



COMPTROLLER

UNDER SECRETARY OF DEFENSE  
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WASHINGTON, DC 20301-1100

JUN 14 2010

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
CHAIRMAN OF THE JOINT CHIEFS OF STAFF  
UNDER SECRETARIES OF DEFENSE  
COMMANDER, U.S. SPECIAL OPERATIONS COMMAND  
ASSISTANT SECRETARIES OF DEFENSE  
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE  
DIRECTOR, OPERATIONAL TEST AND EVALUATION  
INSPECTOR GENERAL OF THE DEPARTMENT OF  
DEFENSE  
DIRECTOR, PROGRAM ANALYSIS AND EVALUATION  
DIRECTORS OF THE DEFENSE AGENCIES  
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Fiscal Year (FY) 2010 Below Threshold Reprogramming (BTR) Authority  
Policy

In accordance with the Joint Explanatory Statement accompanying the FY 2010 Department of Defense Appropriations Act, the BTR limits for Military Personnel, Operation and Maintenance (O&M), Procurement, and Research, Development, Test, and Evaluation (RDT&E) titles for FY 2010 continue to be the same as approved by Congress for FY 2009. The BTR dollar thresholds are as follows:

- Military Personnel: \$10 million
- Operation and Maintenance: \$15 million
- RDT&E: \$10 million
- Procurement: \$20 million

Any movement of funds between appropriations or between legal subdivisions requires the use of legislative transfer authority. The BTR authority allows funds to be reprogrammed within each appropriation without obtaining congressional prior approval to finance cost increases to existing programs, with some exceptions. In FY 2010, increases or decreases to a budget line item are limited to either the dollar threshold stated above or 20 percent of the value of the budget line item, whichever is less, for the procurement and RDT&E appropriations. The thresholds are cumulative over the life of the appropriation. If the cumulative value of realignments in or out of the O&M budget activity, procurement budget line item, or RDT&E budget line item exceeds the established below threshold authority, the Department is required to submit a prior approval reprogramming request.

The attached Summary of Reprogramming Requirements lists these exceptions for FY 2010 and provides an overview of reprogramming requirements.

A handwritten signature in cursive script, reading "Robert F. Hale".

Robert F. Hale

Attachments:

As stated

**Summary of Reprogramming Requirements**  
**Effective for FY 2010 Appropriation**

**Program Base for All Appropriations**

The program base for a reprogramming action is the initial appropriation as modified by any congressional action, to include rescissions, supplemental, and **approved Department of Defense DD 1415 actions. (Page 162 of Explanatory Statement, Division A Department of Defense Appropriations Act Fiscal Year 2010)**

**DD 1415-1 Prior Approval (PA) Reprogramming Actions**

1. Affects a congressional special interest item (unless the funds will be used for the same purpose; then an Internal Reprogramming (IR) is used). **Note that statutory adds under section 8006 of the DoD Appropriations Act, 2010 are not congressional special interest items unless the tables or accompanying paragraphs use the phrase “only for” or “only to.”** Programs, projects, and activities for which the amounts appropriated exceed the amounts requested, as prescribed in tables explaining project level adjustments in the explanatory statement accompanying the Act are subject to normal PA reprogramming procedures if such transfers exceed thresholds identified in the explanatory statement for the applicable appropriation type.
2. Involves the use of general transfer authority (GTA) or **special transfer authority (STA) (i.e., provided for Overseas Contingency Operations)** (unless the funds will be used for the same purpose; then an IR is used).
3. Exceeds thresholds.
  - a. Military Personnel: Increase of \$10 million or more in a budget activity.
  - b. Operation and Maintenance:
    - b.1. Increase or **decrease** of \$15 million or more in a budget activity. **(Page 70 of Explanatory Statement, Division A Department of Defense Appropriations Act Fiscal Year 2010)**
    - b.2. **Decrease of \$15 million or more out of certain budget subactivities specifically identified in the O&M reprogramming guidance provided in the explanatory statement accompanying the FY 2010 Appropriations Act. (Pages 103 and 104 of Explanatory Statement, Division A Department of Defense Appropriations Act Fiscal Year 2010)**
    - b.3. Increase or decrease of \$15 million or more in a Defense Agency.
    - b.4 **Increase of \$15 million or more to the Operation and Maintenance, Army National Guard, Other Personnel Support/Recruiting and Advertising budget subactivity. (Pages 104 and 155 of Explanatory Statement, Division A Department of Defense Appropriations Act Fiscal Year 2010)**

Exception is the Defense Health Program Operation and Maintenance appropriation, a PA is required for all transfers of funds out of the Direct (or In-House) Care budget activity group or into the Private Sector Care budget activity group.

**Summary of Reprogramming Requirements (Continued)**  
**Effective for FY 2010 Appropriation**

- c. Procurement appropriations for each budget line item:
  - (1) Increase: \$20 million or **20 percent of the appropriated amount** whichever is less.  
**(Pages 70, 163, and 261 of Explanatory Statement, Division A Department of Defense Appropriations Act Fiscal Year 2010)**
  - (2) Decrease: \$20 million or 20 percent of the appropriated amount, whichever is less.
- d. RDT&E appropriations for each budget line item (i.e., program element):
  - (1) Increase: \$10 million or **20 percent of the appropriated amount** whichever is less.  
**(Pages 70, 163, and 261 of Explanatory Statement, Division A Department of Defense Appropriations Act Fiscal Year 2010)**
  - (2) Decrease: \$10 million or 20 percent of the appropriated amount, whichever is less.
- 4. Establishes New Programs (i.e., New Starts) (See New Starts Below)
- 5. Terminates Appropriated Programs.
  - a. Eliminates a procurement program, subprogram, or modification of \$20 million or more.
  - b. Eliminates an RDT&E program element, project or subproject of \$10 million or more.
  - c. Eliminates an RDT&E program element, project, or subproject that is equal to the total amount of the program element, regardless of amount.

**DD Form 1415-3 Internal Reprogramming (IR) Actions**

- 1. Realigns funds to a different line item or appropriation for proper execution of the same requirement with **no change in purpose**, may involve GTA, STA, and may involve congressional special interest items.
- 2. Transfers funds from the transfer accounts (i.e., Foreign Currency, Environmental Restoration, Drug Interdiction, Overseas Contingency Operations Transfer Fund, etc).
- 3. Documents transfers identifying specific line items when a letter notification to **Congress** is being used to satisfy congressional or specific transfer notification requirements (i.e., **Mine Resistant Ambushed Protected (MRAP) Vehicle Transfer Fund**).

**Notification Letters (in advance of initiating) Requirements**

- 1. Establish new programs or **budget** line items not otherwise requiring prior approval action.
- 2. Establish new procurement programs, including modifications, costing less than \$20 million for the **entire** effort.
- 3. Establish new development programs costing less than \$10 million for the **entire** effort.
- 4. Initiate safety programs or safety modifications costing less than \$20 million for the **entire** effort; can be initiated immediately following congressional notification.

**Summary of Reprogramming Requirements (Continued)**  
**Effective for FY 2010 Appropriation**

5. Terminate programs falling within the below threshold reprogramming amounts (procurement programs or subprograms costing less than \$20 million; RDT&E programs, projects, or subprojects costing less than \$10 million) as long as the procurement line item or RDT&E program element is not eliminated.
6. Identify specific line items to satisfy specific transfer notification requirements.
7. Require a 30-day notification to the Defense Committees **prior** to implementation. The Component may implement the reprogramming action 30-days after congressional notification unless an objection is received from a committee.

**Below Threshold Reprogramming (BTR) Authority Ground Rules**

1. If a PA reprogramming action has been approved to increase a program, procurement line item, or program element that was used to cash flow a higher priority requirement; a BTR ***should not be used to “reverse”*** an approved PA reprogramming action for any program, procurement line item, or program element.
2. A BTR **threshold** is established for each appropriation and allows funds to be reprogrammed internal to the appropriation without obtaining congressional prior approval to finance cost increases to existing programs, with some exceptions. Any movement of funds between appropriations or between legal subdivisions within an appropriation is a “transfer” and requires the use of transfer authority.
3. The BTR shall not exceed the established thresholds. Each threshold reflects aggregate levels of reprogramming activity within **military personnel, O&M**, Procurement line items, and within RDT&E program elements. The BTR thresholds represent the cumulative amount that may be reprogrammed over the life of the appropriation.
4. The Components shall not use BTR authority to reduce congressional special interest items.
5. The Component shall not use BTR authority to increase lines specifically reduced by congressional action. Components may use BTR authority to restore non-specific reductions to these items, but only to the original level of the budget request or the level determined in the specific account tables reflected in the Statement of Managers accompanying the applicable Appropriations Act, whichever is less.
6. No BTR increase or decrease may exceed the above thresholds or 20 percent, whichever is less, of the appropriated level for each Procurement line item or RDT&E program element.
7. **BTR example:**  
    **Budget line item**  
    **BTR increase of \$5.0 million**  
    **BTR decrease of \$4.0 million**  
    **uses \$1.0 million of BTR limitation**

**Summary of Reprogramming Requirements (Continued)**  
**Effective for FY 2010 Appropriation**

**New Start Requirements**

1. Any program not explicitly justified to, and funded by, the Congress is considered to be a new start program. In accordance with section 8080 of Public Law 111-118, the Department of Defense (DoD) Appropriations Act, 2010, the congressional oversight committees must be notified, in writing, prior to the initiation of any new start program. The Office of the Secretary of Defense (Comptroller) also must be provided such prior notification. The following notification/approval procedures will be used in all new start actions.

2. Proposed new start programs exceeding the following thresholds require prior approval of the congressional oversight committees, and will be submitted for approval as DD 1415 Prior Approval Reprogramming actions:

- a. Establishes a new procurement program or modification estimated to cost \$20 million or more within the first 3 years.
- b. Establishes a new RDT&E program, RDT&E project, or RDT&E subproject estimated to cost \$10 million or more within the first 3 years.

No action may be taken on the new program until approval of all committees has been received.

3. For new start programs falling below these thresholds, a notification letter to the oversight committees and to the Under Secretary of Defense (Comptroller) is required. Components may initiate the new program after the expiration of the 30-day notification period, unless an objection is received from a committee. New start notification letters must be staffed with the Office of the Under Secretary of Defense (Comptroller) prior to delivery to the oversight committees.

4. New start safety modifications or safety programs costing less than \$20 million for the entire effort may be initiated immediately after the written notification is delivered to the congressional oversight committees.

5. The determination of whether a particular activity is a new start is made based upon the justification material presented to the Congress for the program year in which the new program is proposed. Particular care must be taken in making a determination of whether a program should be considered a new start. If a program is not explicitly addressed in the relevant justification material, it is considered to be a new start<sup>1</sup>. The following parameters are provided to guide the decision making process:

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<sup>1</sup> "Skip year" program, or programs funded by the Congress in previous years but not requested in the budget for the year of execution, are not considered to be new start programs. The DD 1416, Report of Programs, must be annotated in cases where funding is added for these programs.



**Summary of Reprogramming Requirements (Continued)**  
**Effective for FY 2010 Appropriation**

- a. Operation and Maintenance Accounts: New starts would be significant new programs that have not been previously justified. This determination would be made at the O-1 subactivity level.
- b. Procurement Programs: An activity which requires the establishment of a new line item (at the P-1 level) or establishes a new subprogram not included in the procurement justification material (such as the P-40A and P-5A exhibits) is considered to be a new start. Guidance for specific procurement lines is as follows:
  - (1) Modifications: Modifications not included as specific lines on the P-3 are considered to be new starts.
  - (2) Aggregate lines (Items Less Than \$5 Million): End items not specifically justified in the P-40 are considered to be new starts.
  - (3) Information Technology: A new start is one not identified in the IT 300 exhibit, provided that the proposed program would require the preparation and submission of an IT 300 exhibit.
  - (4) Spares and Repair Parts: Items procured by these lines are normally not individually justified; therefore, procurement of additional items, based upon demand, would normally not be considered to be new starts.
- c. RDT&E Programs: A program which establishes a new program element, a new project, and a new task under a project not previously justified to the Congress on the R-2/R-2A is considered to be a new start.

*This summary and all implemented reprogramming actions are posted to the Comptroller's Public Web Site and can be viewed at [www.dod.mil/comptroller/execution/reprogramming](http://www.dod.mil/comptroller/execution/reprogramming).*

**Summary of Reprogramming Requirements**  
**Effective for FY 2009 and FY 2008 Appropriations**

**DD 1415-1 Prior Approval (PA) Reprogramming Actions**

1. Affects a congressional special interest item (unless the funds will be used for the same purpose; then an Internal Reprogramming (IR) is used). Note that statutory adds under section 8006 of the DoD Appropriations Act, 2009 are not congressional special interest items unless the tables or accompanying paragraphs use the phrase “only for” or “only to.” Programs, projects, and activities for which the amounts appropriated exceed the amounts requested, as prescribed in tables explaining project level adjustments in the explanatory statement accompanying the Act are subject to normal PA reprogramming procedures if such transfers exceed thresholds identified in the explanatory statement for the applicable appropriation type. The DoD Appropriations Act, 2008 did not include a general provision pertaining to statutory adds.
2. Involves the use of general transfer authority (GTA) or special transfer authority (STA) (i.e., provided for Overseas Contingency Operations) (unless the funds will be used for the same purpose; then an IR is used).
3. Exceeds thresholds.
  - a. Military Personnel: Increase of \$10 million or more in a budget activity.
  - b. Operation and Maintenance:
    - b.1. **Increase** of \$15 million or more in a budget activity.
    - b.2. **Increase** of \$15 million or more in a Defense Agency.

Exception is the Defense Health Program, Operation and Maintenance appropriation, a PA reprogramming is required for all transfers of funds out of the Direct (or In-House) Care budget activity group or into the Private Sector Care budget activity group.

  - c. Procurement appropriations for each budget line item:
    - (1) Increase: **\$20 million or more** in a procurement line item;
    - (2) Decrease: \$20 million or 20 percent of the appropriated amount, whichever is less.
  - d. RDT&E appropriations for each budget line item (i.e., program element):
    - (1) Increase: **\$10 million or more** in an existing program element;
    - (2) Decrease: \$10 million or 20 percent of the appropriated amount, whichever is less.
4. Establishes New Programs (i.e., New Starts) (See New Starts Below)
5. Terminates Appropriated Programs.
  - a. Eliminates a procurement program, subprogram, or modification of \$20 million or more.
  - b. Eliminates an RDT&E program element, project or subproject of \$10 million or more.
  - c. Eliminates an RDT&E program element, project, or subproject that is equal to the total amount of the program element, regardless of amount.



**Summary of Reprogramming Requirements (Continued)**  
**Effective for FY 2009 and FY 2008 Appropriations**

**DD Form 1415-3 Internal Reprogramming (IR) Actions**

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3. Establish new development programs costing less than \$10 million for the **entire** effort.
4. Initiate safety programs or safety modifications costing less than \$20 million for the **entire** effort; can be initiated immediately following congressional notification.
5. Terminate programs falling within the below threshold reprogramming amounts (procurement programs or subprograms costing less than \$20 million; RDT&E programs, projects, or subprojects costing less than \$10 million) as long as the procurement line item or RDT&E program element is not eliminated.
6. Identify specific line items to satisfy specific transfer notification requirements.
7. Require a 30-day notification to the Defense Committees prior to implementation. The Component may implement the reprogramming action 30-days after congressional notification unless an objection is received from a committee.

**Below Threshold Reprogramming (BTR) Authority Ground Rules**

1. If a PA reprogramming action has been approved to increase a program, procurement line item, or program element that was used to cash flow a higher priority requirement; a BTR **should not be used to 'reverse'** an approved PA reprogramming action for any program, procurement line item, and program element.
2. A BTR ***threshold*** is established for each appropriation and allows funds to be reprogrammed internal to the appropriation without obtaining congressional prior approval to finance cost increases to existing programs, with some exceptions. Any movement of funds between appropriations or between legal subdivisions within an appropriation is a "transfer" and requires the use of transfer authority.

**Summary of Reprogramming Requirements (Continued)**  
**Effective for FY 2009 and FY 2008 Appropriations**

3. The BTR shall not exceed the established thresholds. Each threshold reflects aggregate levels of reprogramming activity within military personnel, O&M, Procurement line items, and within RDT&E program elements. The BTR thresholds represent the cumulative amount that may be reprogrammed over the life of the appropriation.
4. The Components shall not use BTR authority to reduce congressional special interest items.
5. The Component shall not use BTR authority to increase lines specifically reduced by congressional action. Components may use BTR authority to restore non-specific reductions to these items, but only to the original level of the budget request or the level determined in the specific account tables reflected in the Statement of Managers accompanying the applicable Appropriations Act, whichever is less.
6. No BTR decrease may exceed the above thresholds or 20 percent, whichever is less, of the appropriated level for each procurement line item or RDT&E program element.
7. **BTR example:**  
    **Budget line item**  
    **BTR increase of \$5.0 million**  
    **BTR decrease of \$4.0 million**  
    **use \$1.0 million of BTR limitation.**

**New Start Requirements**

1. Any program not explicitly justified to, and funded by, the Congress is considered to be a new start program. In accordance with section 8081 of Public Law 110-329, the Department of Defense (DoD) Appropriations Act, 2009 and section 8085 of Public Law 110-116, the DoD Appropriations Act, 2008, the congressional oversight committees must be notified, in writing, prior to the initiation of any new start program. The Office of the Secretary of Defense (Comptroller) also must be provided such prior notification. The notification/approval procedures below will be used in all new start actions.
2. Proposed new start programs exceeding the following thresholds require prior approval of the congressional oversight committees, and will be submitted for approval as DD 1415-Prior Approval Reprogramming actions:
  - a. Establishes a new procurement program or modification estimated to cost \$20 million or more within the first 3 years.
  - b. Establishes a new RDT&E program, RDT&E project, or RDT&E subproject estimated to cost \$10 million or more within the first 3 years.

No action may be taken on the new program until approval of all committees has been received.

**Summary of Reprogramming Requirements (Continued)**  
**Effective for FY 2009 and FY 2008 Appropriations**

3. For new start programs falling below these thresholds, a notification letter to the oversight committees and to the Under Secretary of Defense (Comptroller) is required. Components may initiate the new program after the expiration of the 30-day notification period, unless an objection is received from a committee. New start notification letters must be staffed with the Office of the Under Secretary of Defense (Comptroller) **prior** to delivery to the oversight committees.

4. New start safety modifications or safety programs costing less than \$20 million for the entire effort may be initiated immediately after the written notification is delivered to the Congressional oversight committees.

5. The determination of whether a particular activity is a new start is made based upon the justification material presented to the Congress for the program year in which the new program is proposed. Particular care must be taken in making a determination of whether a program should be considered a new start. If a program is not explicitly addressed in the relevant justification material, it is considered to be a new start<sup>1</sup>. The following parameters are provided to guide the decision-making process:

- a. Operation and Maintenance Accounts: New starts would be significant new programs that have not been previously justified. This determination would be made at the O-1 sub-activity level.
- b. Procurement Programs: An activity which requires the establishment of a new line item (at the P-1 level) or establishes a new subprogram not included in the procurement justification material (such as the P-40A and P-5A exhibits) is considered to be a new start. Guidance for specific procurement lines is as follows:
  - (1) Modifications: Modifications not included as specific lines on the P-3 are considered to be new starts.
  - (2) Aggregate lines (Items Less Than \$5 Million): End items not specifically justified in the P-40 are considered to be new starts.
  - (3) Information Technology: A new start is one not identified in the IT 300 exhibit, provided that the proposed program would require the preparation and submission of an IT 300 exhibit.
  - (4) Spares and Repair Parts: Items procured by these lines are normally not individually justified; therefore, procurement of additional items, based upon demand, would normally not be considered to be new starts.

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<sup>1</sup> "Skip year" programs, or programs funded by the Congress in previous years but not requested in the budget for the year of execution, are not considered to be new start programs. The DD 1416, Report of Programs, must be annotated in cases where funding is added for these programs.

**Summary of Reprogramming Requirements (Continued)**  
**Effective for FY 2009 and FY 2008 Appropriations**

- c. RDT&E Programs: A program which establishes a new Program Element, a new Project, and a new task under a project not previously justified to the Congress on the R-2/R-2A is considered to be a new start.

*This summary and all implemented reprogramming actions are posted to the Comptroller's Public Web Site and can be viewed at [www.dod.mil/comptroller/execution/reprogramming](http://www.dod.mil/comptroller/execution/reprogramming).*

## EXPLANATORY STATEMENT

### DIVISION A, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT FISCAL YEAR 2010

Following is an explanation of the effects of Division A, which makes appropriations for the Department of Defense for fiscal year 2010. As provided in Section 8124 of the consolidated bill, this explanatory statement shall have the same effect with respect to the allocation of funds and the implementation of this as if it were a joint explanatory statement of a committee of the conference.

The recommendation on the Department of Defense Appropriations Act, 2010, incorporates some of the provisions of both the House and Senate versions of the bill. The language and allocations set forth in House Report 111-230 and Senate Report 111-74 should be complied with unless specifically addressed to the contrary in the accompanying bill and explanatory statement.

The Senate amendment deleted the entire House bill after the enacting clause and inserted new language. The recommendation includes revised language.

#### DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) and by the Budget Enforcement Act of 1990 (Public Law 101-508), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 2010, the related classified annexes and explanatory statements, and the P-1 and R-1 budget justification documents as subsequently modified by congressional action. The following exception to the above definition shall apply: for the military personnel and the operation and maintenance accounts, for which the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act.

At the time the President submits the budget for fiscal year 2011, the Secretary of Defense is directed to transmit to the congressional defense committees budget justification documents to be known as the "M-1" and "O-1" which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for military personnel and operation and maintenance in any budget request, or amended budget request, for fiscal year 2011.

## CLASSIFIED ANNEX

Adjustments to classified programs are addressed in the accompanying classified annex.

## CONGRESSIONAL SPECIAL INTEREST ITEMS

Items for which additional funds have been provided as shown in the project level tables or in paragraphs using the phrase "only for" or "only to" are congressional special interest items for purposes of the Base for Reprogramming (DD Form 1414). Each of these items must be carried on the DD Form 1414 at the stated amount, as specifically addressed in these materials.

## REPROGRAMMING GUIDANCE

The Department of Defense is directed to follow the reprogramming guidance for acquisition accounts as contained herein under titles III and IV. For operation and maintenance accounts, the Department shall follow the reprogramming guidelines contained herein under title II. The dollar threshold for reprogramming funds shall remain at \$15,000,000 for operation and maintenance; \$20,000,000 for procurement; and \$10,000,000 for research, development, test and evaluation.

Also, the Under Secretary of Defense (Comptroller) is directed to continue to provide the congressional defense committees quarterly, spreadsheet-based DD Form 1416 reports for service and defense-wide accounts in titles I, II, III and IV of this Act. The Department shall continue to follow the limitation that prior approval reprogrammings are set at either the specified dollar threshold or 20 percent of the procurement or research, development, test and evaluation line, whichever is less. The percentage change limitation applies to both the program increases and decreases. Additionally, this percentage change applies to the program base value at the time the below threshold movement of funds is executed. These thresholds are cumulative from the base for reprogramming as made by any adjustment action. Therefore, if the combined value of transfers into or out of operation and maintenance (O-1), a procurement (P-1) or research, development, test and evaluation (R-1) line exceed the identified threshold, the Department of Defense must submit a prior approval reprogramming to the congressional defense committees. In addition, guidelines on the application of prior approval reprogramming procedures for congressional special interest items are established elsewhere in these materials.

## FUNDING INCREASES

The funding increases outlined in the tables for each appropriation account shall be provided only for the specific purposes indicated in the table.

JOINT SURVEILLANCE-TARGET ATTACK RADAR SYSTEM (JSTARS)  
PROGRAM

The Department of Defense decision to proceed with the JSTARS re-engining program is supported in the recommendation. It is noted that the JSTARS program has been used as a source of funds



#### UNDISTRIBUTED REDUCTIONS BASED ON HISTORICAL UNDEREXECUTION

Both the House and Senate recommend execution reductions to the operation and maintenance accounts. The House's adjustment is based on the Government Accountability Office's analysis of historical budget execution trends. The Senate's adjustment is based on the historical difference between the request and obligations for restoration and modernization, citing data that the execution of appropriated funds was significantly different than what was requested for certain budget line items. Since the issues behind these recommendations are so similar, the recommendation includes an undistributed reduction to each of the operation and maintenance accounts based on historical underexecution. This reduction shall be applied to any budget line item with the exception of Facilities Sustainment, Restoration and Modernization lines.

#### FINANCIAL IMPROVEMENT AND AUDIT READINESS

It is concerning that the Department of Defense is not placing enough emphasis on improving financial management processes, internal controls and audit readiness capability. The Department should continue to develop and implement the Financial Improvement and Audit Readiness (FIAR) plan to correct financial management deficiencies and meet audit readiness objectives. Such actions would likely result in significant programmatic savings, increased efficiencies, and an improved ability to properly spend and account for the Department's critical assets and resources. The recommendation supports the Department of Defense's FIAR planning and financial improvement programs.

#### OPERATION AND MAINTENANCE REPROGRAMMINGS

The recommendation includes a provision identical to the provision enacted in fiscal year 2009 that requires the Department to submit the DD Form 1414, Base for Reprogramming Actions, for each of the fiscal year 2010 appropriations accounts within 60 days after the enactment of this Act. This provision prohibits the Department from executing any reprogramming or transfer of funds for any purpose other than originally appropriated until the aforementioned report is submitted to the House and the Senate Committees on Appropriations.

With respect to the Services' operation and maintenance accounts, the Department shall submit prior approval reprogramming requests to the congressional defense committees for proposed transfers of funds in excess of \$15,000,000 to or from the levels specified for budget activities. In addition, the Department shall follow prior approval reprogramming procedures for transfers in excess of \$15,000,000 out of the following budget sub-activities:

- Operation and Maintenance, Army:
  - Land Forces Depot Maintenance
- Operation and Maintenance, Navy:
  - Aircraft Depot Maintenance
  - Ship Depot Maintenance
- Operation and Maintenance, Marine Corps:
  - Depot Maintenance

Operation and Maintenance, Air Force:

- Air Operations Depot Maintenance
- Mobility Operations Depot Maintenance
- Basic Skills/Training Depot Maintenance
- Logistics Operations Depot Maintenance

In addition, the Department shall follow prior approval re-programming procedures for transfers in excess of \$15,000,000 into the following budget sub-activity:

Operation and Maintenance, Army National Guard:

- Other Personnel Support/Recruiting and Advertising

Further, the Department shall provide written notification of cumulative transfers in excess of \$15,000,000 from the following budget sub-activities:

Operation and Maintenance, Army:

- Maneuver Units
- Modular Support Brigades
- Land Forces Operations Support
- Force Readiness Operations Support
- Base Operations Support
- Facilities, Sustainment, Restoration and Modernization

Operation and Maintenance, Navy:

- Facilities Sustainment, Restoration and Modernization

Operation and Maintenance, Marine Corps:

- Facilities Sustainment, Restoration and Modernization

Operation and Maintenance, Air Force:

- Primary Combat Forces
- Combat Enhancement Forces
- Combat Communications
- Facilities Sustainment, Restoration and Modernization

With respect to Operation and Maintenance, Defense-Wide, proposed transfers of funds to or from the levels specified for defense agencies in excess of \$15,000,000 shall be subject to prior approval reprogramming procedures. In addition, the Department shall provide written notification of cumulative transfers in excess of \$15,000,000 or 20 percent, whichever is less, from the following line items identified in the Operation and Maintenance, Defense-Wide project level table contained in this Act:

Defense Legal Services Agency

Office of the Secretary of Defense:

- Acquisition, Technology, and Logistics Programs
- Personnel and Readiness
- Comptroller and Chief Financial Officer
- Under Secretary of Defense (Intelligence)
- Under Secretary of Defense (Policy)
- Director, Program Analysis and Evaluation

Assistant Secretary for Defense (Networks and Information Integration)

A congressional interest item contained in Operation and Maintenance, Defense-Wide is defined only as a specified increase provided in this Act.

#### OPERATION AND MAINTENANCE BUDGET EXECUTION DATA

The Secretary of Defense is directed to continue to provide the congressional defense committees with quarterly budget execution

## ARMY NATIONAL GUARD RECRUITING AND ADVERTISING

The Senate reduced funding to Sub-activity Group 434, Other Personnel Support, based on unjustified growth in recruiting and advertising between fiscal year 2009 and fiscal year 2010. Since the time of that proposed reduction, the Army National Guard has adequately justified the budget request for recruiting and advertising. The reason for the skewed original analysis was attributed to the amount of funding the Army National Guard realigns into Sub-activity Group 434 in the year of execution. In fiscal years 2007–2009, the Army National Guard realigned between \$100,000,000 and \$200,000,000 each year into recruiting and advertising. Because the Army National Guard has had flexibility to move a large amount of funding in the past, the recommendation includes an undistributed reduction to Operation and Maintenance, Army National Guard due to the migration of funds from other sources into recruiting and advertising. New prior approval reprogramming guidelines for the Army National Guard are addressed in the operation and maintenance overview.

## SPECIAL INTEREST ITEMS

Items for which additional funds have been provided as shown in the project level tables or in paragraphs using the phrase "only for" or "only to" are congressional interest items for purposes of the Base for Reprogramming Department of Defense form (DD Form 1414). Each of these items must be carried on the DD Form 1414 at the stated amount, as specifically addressed in these materials.

## C-130 AVIONICS MODERNIZATION PROGRAM

The recommendation provides no funding in Aircraft Procurement, Air Force for the C-130 Avionics Modernization Program given that the fiscal year 2009 funds have thus far not been put on contract due to a delayed Milestone C decision. Based on these delays, the funding requested for fiscal year 2010 is early to need. The Under Secretary of Defense (Acquisition, Technology, and Logistics) is strongly encouraged to make a decision on the acquisition strategy and proceed expeditiously with the program of record in order to provide this needed capability to Active, Guard, and Reserve C-130 aircraft.

## C-130 FIREFIGHTING CAPABILITY

The Secretary of the Air Force, the Chief of the Air Force Reserve and the Director of the National Guard Bureau, are directed, within 60 days of enactment of this Act, to create an Integrated Working Group (IWG) in conjunction with the United States Department of Agriculture Forest Service (USDAFS) and the Department of the Interior for the purpose of coordinating the joint use of Federal forest firefighting assets, and, within 90 days after formation of the IWG, to submit a report to the congressional defense committees; the House and Senate Committees on Appropriations, Subcommittees on Interior; the House Energy and Commerce Committee and Senate Energy and Natural Resources Committee, detailing the following:

1. The viability of the Air National Guard, the Air Force Reserve, and the USDAFS to jointly operate a fleet of new C-130s procured for the primary purposes of firefighting duties at the request of the USDAFS, and equipped with the latest proven firefighting technology.
2. Any and all prior analyses done in the past ten years by the Department of the Air Force, the National Guard Bureau or the USDAFS concerning the recapitalization of the national firefighting fleet.
3. A new business case analysis which examines the cost and operational effectiveness of procurement of new C-130 aircraft and joint cooperation between the Department of the Air Force, the National Guard Bureau and the USDAFS for the firefighting mission as compared to the present approach of utilizing the current fleet of aging firefighting aircraft available via commercial operator contracts.
4. Any existing legislative impediments to interagency cooperation and joint operation of a dedicated firefighting fleet by the Department of the Air Force, the National Guard Bureau and the USDAFS.

5. An assessment and accounting of public-private property losses as well as taxpayer expenses spent annually fighting forest and wildfires and how such losses can be mitigated by the described joint firefighting business model with respect to the Department of the Air Force, the National Guard Bureau and the USDAFS.

An interim report shall be submitted to Congress not later than 90 days after enactment of this Act detailing the progress made on the final report.

#### NON-INTRUSIVE INSPECTION TECHNOLOGIES

Vehicle and cargo-borne threats to U.S. forward operating bases and unmet requests for fielding non-intrusive inspection (NII) technologies for base access control to detect hidden weapons, explosives and personnel, increase the operating risk for our forces. The Secretary of Defense is directed to prioritize the NII technology needs of the 100 highest-risk bases and submit a schedule for NII technology procurement for these bases to the congressional defense committees not later than 30 days after enactment of this Act.

#### JOINT STRIKE FIGHTER

Concerns persist regarding the progress of the F-35 Joint Strike Fighter (JSF) program. Last year, the Department of Defense established a Joint Estimating Team (JET) to evaluate this program. The JET reported that the program would cost significantly more and take longer to fully develop and test than the Department was then projecting. Although the JET has yet to officially report out for 2009, the initial indications are that cost growth and schedule issues remain. Nevertheless, the Department insists that the program is on track to achieve both the cost and schedule currently reflected in the program of record.

Therefore, the JSF procurement program is provided \$6,840,478,000, and the JSF program is designated as a congressional special interest item. The Secretary of Defense is directed to ensure that all 30 aircraft be procured as requested in the budget. The Under Secretary of Defense for Acquisition, Technology and Logistics is directed to provide the findings of the JET along with recent studies on the test program and causes of cost growth to the congressional defense committees no later than January 15, 2010.

#### REPROGRAMMING GUIDANCE FOR ACQUISITION ACCOUNTS

It is the intent of Congress that the program baseline for reprogramming funds reflects all approved adjustment actions: the initial appropriation as well as any rescissions, supplemental appropriations and approved Department of Defense 1415 reprogrammings. The Secretary of Defense is directed to ensure that financial management regulations incorporate approved reprogramming actions as an adjustment to the base for reprogramming value.

The Department of Defense is directed to continue to follow the reprogramming guidance specified in the report accompanying the House version of the fiscal year 2006 Department of Defense Ap-

proprations Act (H.R. 109-119). Specifically, the dollar threshold for reprogramming funds will remain at \$20,000,000 for procurement and \$10,000,000 for research, development, test, and evaluation. The Department shall continue to follow the limitation that prior approval reprogrammings are set at either the specified dollar threshold or 20 percent of the procurement or research, development, test and evaluation line, whichever is less. The percentage change limitation applies to both program increases and decreases. Additionally, this percentage change applies to the program base value at the time the below threshold movement of funds is executed. These thresholds are cumulative from the base for reprogramming value as modified by any adjustment action. Therefore, if the combined value of transfers into or out of a procurement (P-1) or research, development, test, and evaluation (R-1) line exceeds the identified threshold, the Department of Defense must submit a prior approval reprogramming request to the congressional defense committees. In addition, guidelines on the application of prior approval reprogramming procedures for congressional special interest items are established elsewhere in this report. This guidance is effective for fiscal year 2010 and forward.

#### REPROGRAMMING REPORTING REQUIREMENTS

The Under Secretary of Defense (Comptroller) is directed to continue to provide the congressional defense committees quarterly, spreadsheet-based DD1416 reports for service and defense-wide accounts in titles III and IV of this Act as required in the statement of the managers accompanying the conference report on the Department of Defense Appropriations Act, 2006.

#### FUNDING INCREASES

The funding increases outlined in these tables shall be provided only for the specific purposes indicated in the table.



The recommendation includes no language regarding the use of funds for the creation of a new Executive Agent or Executive Director for Advanced Energetics and directs instead that the Secretary of Defense shall provide a report to the congressional defense committees not later than October 1, 2010, on progress being made on the findings and actions in the June 2009 report.

#### DOMESTIC ENERGY PRODUCTION

There is concern that a plan has not been presented to fund continued development and risk mitigation of domestic gas centrifuge enrichment technology during fiscal year 2010. Despite that, there is support for efforts to develop domestic gas centrifuge enrichment technology so that it can move to commercial scale uranium enrichment operations and potentially serve as a domestic source of fuel for nuclear power and the enrichment requirements of the defense community. Therefore, the Secretary of Defense, in consultation with the Department of Energy, is urged to explore utilizing all possible existing statutory authority to fund this important activity and to report to the Committees on Appropriations of both the House and Senate no later than 30 days following enactment of this Act regarding funding options.

#### SPECIAL INTEREST ITEMS

Items for which additional funds have been provided as shown in the project level tables or in paragraphs using the phrase "only for" or "only to" are congressional interest items for purposes of the Base for Reprogramming Department of Defense form (DD Form 1414). Each of these items must be carried on the DD Form 1414 at the stated amount, as specifically addressed in these materials.

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