

Statement on Signing the Department of Defense Appropriations Act, 2008

November 13, 2007

Today, I have signed into law H.R. 3222, the “Department of Defense Appropriations Act, 2008.” The Act appropriates funds needed to support the U.S. Armed Forces as they protect the United States and the American people and advance United States interests around the globe.

The Act contains certain provisions identical to those found in prior bills passed by the Congress that might be construed to be inconsistent with my Constitutional responsibilities (sections 8005, 8009, 8012(b), 8034(b), 8052, 8082, 8085, 8089, 8091, and 8116, and the provision concerning consolidation under the heading “Operation and Maintenance, Defense Wide”). To avoid such potential infirmities, I will interpret and construe such provisions in the same manner as I have previously stated in regard to those provisions.

The Act also continues through December 14, 2007, funding for Government programs for which the Congress has not yet passed regular appropriations acts. However, the Act does not provide funds needed to support members of the U.S. Armed Forces deployed for combat in Iraq and Afghanistan, and I expect and urge the Congress to promptly present separate legislation to meet that urgent funding need.

George W. Bush

The White House,
November 13, 2007.

Executive Order 13450—Improving Government Program Performance

November 13, 2007

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 305 and 306 of title 5, sections 1115, 1116, and 9703 of title 31, and chapter 28 of title 39, United States Code, and to improve the effectiveness and efficiency of the Federal Government and promote greater account-

ability of that Government to the American people, it is hereby ordered as follows:

Section 1. Policy. It is the policy of the Federal Government to spend taxpayer dollars effectively, and more effectively each year. Agencies shall apply taxpayer resources efficiently in a manner that maximizes the effectiveness of Government programs in serving the American people.

Sec. 2. Definitions. As used in this order:

(a) “agency” means:

(i) an executive agency as defined in section 105 of title 5, United States Code, other than the Government Accountability Office; and

(ii) the United States Postal Service and the Postal Regulatory Commission;

(b) “agency Performance Improvement Officer” means an employee of an agency who is a member of the Senior Executive Service or equivalent service, and who is designated by the head of the agency to carry out the duties set forth in section 5 of this order.

Sec. 3. Duties of Heads of Agencies. To assist in implementing the policy set forth in section 1 of this order, the head of each agency shall, with respect to each program administered in whole or in part by the agency:

(a) approve for implementation:

(i) clear annual and long-term goals defined by objectively measurable outcomes; and

(ii) specific plans for achieving the goals, including:

(A) assignments to specified agency personnel of:

(1) the duties necessary to achieve the goals; and

(2) the authority and resources necessary to fulfill such duties;

(B) means to measure:

(1) progress toward achievement of the goals; and

(2) efficiency in use of resources in making that progress; and

(C) mechanisms for ensuring continuous accountability of the specified agency personnel to the head of the agency for achievement of the goals and efficiency in use of resources in achievement of the goals;

(b) assist the President, through the Director of the Office of Management and Budget (Director), in making recommendations to the Congress, including budget and appropriations recommendations, that are justified based on objective performance information and accurate estimates of the full costs of achieving the annual and long-term goals approved under subsection (a)(i) of this section; and

(c) ensure that agency Internet websites available to the public include regularly updated and accurate information on the performance of the agency and its programs, in a readily useable and searchable form, that sets forth the successes, shortfalls, and challenges of each program and describes the agency's efforts to improve the performance of the program.

Sec. 4. Additional Duties of the Director of the Office of Management and Budget. (a) To assist in implementing the policy set forth in section 1 of this order, the Director shall issue instructions to the heads of agencies concerning:

- (i) the contents, and schedule for approval, of the goals and plans required by section 3 of this order; and
- (ii) the availability to the public in readily accessible and comprehensible form on the agency's Internet website (or in the *Federal Register* for any agency that does not have such a website), of the information approved by the head of each agency under section 3 of this order and other information relating to agency performance.

(b) Instructions issued under subsection (a) of this section shall facilitate compliance with applicable law, presidential guidance, and Office of Management and Budget circulars and shall be designed to minimize duplication of effort and to assist in maximizing the efficiency and effectiveness of agencies and their programs.

Sec. 5. Duties of Agency Performance Improvement Officers. Subject to the direction of the head of the agency, each agency Performance Improvement Officer shall:

- (a) supervise the performance management activities of the agency, including:

- (i) development of the goals, specific plans, and estimates for which section 3 of this order provides; and

- (ii) development of the agency's strategic plans, annual performance plans, and annual performance reports as required by law;

- (b) advise the head of the agency, with respect to a program administered in whole or in part by the agency, whether:

- (i) goals proposed for the approval of the head of the agency under section 3(a)(i) of this order are:

- (A) sufficiently aggressive toward full achievement of the purposes of the program; and

- (B) realistic in light of authority and resources assigned to the specified agency personnel referred to in section 3(a)(ii)(A) of this order with respect to that program; and

- (ii) means for measurement of progress toward achievement of the goals are sufficiently rigorous and accurate;

- (c) convene the specified agency personnel referred to in section 3(a)(ii)(A) of this order, or appropriate subgroups thereof, regularly throughout each year to:

- (i) assess performance of each program administered in whole or in part by the agency; and

- (ii) consider means to improve the performance and efficiency of such program;

- (d) assist the head of the agency in the development and use within the agency of performance measures in personnel performance appraisals, and, as appropriate, other agency personnel and planning processes; and

- (e) report to the head of the agency on the implementation within the agency of the policy set forth in section 1 of this order.

Sec. 6. Establishment and Operation of Performance Improvement Council. (a) The Director shall establish, within the Office of Management and Budget for administrative purposes only, a Performance Improvement Council (Council), consistent with this order.

(b) The Council shall consist exclusively of:

- (i) the Deputy Director for Management of the Office of Management and Budget, who shall serve as Chair;
- (ii) such agency Performance Improvement Officers, as determined by the Chair; and
- (iii) such other full-time or permanent part-time employees of an agency, as determined by the Chair with the concurrence of the head of the agency concerned.

(c) The Chair or the Chair's designee, in implementing subsection (d) of this section, shall convene and preside at the meetings of the Council, determine its agenda, direct its work, and establish and direct subgroups of the Council, as appropriate to deal with particular subject matters, that shall consist exclusively of members of the Council.

(d) To assist in implementing the policy set forth in section 1 of this order, the Council shall:

- (i) develop and submit to the Director, or when appropriate to the President through the Director, at times and in such formats as the Chair may specify, recommendations concerning:
 - (A) performance management policies and requirements; and
 - (B) criteria for evaluation of program performance;
- (ii) facilitate the exchange among agencies of information on performance management, including strategic and annual planning and reporting, to accelerate improvements in program performance;
- (iii) coordinate and monitor a continuous review by heads of agencies of the performance and management of all Federal programs that assesses the clarity of purpose, quality of strategic and performance planning and goals, management excellence, and results achieved for each agency's programs, with the results of these assessments and the evidence on which they are based made available to the public on or through the Internet website referred to in subsection (d)(iv);
- (iv) to facilitate keeping the public informed, and with such assistance of heads of agencies as the Director may require, develop an Internet website that provides the public with information on how well each agency performs and that serves as a comprehensive source of information on:
 - (A) current program performance; and
 - (B) the status of program performance plans and agency Performance and Accountability Reports; and
 - (C) consistent with the direction of the head of the agency concerned after consultation with the Director, any publicly available reports by the agency's Inspector General concerning agency program performance;
- (v) monitor implementation by agencies of the policy set forth in section 1 of this order and report thereon from time to time as appropriate to the Director, or when appropriate to the President through the Director, at such times and in such formats as the Chair may specify, together with any recommendations of the Council for more effective implementation of such policy;
- (vi) at the request of the head of an agency, unless the Chair declines the request, promptly review and provide advice on a proposed action by that agency to implement the policy set forth in section 1 of this order; and
- (vii) obtain information and advice, as appropriate, in a manner that seeks individual advice and does not involve collective judgment or consensus advice or deliberation, from:
 - (A) State, local, territorial, and tribal officials; and
 - (B) representatives of entities or other individuals.

(e)(i) To the extent permitted by law, the Office of Management and Budget shall provide the funding and administrative support the Council needs, as determined by the Director, to implement this section; and

(ii) the heads of agencies shall provide, as appropriate and to the extent permitted by law, such information and assistance as the Chair may request to implement this section.

Sec. 7. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) authority granted by law to an agency or the head thereof; or
- (ii) functions of the Director relating to budget, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law (including laws and executive orders relating to the protection of information from disclosure) and subject to the availability of appropriations.

(c) In implementing this order, the Director of National Intelligence shall perform the functions assigned to the Director of National Intelligence by the National Security Act of 1947, as amended (50 U.S.C. 401 *et seq.*), consistent with section 1018 of the Intelligence Reform and Terrorism Prevention Act (Public Law 108-458), and other applicable laws.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against the United States, its agencies, or entities, its officers, employees, or agents, or any other person.

George W. Bush

The White House,
November 13, 2007.

[Filed with the Office of the Federal Register,
10:44 a.m., November 14, 2007]

NOTE: This Executive order was published in the *Federal Register* on November 15.

**Message to the House of
Representatives Returning Without
Approval the “Departments of
Labor, Health and Human Services,
and Education, and Related Agencies
Appropriations Act, 2008”**

November 13, 2007

To the House of Representatives:

I am returning herewith without my approval H.R. 3043, the “Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008.”

This bill spends too much. It exceeds the reasonable and responsible levels for discretionary spending that I proposed to balance

the budget by 2012. The Congress is on a path to spend \$205 billion more over the next 5 years than I requested. This puts a balanced budget in jeopardy and risks future tax increases. This year, the Congress plans to overspend my budget by \$22 billion, of which \$10 billion is for increases in this bill. Health care, education, job training, and other goals can be achieved without this excessive spending if the Congress sets priorities.

This bill continues to fund programs that are duplicative or ineffective. The Congress continues to fund 56 programs totaling more than \$3.2 billion that I proposed to terminate because they are duplicative, narrowly focused, or not producing results.

This bill does not sufficiently fund programs that are delivering positive outcomes. For example, Reading First, a critical initiative that is demonstrating results, receives a 61 percent cut, even though low-income students enrolled in Reading First schools posted a more than 10-point improvement in reading proficiency from 2004 to 2006.

This bill has too many earmarks. I set out clear goals for the Congress to reform the earmarking process. The Congress chose not to put earmarks in bill text, instead including nearly all in report language, and they did not reach the goal of cutting the cost and number of earmarks by at least half. This bill contains more than 2,200 earmarks totaling nearly \$1 billion. Congressional earmarks divert Federal taxpayer funds to localities without the benefit of a merit-based process, resulting in fewer resources for national priorities or unnecessary spending above the requested level.

I urge the Congress to send me a fiscally responsible bill that sets priorities. Americans sent us to Washington to achieve results and be good stewards of their hard-earned tax dollars. Because the legislation violates that commitment, I must veto this bill.

George W. Bush

The White House,
November 13, 2007.