle, e.g., promotions, separations, awards, etc., and military technicians are already included in DCPDS. Therefore, the creation of the centralized database proposed by the Senate provision would be redundant for some information already available in DCPDS, incurring unnecessary costs to the Department.

The Department urges exclusion of the Senate provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Interagency Working Group on the Provision of Mental Health Services to Members of the National Guard and the Reserves

Appeal Citation: S. 2410, sec. 732

Language/Provision: Senate section 732 would require the Secretary of Defense, in consultation with other agencies convene an interagency working group, to review and recommend collaborative approaches to improving the provision of mental health services to members of the National Guard and the Reserves.

The House included no similar provision.

DoD Position/Impact: The Department objects to the Senate provision because it is duplicative of several extensive existing initiatives already underway.

Each element in the proposed amendment is redundant with numerous mental health care evaluation initiatives currently underway. For instance, program evaluation is progressing under the rubric of an Executive Order, Interagency Task Force, Agency Priority Goal Effort, and response to recommendations made in the Washington Navy Yard investigation. DoD-CAPE has budgeted $25 million for the effort. The Defense Centers of Excellence for Psychological Health and TBI have completed reviews of psychological health programs in the Services, which included suicide prevention programs, and is now reviewing TBI programs.

Outcome metrics for mental health have been written into policy guidance by the Assistant Secretary of Defense for Healther Affairs, and a data platform has been developed to allow these metrics to inform clinical management. Over 100,000 encounters have been mapped to date. A tri-agency (DoD, VA, HHS) effort to monitor and define best metrics is also underway.

Mental health best practices are promulgated under the efforts described above, and are also fostered through VA-DoD cooperation on the National Research Action Plan, coordinated agency research portfolios, and cooperation on the Congressionally Directed Medical research Program. Additionally, VA and DoD co-author detailed clinical practice guidelines on mental health subjects, including PTSD (2010) and Suicide (2013).

The Department urges exclusion of the Senate provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Reduction in Department of Defense Civilian Personnel and Review of Certain Headquarters Spending

Appeal Citation: S. 2410, sec. 1041

Language/Provision: Senate section 1041 would require a report on the numbers of military positions converted to civilians, and a reduction in these positions proportionate to the accompanying reduction in military end strength. It also would require a review to identify means of achieving a reduction of 10% spending in command headquarters below the major command level.

The House included no similar provision.

DoD Position/Impact: The Department objects to Senate section 1041. Military to civilian conversions frequently involve key leadership positions, critical medical capabilities directly affecting patient care, and training and installation functions, the elimination of which would adversely impact readiness, efficiency, and security. Reductions should be based on an analysis of workload, an assessment of risk to the mission, and available resources.

The Senate provision's requirement to identify means of achieving a 10% reduction in command headquarters below the major command level, and identification of opportunities to consolidate or eliminate commands, should not be included without also providing for BRAC authority in order to consolidate and geographically realign organizations to achieve those objectives.

The Department urges exclusion of the Senate provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Provision of Information to Members of the Armed Forces on Privacy Rights Relating to Receipt of Mental Health Services

Appeal Citation: H.R. 4435, sec. 524

Language/Provision: House section 524 would require the Secretaries of the Military Departments to ensure that officer candidates during initial training, recruits during basic training, and other members of the Armed Forces receive information about their privacy rights, if they seek or receive mental health services, and when the Secretary of Defense considers it appropriate.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision because even though it is well-intentioned, the provision is unnecessary.

Current DoD policy fosters a balanced, two-pronged approach to mental health services: increasing access to care, while decreasing stigma associated with that care. DoD has established specific policy, not referenced in the proposed legislation, regarding command notification, generally preserving confidentiality of routine mental health services but requiring disclosure in cases involving a threat to self, others, or a military mission. DoD efforts to improve mental health care and reduce stigma are far-reaching and multi-faceted. A statutory requirement for a general briefing of new recruits and officer candidates would not add value to these efforts. Further, a special statutory requirement for a briefing to new accessions regarding privacy rules applicable to mental health care may have the unintended consequence of reinforcing a misimpression of stigma associated with mental health care.

The Department urges exclusion of the House provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Pay Parity for Department of Defense Employees Employed at Joint Bases

Appeal Citation: H.R. 4435, sec. 1107

Language/Provision: House section 1107 would require locality pay at the same rate payable to joint base installations equal to the locality which includes the installation receiving the highest locality pay.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision. No business case exists for the provision because the Department is able to recruit and retain a qualified workforce at its joint bases. In addition, it is anticipated that labor costs would significantly increase in the first year and compound over time, and result in unwarranted and substantial wage windfalls for many employees at a time of shrinking budgets and concerns over Federal pay.

For example, Federal Wage System (FWS) employees at Joint Base McGuire/Dix/Lakehurst are paid at different rates. McGuire/Dix is in the Philadelphia, PA wage survey area and is considered a suburban area of Philadelphia, while Lakehurst is considered a suburban area of New York City. Current operations and wage rates show no staffing difficulties as the Department is able to recruit and retain qualified workers at the joint base. If McGuire/Dix is redefined to the New York wage area, labor costs would increase by $2.3 million in the first year. Wage survey results are accurate and should be factored as major companies contribute to the results, and their participation is related to the McGuire/Dix missions and wage area assignment.

The Department urges exclusion of the House provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Additional Leave for Members of the Armed Forces in Connection with the Birth of a Child

Appeal Citation: H.R. 4435, sec. 530A

Language/Provision: House section 530A would modify section 10 U.S.C. 701(j) in order to entitle military members who give birth to 42 days of non-chargeable convalescent leave and, at the members' discretion, an additional 42 days leave of absence without pay in connection with the birth.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision because it would remove the policy making authority of the Secretary concerned, and by doing so, limit the leave benefits already extended to military members. In the more severe cases of child birth, medical necessity could require that members receive additional, "non-chargeable" convalescent leave in excess of 42 days which would be precluded by this section. By creating an absolute entitlement to the initial 42 days of convalescent leave, it would also remove the discretion of a commander to take into account the individual condition of the member or the readiness of the unit in which the member serves.

The Department already has generous paid leave programs for military members. Members who give birth receive at least 42 days of paid, non-chargeable convalescent leave following the birth which may be augmented by the member's annual leave. Department policies already allow commanders and physicians wide discretion to extend convalescent leave to a member giving birth; allowing for a virtually unlimited, non-chargeable, paid, convalescent period until it is determined that the member is fit to return to full duty. Because the House provision could be construed as "capping" convalescent leave for a member who gives birth at no more than 12 weeks, its enactment could result in the unintended consequence of members receiving less convalescent leave than they do today, a severe and undesirable consequence for our members.

Because the proposed additional days in a leave of absence status would require members to forego entitlement to basic pay, the Department is concerned about the financial hardship that could result when members lose their entitlement not only to basic pay, but also to other pays and allowances (i.e., Basic Allowance for Housing, Basic Allowance for Subsistence, Career Sea Pay, Hazardous Duty Incentive Pays, etc.) that are contingent upon the receipt of basic pay.

Further, opportunity already exists for members to combine regular chargeable leave with the non-chargeable 42 days of maternity leave provided.

The Department urges exclusion of the House provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Report on Improvements in the Identification and Treatment of Mental Health Conditions and Traumatic Brain Injury among Members of the Armed Forces

Appeal Citation: S. 2410, sec. 733

Language/Provision: Senate section 733 would require the Secretary of Defense to submit to the Committees on Armed Services a report of evaluation of specific tools, processes, and best practices to improve the identification of and treatment by the Armed Forces of mental health conditions and traumatic brain injury (TBI) among members of the Armed Forces.

The House included no similar provision.

DoD Position/Impact: The Department objects to the Senate provision because it is redundant to ongoing efforts to evaluate specific tools, processes, and best practices to improve the identification of and treatment by the Armed Forces of mental health conditions and TBI among Service members.

A tremendous amount of Department of Defense (DoD) and Department of Veterans Affairs (VA) resources and attention has been, and continues to be actively deployed to address issues of program evaluation, integration, coordination, and quality of care within and across both Departments. DoD has been evaluating existing programs based on the requirements set by President Barack Obama's Executive Order dated August 31, 2012, "Improving Access to Mental Health Services for Veterans, Service members and Military Families." DoD, VA, and the Department of Health and Human Services have since been working collaboratively on these strategies and creating an inventory of mental health, suicide prevention, substance abuse prevention and treatment programs and activities to inform this work. This evaluation is inclusive of existing peer-to-peer programs, an evaluation of the Star Behavioral Health Program, and intervention programs targeted at addressing military unit and family needs following a military suicide. Existing efforts to reduce the time from development and testing, to widespread dissemination of new mental health tools and treatment, include an integrated mental health strategy and joint incentive fund program focused on expediting translation of research and treatment findings into practice.

With regard to TBI, the Department has already undertaken an inferential assessment of Service TBI programs, due at the end of fiscal year (FY) 2014. This review will inform and complement Service-specific policies by elucidating how current policy is being implemented regarding standardization of processes, documentation, and outcome measurement, all of which are domains evaluated in the assessment. The collection effort is on schedule with completion by the end of FY 2014.

The Department urges exclusion of the Senate provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Anonymous survey of members of the Armed Forces regarding their preferences for military pay and benefits

Appeal Citation: H.R. 4435, sec. 641; S.Rpt. 113-176, pg. 128.

Language/Provision: House section 641 would require the Department to conduct a survey of the relative preferences of military members of various components regarding military pay and benefits, and to prepare a report to Congress not later than March 1, 2015.

The Senate included no similar provision, but in the Senate Armed Services Committee Report accompanying S. 2410 the committee encourages the Military Compensation and Retirement Modernization Commission, rather than the Department, to conduct this survey.

DoD Position/Impact: The Department objects to the House provision because the Military Compensation and Retirement Modernization (MCRM) Commission is already conducting a survey that meets the requirements of this section and is expected to have completed survey data by late 2014. Additionally, the Department already collects similar data through other periodic, recurring surveys. Finally, the development and administration of the survey requested by Congress could not be completed within the timeframe required by this section.

The MCRM Commission, established by Congress in the FY 2013 National Defense Authorization Act (P.L. 112-239), has already begun a survey of randomly selected military members and retirees, working with a private vendor and the Defense Manpower Data Center, to solicit information on the values and relative preferences members and retirees place on various forms of pays, allowances, and benefits. The survey is expected to be completed by late 2014, and the MCRM Commission will include the results of this survey in their report and recommendations, which are due to the President by February 1, 2015.

Additionally, the Defense Manpower Data Center already conducts the Status of Forces Survey, a periodic, statistically significant survey of military members that collects data on member satisfaction levels with various military pays, retirement, medical and dental benefits, education, family benefits and the Thrift Savings Plan. The responses of military members participating in the survey are also analyzed demographically, providing a breakdown based upon Military Service, pay grade, location, deployment status, level of education, family status, spousal employment, race/ethnicity, and gender. Additionally, because much of this data has been collected over several survey cycles, many of the responses can be analyzed longitudinally. This survey routinely influences DoD policies with respect to military and family member benefits. Consequently, another survey as directed in section 641 is not necessary.

The Department urges exclusion of the House provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Pilot Program to Assist Members of the Armed Forces in Obtaining Post-Service Employment

Appeal Citation: H.R., 4435, sec. 552

Language/Provision: House section 552 would require the Secretary of Defense to conduct a pilot program to assist members of the Armed Forces in obtaining post-service employment by using civilian staffing agencies.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision because it would create a costly third party management layer that duplicates several highly effective existing programs across the federal government, like those offered by the interagency partnership established by the Departments of Defense, Labor (DOL), and Veterans Affairs. Scarce funding would be much better spent on the expansion of those existing proven-to-be-effective programs (e.g., Army's Employer Partnership Office and Department of Labor (DOL) America's Job Centers), which focus their efforts on directly connecting job seekers with employers without the requirement for an expensive third party program management office that offers no added value to the Department of Defense.

There is no indication that conducting such a pilot would be any more effective or efficient in motivating, assisting and placing Service members into jobs than the aforementioned existing programs. The greater focus should be on linking transitioning Service members to interested employers without leveraging a fee for service contract. The Army recently conducted an extensive analysis of a similar proposal and found the per capita cost was at least five to eleven times more than the currently operational Army and DOL programs. The Army's Employer Partnership Office currently coordinates with dozens of civilian staffing agencies, including nine out of the top ten in the United States, and none of them charge any fee to the Army for their work in helping to place soldiers into jobs. In fact, unlike the fixed price contract utilized by Army's Employer Partnership Office, the overall costs for the pilot called for in the House provision would continue to increase for each soldier placed into a job. Further, the Navy previously piloted a similar effort by contracting outplacement services for separating members, and the results indicated that sailors were more comfortable using services offered by local family centers, which are also much less expensive, per capita, if offered in-house via internal resources.

The Department urges exclusion of the House provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Additional Required Elements of Transition Assistance Program

Appeal Citation: H.R. 4355, sec. 522; S. 2410 sec. 533

Language/Provision: House section 522 would amend 10 U.S.C. 1144, by requiring any Service member who plans to use educational assistance entitlements under title 38 to receive instruction on an overview of those entitlements, courses in post-secondary education appropriate for the member and compatible with the member's goals, and how to finance the member's education. Implementation would be required no later than April 1, 2016.

The corresponding Senate provision would require the Secretary of Defense, no later than one year after the date of enactment, to provide additional information to Service members in the transition assistance program concerning certain education benefits available to them, and to ensure that the higher education component of the transition assistance program is available to members of the Armed Forces on an Internet web site of the Department of Defense.

DoD Position/Impact: The Department objects to the House provision because it would mandate that all Service members who plan to use educational assistance under title 38 attend a course of instruction assessing higher education, which all members may not require. For those who may require this information, the Transition Goals, Plans, Success (Transition GPS) curriculum offers a two-day Assessing Higher Education track, which is available to all members, and is also available on a virtual online curriculum.

The Department prefers the Senate provision to improve the current curriculum and to have this information available on the internet website course.

The Department urges adoption of the Senate provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Revised Policy on Ground Combat and Camouflage Utility Uniforms

Appeal Citation: S. 2410, sec. 352(c)

Language/Provision: Senate section 352 would strike paragraph (c)(5) of section 352 of H.R. 3304, National Defense Authorization Act for Fiscal Year 2014 (Public Law 113-66). Paragraph 5 enables the Services to make cosmetic service-specific uniform modifications to include, insignia, pocket orientation, closure devises, inserts, and undergarments. This language is essential in order for the Services to be able to make minor improvements to the current uniform in order to support Soldier performance in any of the contemporary operating environments.

The House included no similar provision.

DoD Position/Impact: The Department objects to the Senate provision because it would arbitrarily remove a provision that provides necessary clarity with regard to continued management of the current uniform registry.

Existing law (paragraph (c)(5)) provides the flexibility the Services need to make minor improvements to their current uniforms. For example, removal of this paragraph by the Senate provision would prevent one Service from modifying/redesigning the pocketing on the enhanced flame-resistant organizational gear, the design of which, although suitable for Operation Iraqi Freedom, was found to be misplaced for the Operation Enduring Freedom environment. Furthermore, the Services continue to have operational reasons to make service-specific uniform modifications. A recent example of the impact this provision would have is on uniform modifications made during the wars in Iraq and Afghanistan. The Marine Corps' Enhanced Fire Resistant Combat Ensemble (EFRCE) was modified in order to provide increased protection, durability and comfort. Design changes included increased protection in the upper torso area, pocket placement, a gusseted crotch, and additional cargo pocket space on each leg. These changes were necessary due to changes in body armor and operating environments. Additionally, modifications may be necessary when the Army deploys the new Soldier Protective System. As improvements are made in the Services' individual combat equipment, they require the flexibility to modify combat uniforms to conform to any new equipment. Also, Service specific modifications allow the placement of insignia to meet Service requirements (example, Army center chest vs Air Force collar and sleeve). Moreover, the Services continue to make efforts to reduce the costs of uniforms. The removal of Paragraph (c)(5) would prevent the services from making cost-saving modifications that could not be made under the other exemptions in the statute. The existing statutory language in section 352(c) of FY14 NDAA is required to provide clarity as to what can and cannot be done in the sustainment of the current uniform registry.

The Department urges exclusion of the Senate provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Limitation on number of enlisted aides authorized for officers of the Army, Navy, Air Force and Marine Corps.

Appeal Citation: H.R. 4435, sec. 505

Language/Provision: House section 505 would limit the number of enlisted aides that the Department is authorized to utilize to not more than the lesser of 300, or the sum of two times the number of general and flag officers serving in the grade of general or admiral at the end of the preceding fiscal year and the number of general and flag officers serving in the grade of lieutenant general or vice admiral at the end of the preceding fiscal year. Initially, this would result in a reduction of approximately 76 enlisted aides from the current authorization. This provision would also establish a new reporting requirement under which the Secretary of Defense would report to the Committees on Armed Services no later than March 1 of each year.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision.

As part of the ongoing Chairman of the Joint Chiefs of Staff's Professional Character Initiatives designed to foster a culture of values-based decision making and stewardship among senior general and flag officers and their staffs, the Secretary of Defense directed a review of the authorizations and utilization of enlisted aides and their permissible range of duties with a goal to: 1) base authorizations of enlisted aides on a position's official representational duties rather than its authorized grade, and, 2) standardize duties of enlisted aides across the Services.

Enlisted Aides provide significant necessary support to general and flag officers with military representational duties. The Department recommends exclusion of this provision to allow additional time to complete its review of the roles, responsibilities and number of enlisted aides within the Services.

The Department urges exclusion of the House provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: National Commission on the Future of the Army and Conditions on Army National Guard and Active Army Force Structure Changes

Appeal Citation: H.R. 4435, secs. 1050, 1095-1097; S. 2410, secs. 1701-1709

Language/Provision: Senate sections 1701-1709 would establish a commission on Army force structure and establish limitations on Regular Army and Army National Guard (ARNG) end strength and aircraft transfers. The Senate provisions are intended to study the size and force structure of the Army. The Senate Armed Services Committee is aware that the Army and the Department of Defense continue their analysis, course of action development, and decision making process with respect to the distribution of reductions of both end strength and force structure necessary to achieve the savings required by the Budget Control Act (BCA) of 2011. The Committee believes that under these circumstances an independent and objective review of Army size and force structure by a national commission is worthwhile.

House sections 1050 and 1095-1097 would require a Comptroller General report, establish limitations on end strength reductions and aircraft transfers, and establish a commission on Army force structure. House section 1050 would require a Comptroller General report to Congress to include a description and assessment of the manner in which the Department of the Army determines the size and force mixtures of Army components while fulfilling national security missions, including cost data, readiness, effectiveness, and other factors available and used in making such determinations. House sections 1095-1097 would establish a commission to study Army force structure to determine the size and mixture of the components and make recommendations on modifications of the structure.

DoD Position/Impact: The Department supports the President's Budget and objects to both the House and Senate provisions. The Department objects to limitations on end strength reductions and force structure adjustments that are essential to shape a smaller force that is more agile, technologically superior, and ready to respond to Combatant Command contingency and steady-state operational requirements. The Department also opposes the establishment of a commission on the future of the Army as unnecessary and untimely. The Army is faced with BCA-driven cuts of approximately $72 billion over the next five years, and must make timely end strength reductions and force structure adjustments across all of its components to stay in balance with respect to end strength, modernization and readiness. The savings, cost avoidance and implementation costs of planned end strength reductions and the Aviation Restructure Initiative (ARI) are already accounted for in the President's budget request and Future Years' Defense Plan, so delays in implementation will adversely impact other areas including readiness and modernization that have already been hard hit.

The motivation for implementing ARI was substantially lower topline funding and the imperative to save or avoid costs associated with retaining the Kiowa Warrior and trainer, which total nearly $12 billion. Also, the Army estimates ARI will save $1.1 billion annually in operations and sustainment at full implementation. The plan to transfer AH-64s from the ARNG to the Regular Army is an integral part of ARI and facilitates the divestiture of the Kiowa aircraft fleet. If the National Guard is allowed to retain AH-64s, then the Army would be forced to buy additional AH-64s to fill the remaining gaps in our armed scout formations at an estimated cost of $4 billion in procurement and about $350 million annually in increased aviation operations and sustainment type costs. Without assurance that the AH-64 transfer would occur, the Army would have to re-evaluate the implementation and timeline of ARI, with negative impacts to operations and cost savings that would have to be offset elsewhere in the Army's budget and capabilities portfolios.

The proposed commission on the future of the Army is unnecessary and untimely. An independent review of the Army's plans has already been conducted by the Office of the Secretary of Defense Cost Assessment and Program Evaluation organization. The February 2016 final report date for a commission could delay force changes required to best achieve our defense strategy given funding constraints.

The Department urges exclusion of both the House and Senate provisions, and supports the President's Budget.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Assistant Secretary of Defense for Manpower and Reserve Affairs

Appeal Citation: S. 2410, sec. 902

Language/Provision: Senate section 902 would designate the current position of the Assistant Secretary of Defense for Reserve Affairs (ASD(RA)) as the Assistant Secretary of Defense for Manpower and Reserve Affairs (ASD(M&RA)). The statutory duties and powers under 10 U.S.C. 138(b)(1) will remain under the ASD(M&RA), including the principal duty for the overall supervision of manpower and reserve affairs of the Department of Defense.

The House included no similar provision.

DoD Position/Impact: The Department strongly supports the Senate provision. This provision is in support of a Secretary of Defense memorandum to better align the entire Office of the Under Secretary of Defense for Personnel & Readiness (OUSD(P&R)) enterprise to deliver greater focus on Force Management, Readiness, and Health Affairs. To achieve this end, the USD(P&R) in collaboration with other senior leaders in the Department, has determined that the current ASD(RA) should be re-designated as ASD(M&RA) in order to align both Active and Reserve Component personnel and family support policy offices under the same ASD leadership, similar to the Service Secretaries' current structure. Likewise, the readiness portfolio of the current ASD(RA), including training, mobilization, materiel and facilities, would be aligned with under the larger Readiness component under OUSD(P&R).

Over the last decade, OUSD(P&R) portfolio has evolved from a balanced emphasis on personnel and readiness policy development and oversight to focus on certain personnel topics. While OUSD(P&R) has appropriately focused on key personnel policies such as sexual assault prevention and response, suicide prevention and mental health, and collaboration with the Department of Veterans Affairs, our ability to provide oversight to ensure our Service members are appropriately trained and equipped is equally significant to our mission and our people. Therefore, this re-designation of ASD(RA) to ASD(M&RA) in our reorganization effort will achieve an equitable balance of importance between personnel and readiness as well as focus on policy development and oversight.

The Department urges adoption of the Senate provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Consolidated TRICARE Health Plan (Simplification and improvement to the TRICARE Health Benefit), TRICARE-for-Life (TFL) Enrollment Fee, and Modifications of Cost-Sharing for the Tricare Pharmacy Benefits Program

Appeal Citation: S. 2289, sec. 702

Language/Provision: House and Senate did not include the Department's proposals to consolidate the TRICARE Health Plan and implement a TRICARE-for Life (TFL) enrollment fee for new TFL beneficiaries that would modernize and improve the benefit while generating substantial savings for the Department.

The Senate bill would modify the TRICARE pharmacy benefits program by specifying that non-formulary prescriptions would be available through the national mail-order pharmacy program, establishing prescription copayments from 2015 through 2024, and requiring that non-generic prescription maintenance medications must be refilled through military treatment facility pharmacies or the national mail-order pharmacy program. The House included no similar provision.

DoD Position/Impact:

Consolidated TRICARE Health Plan and TFL Enrollment Fee:

The Department encourages the House and Senate to support the proposed Consolidated TRICARE Health Plan. Military retirees deserve quality, sustainable health care benefits. Today's TRICARE is unusually complex compared to typical health plans. The Consolidated Health Plan structure would make it easier for beneficiaries to focus on health (no cost shares for preventive care), to maintain a close relationship with their primary care provider (zero to low copayments), and to offer beneficiary freedom of choice of providers. A proven utilization management design would attract beneficiaries to Military Treatment Facilities (MTF) for care as their provider of choice, thereby maximizing utilization of investments in the MTF structure and supporting the readiness of our military medical providers, while preserving choice based on cost sharing rather than a bureaucratic authorization process. Cost sharing within each sector of care (MTF, preferred provider, or out-of-network) is designed to minimize overutilization of costly care venues, such as emergency departments, for non-urgent care. Coupled with the implementation of a TFL enrollment fee, these proposals are projected to save $4.4 billion from FY 2015 through FY 2019, which is essential for DOD to successfully address rising personnel costs. DOD needs these savings to balance and maintain investments for key defense priorities, especially amidst significant fiscal challenges posed by statutory spending caps.

The Department strongly urges the conferees to support the proposed Consolidated TRICARE Health Plan and TFL Enrollment Fee proposals as requested in the FY 2015 President's Budget.

Cost-Sharing for the Tricare Pharmacy Benefits Program:

The Department of Defense strongly supports the Senate provision. The provision would reduce Department costs for medical care by decreasing the number of prescriptions filled at the most expensive point of service for both the Department and beneficiaries, TRICARE retail network pharmacies, and increasing the number of prescriptions filled at the least expensive points of service, military treatment facility pharmacies and the national mail-order pharmacy program. By incentivizing the use of the most economical pharmacy option, this proposal is estimated to save the Department $829 million in FY 2015 and $5.0 billion through FY 2019. It would also establish more appropriate cost sharing as a step toward rebalancing between DOD's obligation to provide generous health care benefits to retirees and their family members and its responsibility to provide current and future military personnel the finest training and equipment possible by slowing the growth of retiree health care costs.

The Department urges adoption of the Senate provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Codification of Office of Management and Budget Criteria

Appeal Citation: H.R. 4435, sec. 1524, pp. 711-718

Language/Provision: The proposed amendment codifies the criteria the Department and the Office of Management and Budget (OMB) use to develop the Overseas Contingency Operations (OCO) budget request. The amendment directs the major geographic areas in which combat or direct combat support operations occur and the types of costs that can be included in the OCO budget. The types of costs that are appropriate for OCO funding include: major and ground equipment replacement; equipment modifications; munitions; aircraft replacement; military construction; direct and indirect war operations; and incremental personnel costs. The amendment also identifies items that cannot be funded by OCO. The Senate had no similar provision.

DoD Position/Impact: The Department objects to the proposed amendment, which is well-intentioned but unnecessary and unduly restrictive. The amendment is unnecessary because the Department, in concert with the Office of Management and Budget (OMB), already follows the jointly developed Overseas Contingency Operations (OCO) funding criteria, which are periodically clarified and updated as we build upon our experience budgeting for overseas contingency operations. The amendment is also constitutionally problematic insofar as it purports to limit the President's ability to propose funding for particular purposes as he sees fit.

If the intent of the amendment is to prevent perceived abuses of the criteria for OCO funding, this amendment would not accomplish that goal because it fails to constrain the Congress, which would remain free to designate additional items as OCO funding beyond those included in the OCO request submitted by the President. Conversely, should the Congress believe that an item requested by the President is not suitable for OCO funding, it always retains the power not to appropriate OCO funding for that item.

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Surface Clearance of Unexploded Ordnance on Former United States Training Ranges in Afghanistan

Appeal Citation: S. 2410, sec. 1229

Language/Provision: Section 1229 would authorize the Secretary of Defense to conduct surface clearance of unexploded ordnance at closed training ranges used by U.S. forces in Afghanistan that have not been transferred to the Government of the Islamic Republic of Afghanistan for use by its armed forces using Overseas Contingency Operations operation and maintenance funds. Section 1229 provides that not more than $125 million may be spent in each of fiscal year 2015 and fiscal year 2016.

The House includes no similar provision.

DoD Position/Impact: The Department requests two modifications. First, the provision should authorize the use of up to $250 million over a two-year period, beginning in fiscal year 2015 through fiscal year 2016. Second, funds authorized should be provided for both surface and subsurface clearance.

DoD is currently clearing some surface unexploded ordnance (UXO) to mitigate force protection risks, but more extensive clearance efforts are needed in fiscal years 2015 and 2016. As U.S. forces close and transfer facilities in Afghanistan, there are compelling reasons to accomplish both surface and subsurface clearance operations. The Department has determined that UXO at certain ranges at the subsurface level, in addition to UXO on the surface, should be cleared.

In the original DoD legislative proposal, DoD requested the expanded authority to undertake for a limited period of two years a finite amount of clearance activity. The imposition of a per-year cap unnecessarily limits the Department from accomplishing the desired clearance of UXO as quickly as possible. No public or fiscal policy is advanced by requiring incremental execution of clearance activity at roughly equivalent levels over a two-year period. Two years of authority is requested because the exact timing of clearance activity will change as assessments became available. General Dunford may need to complete the bulk of this clearance effort by the end of 2015 to meet the enduring presence milestones established by the President.

The legislative proposal originally submitted by the Department to Congress (see below) intended to allow for the expenditure of the funds over the two-year period at whatever rate is necessary, but not to exceed $250,000,000:

(a) AUTHORITY TO CONDUCT SURFACE AND SUBSURFACE CLEARANCE.—Subject to subsection (b), the Secretary of Defense may, using funds specified in subsection (c), conduct surface and subsurface clearance of unexploded ordnance at closed training ranges used by the Armed Forces of the United States in Afghanistan.

(b) Condition on Authority to Conduct Surface and Subsurface Clearance.—The surface and subsurface clearance of unexploded ordnance authorized under subsection (a) may only take place on training ranges managed and operated by the Armed Forces of the United States that have not been transferred to the Islamic Republic of Afghanistan for use by its armed forces. Funds expended through September 30, 2016, for such clearance activities shall not exceed $250,000,000.

The Department prefers the adoption of the Senate provision with the above two proposed modifications.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Report on Progress Toward Security and Stability in Afghanistan under Operation RESOLUTE SUPPORT and Semiannual Report on Enhancing the Strategic Partnership Between the United States and Afghanistan

Appeal Citation: H.R. 4435, sec. 1214; S. 2410, sec. 1227

Language/Provision: House section 1214 would require that, not later than April 1, 2015, and every 180 days thereafter, the Secretary of Defense, in coordination with the Secretary of State, submit a report on progress toward security and stability in Afghanistan under the North Atlantic Treaty Organization's (NATO) Operation RESOLUTE SUPPORT. The House provision would also extend the Report on Progress Toward Security and Stability in Afghanistan, as required by section 1230 of the NDAA for FY 2008, as amended, for three months, ending December 31, 2014. The corresponding Senate provision would require submission of a more general report to Congress not later than April 30 and October 31 of each year, through 2017.

DoD Position/Impact: The Department objects to the House provision as written because much of the information requested is beyond the scope of the NATO RESOLUTE SUPPORT mission, and would require a capability and capacity beyond that expected for U.S. forces supporting Operation RESOLUTE SUPPORT after 2014. Further, the Department objects to section (f) of the provision, as this section does not change the requirement to complete the report every 180 days. Therefore this section appears to have no effect, as the report is still due 180 days after the previous submission (April 30th, 2014), and therefore must be submitted by October 31, 2014.

With respect to report content, the Department strongly prefers the language in Senate section 1227. The Senate provision takes into account that the reduced mission scope, force size, and structure to support the NATO RESOLUTE SUPPORT mission requires a corresponding reduction in assessment and reporting requirements to match operational constraints and increase feasibility. Additionally, as the force structure diminishes and unmonitored spaces and activities grow, the ability to assess progress below the corps level and to substantiate Afghan reporting will be increasingly problematic.

With respect to timing, the Department requests a December 15, 2015, initial suspense for a main report, with follow-on annual updates by June 15th in order to support congressional, senior Administration and NATO officials' decision-making requirements. An increasing reliance on Afghan data sources will produce a significant time lag, and a due date of October 31 will not allow enough time to incorporate fighting season data into the report. A December due date would allow the Department to capture the results of the fighting season, and the June report would follow with updates that could inform annual defense authorization and appropriations deliberations. This timeline would also align with NATO's reporting requirements, enabling the most efficient and optimized application of resources. Synchronized report submission deadlines and similar reporting requirements will more effectively and efficiently inform senior-level decisions in a resource-constrained environment. Further, this would allow the Department to provide the best information for a comprehensive understanding of the environment consistently in support of sound policy, oversight, accountability, and fiscal decisions.

A failure to streamline reporting requirements would greatly strain assessment and data collection resources in Afghanistan. The U.S. personnel available in-theater to conduct assessments and data collection will be extremely limited. This problem will be compounded as U.S. forces transition towards a Kabul-centric presence that relies more heavily on Afghan data to assess progress at the Corps and Ministerial levels.

In summary, the Department urges exclusion of the House provision, and adoption of the Senate provision, section 1227, "Semiannual Report on Enhancing the Strategic Partnership Between the United States and Afghanistan," with an amended timeline for submission of December 15 and June 15 of each year, through 2017.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Requirement to Withhold Department of Defense Assistance to Afghanistan in Amount Equivalent to 150 Percent of All Taxes Assessed by Afghanistan to Extent Such Taxes Are Not Reimbursed by Afghanistan.

Appeal Citation: H.R. 4435, sec. 1215

Language/Provision: House section 1215 would require that "[a]n amount equivalent to 150 percent of the total taxes assessed during fiscal year 2014 by the Government of Afghanistan on all Department of Defense assistance in violation of the status of forces agreement between the United States and Afghanistan (entered in force May 28, 2003) shall be withheld by the Secretary of Defense from obligation from funds appropriated for such assistance for fiscal year 2015 to the extent that the Secretary of Defense certifies and reports in writing to the appropriate congressional committees that such taxes have not been reimbursed by the Government of Afghanistan to the Department of Defense or the grantee, contractor, or subcontractor concerned." The provision authorizes the Secretary of Defense to waive this requirement if he determines that a waiver is necessary to achieve U.S. goals in Afghanistan.

The House provision includes a reporting requirement, to be completed no later than March 1, 2015, on the total taxes assessed during Fiscal Year 2014 by the Government of Afghanistan on all Department of Defense assistance. The provision would also require the Secretary of Defense to request submission of claims for reimbursement from contractors; to seek to develop a plan with the Government of Afghanistan to provide for reimbursement of such claims; and if this plan is not submitted by March 1, 2015, to reimburse contractors for these claims from the amount of funds withheld from Afghanistan. The House provision is intended to provide the U.S. Government with leverage in disputes with the Government of Afghanistan over claims of improper taxation by placing conditions on the Government of Afghanistan from receiving future assistance.

The Senate bill included no similar provision.

DoD Position/Impact: The Department shares congressional concerns surrounding the Government of Afghanistan's attempts to impose taxes on tax-exempt DoD contracts in Afghanistan, or other DoD-funded assistance to Afghanistan, in a manner inconsistent with its obligations to the United States under the 2003 U.S.-Afghanistan Status of Forces Agreement. The House provision, as written, however, would be counterproductive by interfering with processes already in place to prevent or address improper taxation of tax-exempt DoD contracts or other DoD-funded assistance.

House section 1215 would require the Department to withhold assistance in an amount equivalent to 150 percent of taxes assessed by the Government of Afghanistan. Additionally, the U.S. Government is currently engaged with the Government of Afghanistan to ensure that Afghanistan meets its international obligations not to tax exempted DoD contracts or other DoD-funded assistance. Punitive legislation may interfere with or jeopardize the processes and diplomatic engagement currently underway. Furthermore, creating a system of reimbursement to contractors would be unduly burdensome to DoD to manage and oversee and could incentivize contractors to pay these improper taxes which many of them refuse to pay. This legislation would not result in the desired punitive effect on the Ministry of Finance who is assessing these taxes, but rather could result in increased revenues under their control and decrease the security assistance funds administered by DoD. This would drive an overall increase in Department resources required to meet DoD security assistance requirements for the country of Afghanistan, or result in unfunded requirements impacting the ability of DoD to achieve our national security objectives in Afghanistan. In a budget constrained environment, the Department feels that a diplomatic solution rather than a funding solution is a more effective approach. Further, negotiations between governments to resolve issues between foreign nations and U.S. citizens, including U.S. government contractors, are more appropriately the responsibility of the State Department.

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Limitation on Funds for Implementation of the New START Treaty

Appeal Citation: H.R. 4435 sec. 1230A

Language/Provision: House section 1230A is intended to prevent any funds from being used to implement the New START Treaty until the Secretary of Defense, in consultation with the Secretary of State, certifies that: 1) the armed forces of the Russian Federation are no longer illegally occupying Ukrainian territory; 2) the Russian Federation is respecting the territorial sovereignty of all Ukrainian territory; 3) the Russian Federation is no longer taking actions that are inconsistent with the INF Treaty; 4) the Russian Federation is in compliance with the CFE Treaty and has lifted it suspension of Russian observance of its Treaty obligations; 5) there have been no inconsistencies by the Russian Federation with New START Treaty requirements.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision because it would prevent the United States from meeting its legally binding treaty obligations under the New START Treaty. In particular, the resulting delays in funding would significantly increase the risk that the United States would be unable to reduce U.S. intercontinental ballistic missiles (ICBMs), submarine launched ballistic missiles (SLBMs), and heavy bombers, and the warheads on such deployed ICBMs, SLBMs, and heavy bombers, to the limits established in the New START Treaty by the date required by the Treaty (February 2018).

The House provision would halt activities necessary to implement the New START Treaty including verification activities and force structure reductions. The provision would halt Russia inspections in the United States by preventing U.S. escort activities (e.g. transportation and other logistic support required by the New START Treaty to be provided to Russian inspection teams). The United States has an obligation under the Treaty to host such inspection activities. This provision could cause the United States to be unable to comply with its New START Treaty obligations until the required certification by the Secretary of Defense, thereby resulting in a material breach of the United States to its Treaty obligations. The provision would also halt all reductions (e.g., ICBM launchers, storage upgrades to maintain ICBMs being removed from silos, conversions of SLBM launch tubes and conversions of B-52 H heavy bombers). Additionally, it would halt all U.S. New START Treaty inspection activity in Russia, which provides access and insights into Russia's strategic nuclear forces that the United States would otherwise lack, and severely restrict the training of U.S. inspection and escort personnel. Furthermore the House provision would impede the ability of the United States to comply with its obligations regarding data exchanges (i.e., notifications and telemetry products). It would also prevent the Department's participation in the Bilateral Consultative Commission, leaving Department equities unrepresented in New START Treaty discussions with Russia.

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Limitation on Availability of Funds for Removal or Consolidation of Dual-Capable Aircraft from Europe.

Appeal Citation: H.R. 4435 sec. 1639

Language/Provision: House section 1639 would prevent removal or consolidation of Dual-Capable Aircraft from Europe until the Secretary of Defense, in consultation with the Secretary of State, certifies that: 1) the armed forces of the Russian Federation are no longer illegally occupying Ukrainian territory; 2) the Russian Federation is no longer violating the INF Treaty; 3) the Russian Federation is in compliance with the CFE Treaty and has lifted its suspension of Russian observance of its CFE Treaty obligations. The provision includes an exemption that would allow for F-35 aircraft to replace such aircraft and a waiver that the Secretary of Defense could complete accompanied by a 30 day delay.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision because it could impinge upon the President's authority to implement force structure decisions in his role as Commander-in-Chief. It would also severely impede the ability of NATO, as an Alliance, to continue to adjust its strategy in line with trends in the security environment as put forward in the 2012 Deterrence and Defense Posture Review, in which the Alliance concluded that the existing mix of nuclear, conventional and missile defense capabilities and the plans for their development are sound. Additionally, in the event of an unforeseen crisis the provision as drafted would arguably prevent the President from redeploying dual-capable aircraft in support of our global Allies in a timely manner. Lastly, the provision as drafted would arguably prevent the Department from moving aircraft back to the United States for maintenance, modification, or upgrade.

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Retention of Missile Silos

Appeal Citation: H.R. 4435 sec. 1634

Language/Provision: House section 1634 would require the Secretary of Defense to preserve each intercontinental ballistic missile silo that contains a deployed missile as of the date of enactment in a warm status that would enable the silos to: 1) remain a fully functioning element of the interconnected and redundant command and control system of the missile field; and 2) be made fully operational with a deployed missile.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision because it would impinge on the President's authority to determine the appropriate force structure to meet nuclear deterrence requirements, to determine the number of strategic delivery vehicles needed to meet national security requirements, and to implement changes in those forces – authority exercised by every President in the nuclear age. Although it is the President's determination that 50 of the current 450 Minuteman III silos will remain in a non-deployed—warm—status, this provision would, if enacted, tie the hands of all presidents with respect to force structure until it is repealed. Moreover, as the Department currently plans to perform extensive maintenance on some silos, which would remove them from a warm status during overhaul, the provision as drafted would arguably prevent the Department from conducting this important maintenance.

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Theater Air and Missile Defense of Allies of the United States

Appeal Citation: H.R. 4435, sec. 1641

Language/Provision: House section 1641 would require DoD to advance the deployment date (to 2016) for the Aegis Ashore weapon system currently scheduled to be deployed in Poland in 2018, and to deploy short-range air and missile defense (Patriot) and terminal missile defense systems (THAAD) in central and eastern Europe by the end of 2014.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision because it would require deployment of the Aegis Ashore site in Poland no later than 2016, and the deployment of short-range air and missile defense capability to Poland no later than December 2014. The Aegis Ashore sites are planned as part of the European Phased Adaptive Approach and were not designed to counter cruise missiles or be effective against ballistic missiles launched from Russian territory.

In addition, accelerating the deployment of the Poland Aegis Ashore site by two years is not possible. The military construction (MILCON) project would take 26 months from project start, and the deck house equipment would not be delivered until 2017. Even to advance the deployment date to mid-2017 would cost an additional estimated $80 million ($50 million – Navy, $30 million – Missile Defense Agency) and would have a negative impact on the Navy's destroyer upgrade program. Further, deploying Patriots and/or THAAD to Poland would limit the ability of the United States to meet other worldwide operational missile defense requirements. As indicated in the 2010 Department of Defense Ballistic Missile Defense (BMD) Review Report, there is a "mismatch between supply and demand," underscoring the value of BMD capabilities that are "flexible … adaptive … and relocatable, so that they can be surged into troubled regions in times of military crisis." This mismatch continues today.

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Limitation on Availability of Funds for Cooperative Threat Reduction (CTR) Activities with Russian Federation

Appeal Citation: H.R. 4435, sec.1303

Language/Provision: The House provision would prohibit the obligation or expenditure of CTR funds unless the Secretary of Defense makes a number of certifications.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision because it would prevent the DoD CTR Program from cooperating with the Russian Federation on critical nuclear and biological nonproliferation and threat reduction issues that are in the U.S. national interest. Cooperation with Russia is an essential element of the global effort to address the threat posed by nuclear terrorism. Critical bilateral nuclear nonproliferation activities are continuing in a number of key areas, and nuclear security is of paramount importance. In addition, the House provision would limit the DoD CTR Program's ability to re-engage with Russia as part of potential new regional biological threat reduction initiatives. Russia is a regional leader in surveillance of pathogens of security concern, and cooperation is critical to the success of regional efforts to address trans-boundary and zoonotic threats.

The Department urges exclusion of the House provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Evaluation of the Wounded Warrior Care and Transition Program

Appeal Citation: H.R. 4435 sec. 731

Language/Provision: House section 731 would direct the Secretary of Defense to enter into a contract with a private organization to evaluate the Department's wounded warrior care and transition program. This provision directs funding from Department of Energy weapons accounts, and would rescind amounts authorized to be appropriated for both the B61 and W76 nuclear warhead life extension programs by $5 million each.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision because it would reduce critical Department of Energy funding for two essential nuclear weapons life extension programs creating delays in both programs which would increase the overall total cost of the program and potentially interfere with deployment schedules.

It would also duplicate multiple ongoing oversight efforts to evaluate the Department's Wounded Warrior Programs, to include the Government Accountability Office (GAO) and the Department of Defense Task Force on the Care, Management and Transition of Recovering Wounded, Ill and Injured Members of the Armed Forces (RWTF).

Established by Congress in Public Law 111-84, the RWTF assesses the effectiveness of the policies and programs developed and implemented by the DoD to assist and support the care, management, and transition of recovering wounded, ill, and injured members of the Armed Forces and make recommendations for the continuous improvements of relevant policies and programs. It began work in 2011 and has made 67 recommendations to the Secretary of Defense in three reports, with its final report due by the end of 2014. The Department continues to work through the RWTF recommendations and evaluate our progress on institutionalizing the changes to policy, procedure, and culture that supports our Wounded Warriors, their families and caregivers.

The GAO is assessing Departmental programs supporting Wounded Warriors in areas including: the effects of warfare on Service members, veterans, their families, and communities (code 131299); as well as the services and benefits provided for family caregivers of recovering OEF/OIF/OND Service members and Veterans by DoD and VA (code 291132).

Additionally, DoD currently has a five-year reporting requirement on the performance and outcomes for the Wounded Warrior Programs as required by Public Law 112-239 (section 738). The Services are performing a qualitative assessment of their individual programs and related units and providing the results by late summer in order to provide a baseline for the first annual report.

The Department urges exclusion of the House provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Improvement of Financial Literacy

Appeal Citation: H.R. 4435 sec. 1082

Language/Provision: House section 1082 would direct the Secretary of Defense to develop and implement a training program to increase and improve financial literacy training for incoming and outgoing personnel. The House provision would also direct funding from Department of Energy weapons accounts and would rescind amounts authorized to be appropriated for both the B61 and W76 nuclear warhead life extension programs by $2.5 million each.

The Senate included no similar provision.

DoD Position/Impact: The Department objects to the House provision because it would reduce critical Department of Energy funding for two essential nuclear weapons life extension programs. Without the current funding there will be delays in both programs which would increase the overall total cost of the program and potentially interfere with deployment schedules.

The Department also objects to the House provision because financial training already exists for incoming and transitioning Service members. For example, in the Army incoming Soldiers receive eight hours of financial training as part of their individual entry training. The training is conducted by a certified financial counselor from Army Community Service. As required by law and DoD policy, transitioning Service members receive financial counseling based on their individual situation, and also produce a 12-month post-separation budget.

The Department urges exclusion of the House provision.

Priority Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Reform of the Quadrennial Defense Review

Appeal Citation: H.R. 4435, sec. 1077

Language/Provision: House section 1077 would re-write the requirements for DoD's quadrennial reviews of national defense strategy (10 U.S.C. 118). Quadrennial Defense Reviews (QDRs) would be replaced by Quadrennial National Security Threats and Trends Reports. The new review format would impose three specific timeframes for assessing the future security environment; require the independent National Defense Panel (NDP) to formulate an alternative strategy; identify a budget plan for executing the full range of missions; define the nature and magnitude of strategic and operational risks; and understand the relationships and tradeoffs between missions, risks, and resources.

The Senate bill does not contain a similar provision.

DoD Position/Impact: The Department objects to the House provision on several grounds.

The House provision would create confusion regarding the broader national security strategy typically formulated by the National Security Council Staff, on the one hand, and the defense strategy-focused QDR formulated by DoD, on the other hand. The House provision would also require a deeper articulation of risk than is prudent in an unclassified, open document, which is read by adversaries of the United States.

The annual Chairman's Risk Assessment (CRA) as required by 10 U.S.C. 153, and the subsequent Secretary of Defense Risk Mitigation Plan (RMP), provide Congress the same risk information proposed by the draft legislation. As an annual process, the CRA and the RMP more fully capture risk and mitigation in a dynamic environment than a quadrennial effort. The risk types proposed above (strategic and operational) are inconsistent with the statute-driven CRA risk types (strategic and military), which could create confusion (e.g., operational risk is a subset of military risk).

The provision would also be over-prescriptive in requiring the NDP to outline what would be in essence an alternative defense strategy, rather than provide an alternative perspective on DoD's proposed strategy. Subjecting the NDP to such burdensome requirements would limit the utility of the NDP's contribution.

Finally, the provision would require program and budget planning 20 years ahead; the Department believes that such a requirement is unrealistic and therefore not useful. Although current QDR provisions require a strategy that looks ahead 20 years, planning data extending out 20 years would have little use.

The Department urges exclusion of the House provision.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Resubmission of the 2014 Quadrennial Defense Review

Appeal Citation: H.R. 4435, sec. 1078

Language/Provision: House section 1078 would require DoD to resubmit the 2014 Quadrennial Defense Review (QDR) in order to articulate a defense program for the next 20 years, a budget plan to execute the full range of missions, and additional resources required beyond those programmed in the future years defense program (FYDP) at low-to-moderate risk. Most significantly, section 1078 would require DoD to make recommendations that are not constrained by the presidential budget proposal.

The Senate bill did not include a similar provision.

DoD Position/Impact: The Department objects to the House provision on three grounds. The 2014 QDR meets the current legislative requirement (10 U.S.C. 118) completely. It is a coherent strategy that considers the future security environment, U.S. national interests, defense priorities, and the forces required to meet those interest and priorities.

The 2014 QDR already looks 20 years ahead; it considers the security environment, forces, and programs through 2030, but programs a force structure for five years ahead. The proposed House provision would be unrealistic and not useful.

The QDR provides a defense strategy that is necessarily resource-informed. Resubmitting a revised QDR without a clear understanding of current budget realities would be unrealistic and unworkable. The 2014 QDR has grounded defense strategy in affordability and demonstrated why tough choices on our priorities arise from those budget realities. A resubmitted QDR free from those budget realities would risk achieving neither.

The Department urges exclusion of House section 1078.

Department of Defense Appeal
FY 2015 National Defense Authorization Bill

Subject: Report on Bilateral Security Cooperation with Pakistan

Appeal Citation: S. 2410, sec. 1228

Language/Provision: Senate section 1228 would require the Secretary of Defense, in consultation with the Secretary of State, to submit a detailed report on the nature and extent of bilateral security cooperation between the U.S. and Pakistan semi-annually. Subsection (b)(7) would require the Department to submit an assessment of the cooperation of the Government of Pakistan in the search for Army Sergeant Bowe Bergdahl, and on the degree to which the Government of Pakistan has provided the Department of Defense all requested information and intelligence relating to Sergeant Bergdahl, his captors, and his whereabouts that could assist in his recovery.

The House included no similar provision.

DoD Position/Impact: The Department requests amendment of Senate section 1228 by striking "30" in section (a), line 3, and inserting "120," striking subsection (b)(7) due to the recent recovery of Sergeant Bergdahl, and given the breadth of State's security concerns for Pakistan this report should be done jointly with the Secretary of State.

The Department prefers adoption of the Senate provision as amended.