EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
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(Senate)

STATEMENT OF ADMINISTRATION POLICY

S. 2943 – National Defense Authorization Act for Fiscal Year 2017

(Sen. McCain, R-AZ)

The Administration appreciates the Senate Armed Services Committee's continued support of our national defense and supports a number of provisions in S. 2943, the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017. The Administration also appreciates that S. 2943, as reported by the Committee, would authorize resources to support our troops in a manner that is consistent with the Bipartisan Budget Act of 2015 without relying on budgetary gimmicks that risk the safety of our service members and undercut stable planning and efficient use of taxpayer dollars. Of particular note are provisions supporting the Administration's pay raise and force structure requests. As the bill is considered by the Senate, it is critical that the Congress adhere to the principle that any increase in funding must be shared equally between defense and non-defense – a central tenet of last fall's budget agreement.

The Administration strongly objects to many provisions in this bill that would hinder the Department of Defense's (DOD) ability to execute the President's defense strategy and the Administration's ability to carry out national security and foreign policy. Specifically, the bill attempts to micromanage DOD by impeding the Department's ability to respond to changing circumstances, directing overly prescriptive organizational changes, preventing the closure of Guantanamo, and limiting U.S. engagement with Cuba, and includes provisions that set an arbitrary limit on the size of the President's National Security Council staff. The bill would undermine expert judgments of the Department's civilian and military leadership and constrain the ability of the President and the Secretary of Defense to appropriately manage and direct the Nation's defense.

Reorganizing DOD without careful study and consideration would undermine the Department's ability to continue to carry out its national security functions, and comes at a dangerous time, with U.S. forces deployed across the globe, including as part of the Counter-ISIL campaign and NATO mission in Afghanistan. S. 2943 would restructure key parts of DOD in ways that have not been thoroughly reviewed by experts, either within or outside the Department, and that are likely to make the Department less efficient and agile. For example, it would dissolve the Office of the Under Secretary for Acquisition, Technology, and Logistics (USD/AT&L) and replace it with failed models of the past. USD/AT&L has a track record of improved acquisition performance for the taxpayer since the implementation of the Weapon Systems Acquisition Reform Act of 2009 (WSARA) and the Better Buying Power initiatives of 2010 to the present. The bill would create dysfunctional partitions across DOD's research, engineering, procurement, and sustainment systems that will make it harder to sustain the Department's improved performance. The bill would reverse key aspects of WSARA, which reinforced early attention to requirements, cost and schedule estimates, testing, and reliability. The bill also would insert a civilian, other than the President or the Secretary of Defense, into the administrative chain of command for the first time. Simultaneously, it would direct the establishment of cross-

functional entities, which in many cases already exist, but, if structured as the bill requires, would undermine the authority of the Secretary, add bureaucracy, and confuse lines of responsibility.

The bill includes other troubling provisions affecting the Department. For example, it would rigidly prescribe the use of a wide range of contracting methods in circumstances that history has proven are not appropriate or efficient in meeting the military's needs. It would direct wholesale reorganization of military medical treatment facilities, which would jeopardize the readiness of military healthcare providers to carry out wartime missions. It would prescribe onerous, across-the-board cuts to senior military billets, civilian executives, and contractors at a time when the Department is already undertaking a 25 percent cut to headquarters activities and other significant reforms to become leaner and more efficient. The bill also would impair personnel policies, such as parental leave and housing allowances, which are important to supporting the force – particularly female service members. These personnel changes would harm the Department's ability to recruit and retain the high-quality service members that our all-volunteer force requires. In addition, S. 2943 would impose unneeded costs, constraining DOD's ability to balance military capability, capacity, and readiness, including by failing to authorize a new Base Realignment and Closure (BRAC) round.

The bill continues unwarranted restrictions regarding detainees at Guantanamo Bay and adds new provisions, attempting to dictate how the Executive Branch conducts foreign policy and requiring the disclosure of sensitive national security information. The Administration also objects to the inclusion of non-germane provisions, such as those exempting defense contractors from an Executive Order (EO) that ensures that agencies are identifying and working with contractors with track records of compliance with labor laws. These provisions have nothing to do with the national security of our country, and decrease the economy and efficiency of the Federal procurement system. Furthermore, the Administration strongly objects to efforts to limit our engagement with Cuba, curtailing the normalization of our relationship. The Administration is also concerned that, in addition to lacking defense and non-defense parity, expected attempts to increase funding for defense accounts will fail to reflect the highest joint priorities of the Department, ensure programmatic stability and continuity and contribute to improvements in the readiness of the joint force, rather than exacerbate readiness challenges.

If the President were presented with S. 2943, his senior advisors would recommend he veto the bill.

The Administration looks forward to working with the Congress to address these and other concerns, a number of which are outlined in more detail below, and urges the Congress to work in a bipartisan fashion to make necessary changes to the bill. The Administration also looks forward to reviewing the bill's classified annex and working with the Committee to address any concerns on classified programs.

Guantanamo Detainee Provisions: The Administration strongly objects to several provisions of the bill that relate to the detention facility at Guantanamo Bay, Cuba. As the Administration has said many times before, the continued operation of the facility weakens our national security by draining resources, damaging our relationships with key allies and partners, and emboldening violent extremists. In February, the Administration submitted a comprehensive plan to safely and responsibly close the detention facility at Guantanamo Bay, Cuba, and to bring this chapter of our history to a close. Rather than taking the steps necessary to close the facility, this bill

includes several provisions that would seek to extend its operation. While some provisions represent an improvement over current law by authorizing additional flexibility in some circumstances, the bill fails to eliminate the unwarranted limitations on the transfer of detainees, including the onerous restrictions that currently constrain the transfer of detainees to foreign countries, and introduces additional problematic restrictions that would impede closure of the facility.

Among the onerous, unwarranted and harmful provisions, section 1029 would prohibit the transfer of detainees to numerous countries on the basis of State Department travel warnings, which are designed for the unrelated purpose of conveying information to individual tourists and other travelers about potential dangers associated with travel to those countries. These warnings do not reflect a country's ability to mitigate potential risk with regard to transferred detainees or serve as an appropriate substitute for the Administration's careful and individualized assessment based on all relevant facts and circumstances of the capability of potential receiving countries to successfully reintegrate detainees and implement appropriate security measures.

In addition, section 1027 would require the Secretary of Defense to provide to the Congress prior to any transfer a memorandum of understanding containing diplomatic assurances from the foreign nation to which the detainee would be transferred. Across two administrations, the Executive Branch has consistently informed the Congress and represented before U.S. courts that disclosing such diplomatic assurances from foreign governments would reduce the willingness of these and potentially other countries to cooperate with the United States on a range of matters. Section 1027 would also require the disclosure of sensitive national security information not only to the Congress, but to the very nation that is the subject of the assessment. Further, section 1028 could require the Secretary of Defense to provide the Congress with classified, sensitive national security information about detainees, in unclassified form.

The President has objected to the inclusion of these and similar provisions in prior legislation. Further, the provisions concerning detainee transfers could raise several constitutional concerns. In certain circumstances, sections 1021, 1026, 1027, and 1029 would violate constitutional separation of powers principles. Sections 1026 and 1029 could, in some circumstances, interfere with the ability to transfer a detainee who has been granted a writ of habeas corpus. And, as explained, sections 1027 and 1028 could require the disclosure of privileged information. The Administration would treat these provisions consistent with the President's constitutional authority in these areas.

Restriction of the Size and Function of the National Security Council (NSC) Staff: The Administration strongly objects to section 1089, which would place an arbitrary limitation of 150 professional NSC staff, which assists the President by coordinating national security policy across the many departments and agencies in the Executive branch. By contrast, the combined staff of the Senate Armed Services, Foreign Relations, Homeland Security, and Intelligence Committees is larger than 150 people. This provision would radically restructure the NSC staff, requiring an arbitrary reduction in personnel that could inhibit the NSC staff's ability to advise and assist the President as he carries out his national security and foreign policy agenda in an increasingly complicated world. Indeed, the NSC staff includes a number of positions that were added after a 2009 review recommended the creation of additional directorates and positions to address emerging threats and challenges, such as cybersecurity and weapons of mass destruction-related terrorism. Arbitrarily reducing the size of the NSC staff could impede the NSC staff's ability to coordinate interagency policy and advise and assist the President on these important

issues. Moreover, this Administration has already actively sought to ensure appropriate NSC staff levels, reducing the staff by 12 percent in the last eighteen months.

Elimination of the Under Secretary of Defense for Acquisition, Technology and Logistics (USD/AT&L): The Administration strongly objects to section 901, which would eliminate the USD/AT&L and assign its duties to multiple officials, including a new Under Secretary for Research and Engineering, an Under Secretary for Management Support, and an Assistant Secretary for Acquisition Policy and Oversight. Unlike the USD/AT&L, the new Under Secretary for Research and Engineering would not have responsibility for developmental testing, which provides critical feedback regarding the early identification of design problems that is crucial for successful acquisition programs. The new Under Secretary would not have responsibility for contractor oversight and life-cycle sustainment costs, which would undermine DOD's ability to control contractor costs and oversee performance through the life of a program. And the new Under Secretary would not have the authority to direct the military departments and DOD components, undermining the ability of the Secretary of Defense to provide guidance and direction to the military services on major acquisition programs. Finally, the assignment of logistics oversight functions to both a new Deputy Assistant Secretary of Defense for Logistics and Sustainment under the new Assistant Secretary for Acquisition Policy and Oversight and a new Under Secretary of Defense for Business Management would fracture and misalign logistics authorities, management, and execution and ignore the key logistics authorities and policies related to deploying, sustaining, and retrograding forces in contingency operations. Taken together, these changes would roll back the acquisition reforms of the last two decades and risk returning the Department to an era in which overly optimistic cost estimates, inadequate system engineering and developmental testing, inappropriate reliance on immature technologies, ineffective contractor management, and lack of focus on life-cycle costs by the military departments led to explosive cost growth and the failure of multiple major defense acquisition programs. It is particularly inappropriate for the Congress to do this now, when the data clearly shows that recent performance of the Department's acquisition system has improved markedly in recent years. For example, the proportion of major programs projecting funding savings below baseline has risen from 29 percent to 57 percent in development, and 44 percent to 79 percent in unit procurement, between the 2009 and 2014 Selected Acquisition Reports. Many of the reforms accomplished under WSARA and the Better Buying Power initiatives of 2010 to the present would be overturned just as compelling evidence that they are succeeding has become available.

Undermining DOD Organization and Structure: The Administration strongly objects to sections 941 and 942, which would undermine the Secretary of Defense's ability to exercise authority, direction, and control over the Department. The provisions would blur lines of responsibility and control over resources within the Department, and would require the issuance of numerous unnecessary and burdensome policies, directives, and reports. Section 941 would undermine the Secretary's ability to create effective cross-functional teams, which are already an extremely common feature of the way the Department is organized today. For example, the Joint Requirements Oversight Council, the Defense Acquisition Board, the 3-Star Programmers, the Global Posture Executive Council, and the Deputy's Management Action Group are all chartered cross-functional organizations at the heart of the Department's core functions. These sections would limit the Secretary's ability to use teams such as these by mandating an inflexible legislative schedule for the establishment of such teams and requiring that the teams write their own charters. Section 941 also would give directive authority over other elements of the Department and authorize them to requisition personnel and resources from other parts of the

Department without regard to competing mission requirements. Furthermore, by directing the Department to enter into contracts with outside consultants to obtain advice on the performance of the teams, this provision is squarely at odds with section 905, which would require considerable cuts to contractors in the Department. Section 941 would also prohibit the nomination of an individual to a senior DOD position unless the individual has successfully completed a course in "leadership, modern organizational practice, collaboration, and the operation of mission teams." Sections 941 and 942 would require the Secretary to establish two separate comprehensive organizational strategies with overlapping and not always consistent requirements and different reporting requirements. Contrary to the stated objective of the legislation, these provisions would establish new processes and new paperwork burdens, resulting in increased bureaucracy and a larger, less efficient, and less responsive DOD organization.

Organization of the Department of Defense for Management of Special Operations Forces and Special Operations: The Administration objects to section 923, which would insert an Assistant Secretary into the administrative chain of command for the first time since the enactment of the National Security Act of 1947, displacing the Service Secretaries. This provision would also amend the responsibilities of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict to include assisting the Secretary and the Under Secretary of Defense for Policy in the development and supervision of policy, program planning and execution, and allocation and use of resources for the activities of the Department for countering the proliferation of weapons of mass destruction (CWMD). These CWMD responsibilities currently reside under the Assistant Secretary of Defense for Homeland Defense and Global Security. Finally, this provision would intrude on the authority and the prerogative of the Under Secretary of Defense for Policy to manage the organization to provide the best support to the Secretary and the President.

Realignment of Director of Developmental Test and Evaluation (DT&E): The Administration strongly objects to section 894, which would realign the Director of DT&E under the Director of Operational Test and Evaluation (DOT&E). DT&E is part of the acquisition process and provides insight into managing risks, measuring technical progress, and characterizing technical performance during development. Independent of the acquisition process, DOT&E provides an assessment that characterizes a weapons system's operational effectiveness, suitability, and survivability. Therefore, DOT&E performs oversight that is singularly focused on testing, without regard for the fiscal and schedule realities of DOD acquisition. The realignment of DT&E under DOT&E would eliminate this separation, undermine a program manager's authorities and responsibilities, and drive increases in program cost and schedule by severely impacting the services' ability to plan and execute developmental test and evaluation strategies within the framework of the DOD acquisition process.

U.S.-Cuba Military Engagement: The Administration strongly objects to the additional restrictions that would be placed on U.S.-Cuban military-to-military interactions. The proposed restriction would hamper pragmatic, expert-level coordination between the United States and Cuba on issues that benefit the United States. For example, the Commanding Officer of U.S. Naval Station Guantanamo Bay and his Cuban counterpart meet monthly to share information about activities on both sides of the fence to reduce the risk of accidental escalation. While section 1204 carves out an exception for exercises and operations related to humanitarian assistance and disaster relief, it does not provide an exception or waiver for counter-narcotics. In addition, section 1204 limits the ability of the Secretary of Defense to invite, assist, or assure the

participation of the Government of Cuba in security conferences, where much of the multilateral preparatory work on humanitarian assistance, disaster relief, and counter-narcotics takes place. It is in the U.S. national security interest to maintain flexibility in U.S. military-to-military engagement with Cuba due to Cuba's proximity and the many shared challenges faced by the United States and Cuba.

Prohibition on Conducting Additional BRAC Round: The Administration strongly objects to section 2702 and strongly urges the Congress to provide BRAC authorization as requested so that DOD can make better use of scarce resources. Maintaining excess infrastructure is costly and wasteful, and it deprives the Department of the ability to reallocate scarce resources to address readiness, modernization, and other national security requirements. In addition to addressing every previous Congressional objection to BRAC authorization, the Department recently conducted a DOD-wide parametric capacity analysis which demonstrated that the Department has 22 percent excess capacity. Additionally, the Administration's BRAC legislative proposal includes several changes that respond to Congressional concerns regarding cost. Specifically, the revised BRAC legislation requires the Secretary to certify that BRAC will have the primary objective of eliminating excess capacity and reducing costs; emphasizes recommendations that yield net savings within five years (subject to military value); and limits recommendations that take longer than 20 years to pay back. The Administration strongly urges the Congress to provide BRAC authorization as requested.

Modification of National Missile Defense Policy: The Administration appreciates the Committee's continued support for the Nation's ballistic missile defense programs. However, the Administration strongly objects to section 1665, which would amend section 2 of the National Missile Defense Act of 1999 (Public Law 106-38; 10 U.S.C. § 2431) by striking ‘limited.' The inclusion of this word is specifically intended to convey that the U.S. homeland missile defense system is designed and deployed to counter limited attacks (in number and sophistication) from Iran and North Korea, and not to counter the strategic deterrence forces of Russia and China. The Administration continues to believe that the most reliable and effective means to deter major nuclear powers from ever contemplating an attack on the United States is by maintaining a modern and robust strategic nuclear deterrent force.

Counterterrorism Partnerships Fund (CTPF): The Administration strongly objects to the elimination of CTPF in section 4502, which would remove a valuable tool for partnership-focused approaches to counterterrorism. Cutting CTPF would greatly reduce the Administration's flexibility to provide counterterrorism assistance to foreign partners. The Administration strongly encourages the Congress to authorize the $1 billion originally requested to continue support for CTPF activities in FY 2017.

TRICARE Reform: The Administration greatly appreciates the Committee's meaningful TRICARE benefit reforms in sections 701 and 702, which closely resemble those included in the President's Budget. However, the Administration is disappointed that the legislation does not include a modest enrollment fee for TRICARE for Life and phases in TRICARE Choice enrollment fees for non-Medicare eligible retirees over five years. Together, these elements of the Administration's proposal would provide nearly $2.6 billion in additional savings over a five -year period. The Administration encourages the Congress to fully adopt the benefit reform provisions submitted with the President's Budget. The Administration is also very concerned about section 726, which has the potential to cause serious program disruption and induce high additional costs derived from the unintended consequence of further complicating health care

contract acquisition processes to comply with its detailed legislative mandates. The section would include a provision on continuous competition, allowing "automatic renewal" of the managed care contracts for up to 10 years, but then would prohibit the incumbent from rebidding on the successor contract. It also would allow either party to terminate the contract with 180 days' notice. Either provision could result in large geographic areas losing their TRICARE managed care contracts, severely limiting beneficiary access to civilian care. The multi-billion dollar TRICARE management contracts require substantial acquisition process time, compliance with many statutory requirements, and robust transition periods between contractors. As written, responsible implementation of this section is not feasible.

Military Health System Reform: The Administration strongly objects to section 721, which would radically restructure the military health system. The language severs the relationship between each Service and its medical department, jeopardizing the ability of the Department to readily provide operational medical support. It also would separate the accountability for medical support to military missions and the responsibility for the quality of care from operational missions. Both functions are critically important to maintain the documented success in saving lives on the battlefield. The Defense Health Agency is both a DOD entity and a Combat Support Agency; however, when working operational support issues, there is considerable difference between having an accountable leader with knowledge of the mission in the Service chain of command versus a leader outside of that chain, as provided by section 721. The Department agrees that standardization of common clinical and business processes will lead to more effective and efficient care, and commits to substantially accelerating achievement of a common, enterprise approach consistent with the Services' operational readiness requirements. The Department looks forward to working with the Congress to ensure that the Military Health System provides state-of-the-art, quality care to all it serves, on and off the battlefield, while maintaining critical readiness capability to support the military mission.

Modifications to the Newly-Created Military Retirement System: The Administration appreciates the flexibility provided by sections 631-633 in connection with retired pay reform and urges the Congress to support the use of continuation pay for service members with up to 16 years of service, given varying retention rates across career fields and the military departments. However, the Administration is concerned about mandating a 2.5 monthly basic pay multiplier for continuation pay for all members. Allowing DOD greater flexibility to adjust the timing and amount of continuation pay would allow military services to shape the force more effectively and efficiently.

Restructure of Basic Allowance for Housing (BAH): The Administration strongly objects to section 604, which would undermine the existing structure of BAH, return the allowance to its distorted state from the mid-1990s, and reinstitute a burdensome and inefficient administrative-authorization process by limiting BAH payments to actual expenses. It would also undermine the structure by basing the allowance solely on grade and location (disregarding dependency status), and would inappropriately penalize some service members over others by linking their BAH payments to their status as members of dual-military couples (members married to other members). Section 604 would disproportionately affect female service members and those military families in which both military members have chosen to serve their country (20 percent of the women on active duty are in a dual-military marriage, compared with 3.8 percent of active duty men). Both members of a dual-military couple would be provided a lesser compensation package than other members of equal grade, sending a message that their service is not as highly valued. It would similarly penalize members who choose to share housing with other members

and thus would inhibit the ability of junior service members to obtain suitable housing in tight rental markets, which is currently a recurring concern. Also, section 604 would hurt the recruitment and retention of high-quality service members and their families, making it difficult to sustain the all-volunteer force. Finally, the changes would also impact benefits under multiple VA educational assistance programs that are based on BAH rates, potentially decreasing payment amounts, increasing the complexity of benefit calculations, and negatively impacting the timeliness of benefit delivery.

Military Leave: The Administration objects to section 532, which would diminish the plenary authority of the Secretary of Defense and undermine his ability to manage the force. The Administration urges the Congress to support DOD's military leave proposal, which strikes the right balance between parental benefits and sustaining readiness. Additionally, the terms "primary" and "secondary" caregiver are used throughout the bill language without legislative definition. Given the myriad family situations in the force, the Department does not believe that these terms can be defined in a manner that creates a workable construct for implementing and administering the provision.

Headquarters Workforce Limitations: The Administration strongly objects to sections 904 and 905, which would impose new restrictions on the size of the civilian and contracted services workforces for DOD headquarters. In accordance with the requirements of section 346 of the FY 2016 NDAA, DOD has re-baselined its major headquarters activities and put in place a comprehensive plan to achieve a 25 percent reduction in the size of headquarters by FY 2020. The Department believes that the imposition of additional limitations on subcategories of headquarters and the revival of old and inconsistent headquarters definitions would add unnecessary bureaucratic requirements, further complicate the mission of reducing headquarters, and reduce the Department's capacity to respond to emergent mission changes and requirements. With the ongoing reductions and the many other reform efforts the Department has undertaken since 2008, we believe the Department's headquarters will be right-sized, given the tremendous breadth and depth of the Department's mission. Further cuts must be targeted, designed to reduce specific identified redundancies or inefficiencies, or come with commensurate reductions in the Department's mission.

Reduction in General Officer and Flag Officer Grades and Positions: While the Administration supports simplifying and improving command and control of the military, particularly where the number of four-star positions have made headquarters either top-heavy or less efficient, it objects to section 501, which would arbitrarily reduce the number of general and flag officers by 25 percent by the end of calendar year 2017. Reductions to the number of general and flag officer positions should be made deliberately after reviewing the role of each position and analyzing the impact of the reduction on the force. The Administration intends to reduce the number of four-star positions and across-the-board mandated reductions would degrade the effectiveness and readiness of the force.

Limitation on Number of Senior Executive Service (SES) Employees: The Administration objects to section 1112, which would make a mandatory, 25 percent across-the-board reduction in the number of the Department's SES employees by January 1, 2019. The Administration supports the elimination of unnecessary and excessive executive positions as evidenced by DOD's elimination of 97 SES positions in 2011, and a further reduction of over 140 SES positions since then. However, any further reductions to SES positions in DOD should be made in a deliberate manner following a review and analysis of the impact of such reductions on the

functioning of each component or agency. Requiring DOD to arbitrarily cut additional SES positions across-the-board would create long-term negative impacts for various DOD services and organizations.

Coalition Support Fund: The Administration appreciates the extension of authority and funds associated with section 1212(f) of the FY 2016 NDAA.

Pakistan Security Enhancement Authorization: The Administration welcomes this authority to support security and stability in Pakistan, particularly in the Federally-Administered Tribal Areas and Khyber Pakhtunkhwa. However, the Administration objects to subsection (d) of section 1214, which would make Pakistan ineligible for the Secretary of Defense's waiver authority unless the Secretary provides a certification to the congressional defense committees. We share the Committee's concerns regarding the threat posed to our forces and interests in Afghanistan by the Haqqani Network, and we continue to engage with Pakistan at the highest levels regarding the need for concerted action specifically against the group. However, the restriction in subsection (d) would unnecessarily complicate progress in our bilateral relationship on this issue and would limit the Secretary of Defense's ability to act in the U.S. national security interest.

Security Cooperation Enterprise Reforms: The Administration appreciates the Committee's efforts to reform DOD's security cooperation enterprise in subtitle G of Title XII, particularly certain Administration requested reform proposals. The bill also proposes far-reaching reforms in a number of areas to enhance the transparency and oversight of security sector resources, professionalize the workforce, and improve the alignment of authorities to defense strategy. While these proposed reforms seek to address a number of existing challenges in the current framework, they go beyond the Administration's request with potentially broad ramifications that need to be analyzed carefully. Any reforms ultimately must ensure that no harm is done to DOD's current security cooperation and force readiness efforts, or to the State Department's lead role in foreign policy and security sector assistance, including by inappropriately codifying, expanding, limiting, or eliminating current authorities, resources, or mechanisms necessary to ensure that the United States pursues a coherent and consistent foreign policy through all assistance activities. In addition, this consolidation could undermine DOD's ability to support the Afghan National Defense and Security Forces.

Foreign policy and security cooperation authorities must continue to strike a balance between specific defense initiatives and broader foreign policy priorities. The bill's expansion of existing security cooperation authorities must continue to preserve or include requested mechanisms for ensuring State Department foreign policy direction, including joint formulation. The Administration is eager to work with the Committee, and with the Congress, to ensure the final legislation undertakes Administration-requested reforms in a carefully considered manner that avoids duplication of efforts and authorities, and unintended consequences for current DOD and State security sector assistance activities.

Prohibition on Use of Funds for Certain DOD Programs and Projects in Afghanistan that Cannot be Safely Accessed by United States Government Personnel: The Administration objects to the language included in section 1213, which would adversely affect two key assistance programs -- the Afghanistan Security Forces Fund (ASFF) and the Commander's Emergency Response Program (CERP). DOD cannot predict or guarantee the future security environment in the vicinity of every program and project that is funded by CERP or ASFF, which are often used to fund multi-year programs and projects. As a result, DOD would potentially be required to seek a

waiver for every program and project -- a burdensome requirement that could negatively affect DOD's ability to address urgent needs of the local population, interrupt or slow down training and sustainment programs, and delay funding the critical needs of the Afghanistan National Security and Defense Forces at a time when insurgent forces are leveraging every opportunity to threaten Afghanistan's security.

Multiple Provisions Imposing Restrictions on the Evolved Expendable Launch Vehicle (EELV) Program: The Administration strongly objects to sections 1036, 1037, 1038, and 1611. Section 1036 would restrict DOD's authority to use RD-180 engines, eliminate the Secretary's authority to waive restrictions to protect national security interests, and -- with section 1037 -- disqualify a domestic launch service provider from offering a competitive, certified launch service capability. Section 1038 would repeal the statutory requirement to allow all certified providers to compete for launch service procurements. Section 1611 would redirect funds away from the development of modern, cost-effective, domestic launch capabilities that will replace non-allied engines. The combined effect of these provisions would be to eliminate price-based competition of EELV launch service contracts starting in FY 2017, force the Department to allocate missions, inhibit DOD's ability to maintain assured access to space, delay the launch of national security satellites, delay the on-ramp of new domestic launch capabilities and services, and increase the cost of space launch to DOD, the Intelligence Community, and civil agencies. The authorization to use up to 18 RD-180 engines is necessary and prudent to expeditiously and affordably transition to the new domestic launch capabilities currently under development.

Transition of Air Force Operation of Remotely Piloted Aircraft (RPA) to Enlisted Personnel: The Administration strongly objects to section 1046, which would require the Air Force to transition all RPA operations to an organizational model that uses enlisted personnel for the preponderance of RPA operations by September 30, 2019. Over the last decade, the demand for RPA forces has grown dramatically, and various factors have resulted in undesirable cuts in training capacity and ultimately reduced the number of trained aviators. To address this issue, the Air Force developed and is implementing a get-well plan that has begun correcting pilot shortfalls and increasing RPA pilot manning to achieve and sustain a healthy RPA enterprise. Before the Congress mandates any particular manning determinations, the Air Force should be allowed to conduct a study assessing the appropriate future balance of officer-enlisted pilots/crews in the RPA enterprise and any potential impacts on future Air Force force structure. Directing a date and percentage for integrating enlisted pilots prior to understanding the ramifications for training through-put and force management may negatively impact the entire RPA force and reduce combat capability at a time when it is beginning to create a healthy enterprise after years of continuous surge operations.

U.S. Government Accountability Office (GAO) Assessment of Satellite Acquisition by National Reconnaissance Office (NRO): The Administration strongly objects to section 1606, which would require the Comptroller General to continually assess the cost, schedule, and performance of NRO programs that receive funding from the Military Intelligence Program or are supported by DOD personnel. Such an expansive definition would require annual audits of all NRO programs, not just those funded in part by DOD. This additional oversight would be exceptionally burdensome and unnecessarily wasteful to an agency that has received seven consecutive clean financial audits and was recently recognized by the Congress for its systems acquisitions excellence. The current oversight regime is sufficient and appropriate, and includes the NRO Inspector General, DOD, the Office of the Director of National Intelligence, the Inspectors General of those agencies, the Office of Management and Budget, and the

Congress. Since 2011, GAO access has been administered by Intelligence Community Directive 114, which reflects an agreement between the Comptroller General and the Director of National Intelligence. Given the sensitivity of NRO acquisitions, extensive GAO access would present security risks to the Nation's most sensitive space programs.

Limitation on Acceleration of Dismantlement of Retired Nuclear Weapons: The Administration strongly objects to section 3113, which would place unnecessary restrictions on the ability of the President to exercise his responsibilities to manage the nuclear arsenal. The Administration also objects to the reduction in funding for accelerated dismantlement of retired nuclear warheads. The United States has a considerable backlog of retired warheads awaiting dismantlement that are no longer needed for military purposes. Funding for accelerated dismantlement is important both to appropriately manage the U.S. nuclear arsenal in a safe, secure, and effective way and to demonstrate continued U.S. commitment to nonproliferation and disarmament.

Nonproliferation Construction: The Administration strongly objects to continued construction of the Mixed Oxide (MOX) Fuel Fabrication Facility and to section 3114 which would require yet another study of the cost and time necessary to complete this facility. Even with a firm fixed-price contract for the MOX Fuel Fabrication Facility, numerous previous studies have confirmed that the alternative disposition method is expected to be significantly faster and less expensive. Consistently, these reviews have concluded that the projected life-cycle costs of the MOX fuel approach for plutonium disposition will be $30-$50 billion, and possibly higher, and will require approximately $800 million to $1 billion annually for decades through the life of the program. It would be irresponsible for the Congress to require continued construction of this project, which would only serve to waste limited national security funds and force more pressing nuclear security needs to go unmet. The already-proven alternative method of disposition is expected to be significantly faster and less expensive than the MOX approach, has far lower risks, and will begin to move plutonium out of the State of South Carolina much sooner.

The Administration also objects to section 3114, which would establish the Chief of Engineers as an owner's agent relative to the MOX Project. Recognizing the U.S. Army Corps' (USACE) expertise, the Department of Energy is already leveraging USACE personnel on its large construction projects, including the MOX Project where USACE is augmenting project oversight and providing independent cost estimates. Therefore, the Administration does not believe naming USACE as the owner's agent will provide additional value.

Providing Footwear to Recruits at Initial Entry Training: The Administration objects to section 671, which would require the Army, Navy, Air Force, and Marine Corps to provide athletic footwear directly to recruits upon their entry into the Armed Forces instead of providing a cash allowance for the purchase of such footwear, at the choice of the recruit. Mandating that a specific article of clothing be provided to new recruits is unprecedented and, in the case of athletic shoes, runs counter to research that indicates a strong correlation between the variety of athletic shoes available, fit, and comfort, and reduced injury rates. Forcing DOD into a "one size fits all" approach to athletic footwear may contribute to a higher incidence of injury to new recruits during one of the most critical times in a member's military training. DOD places the health of service members above all other considerations. Because only one company is currently producing a shoe that arguably meets the standards established in the section, this provision appears to provide a preferential arrangement for a particular company.

Distributed Common Ground System of the Army (DCGS-A): The Administration objects to section 111, which would restrict award of any contract for the design, development, and procurement of any data architecture, data integration, cloud capability, data analysis or data visualization and workflow capabilities unless Federal Acquisition Regulation part 12 is used, includes firm fixed-priced procedures, and achieves initial operational capability within nine months and full operational capability within 18 months of contract award. This provision appears to micromanage and mandates a commercial solution without regard for price, ability to support a modular open system architecture, or cost associated with proprietary software maintenance. In practice, the provision could mandate acquisition of a system that does not fully meet required Key Performance Parameters without due consideration of integration costs and risks or schedule impacts, putting the system's affordability, functionality, and interoperability at risk.

Warfighter Information Network-Tactical (WIN-T): The Administration strongly objects to the funding authorization that reduces WIN-T by $100 million. The reduction in funds stops the fielding of the WIN-T on-the-move networking capability to Army National Guard Brigade Combat Teams and creates a production break in WIN-T Increment 2 hardware. The production break will lead to the loss of key subject matter experts.

Commissary Privatization Pilot Program: The Administration supports section 661, which would include provisions that would protect and enhance the Defense commissary and exchange systems and reduce their reliance on appropriated fund support by allowing the establishment of an alternative pricing program for commissaries. However, the Administration has concerns with the commissary privatization pilot program directed in section 662. The Department recently issued a Request for Information (RFI), in accordance with the requirements of the FY 2016 NDAA, and will not be able to assess the willingness of private sector entities to participate in a privatization pilot program in a manner consistent with the preservation of the commissary benefit until responses to the RFI have been received and assessed. By requiring the Department to conduct a pilot program for privatization regardless of the interest and capabilities of private sector entities, section 662 would place the commissary benefit at risk.

Establishment of an Assistant Secretary of Defense for Information: The Administration objects to section 903, which would establish an Assistant Secretary for Information whose responsibilities would be potentially duplicative with the Principal Cyber Advisor (PCA) to the Secretary of Defense as well as the Principal Space Advisor. While it would combine oversight of cyber policy and information technology, it would complicate, rather than improve, the oversight of U.S. Cyber Command and cyber operations, or U.S. Strategic Command and space operations, with governance of resources, acquisition, and cyber workforce policy fragmented. It also would create a new fracture in DOD and intelligence space management between the Under Secretary of Defense for Intelligence and the new Assistant Secretary, and potentially distract from the current Chief Information Officer's position and responsibilities.

Management of Defense Clandestine Human Intelligence Collection: The Administration objects to section 945, which purports to establish a pilot program that would place case officers of the Defense Clandestine Service (DCS) under the control of the Central Intelligence Agency (CIA). Requiring the transfer of all case officers and personnel who support case officers of the DCS to the CIA for three years is not a "pilot," but is tantamount to an actual transfer of the program. Limiting the transfer to three years would not mitigate the burdensome management challenges, disruption of operations, and potentially high costs associated with moving the

operating capability of the service to the CIA and then returning it back to DOD. Further, the Administration is concerned that there could be adverse and unforeseen implications of such a transfer to the professional development of DCS staff. DCS and CIA integrated operations are already working effectively and efficiently; a consolidation, as envisioned by the provision, is unnecessary. For example, the DCS and CIA already exchange or embed personnel for planning, management, coordination, execution of operations, and development and sharing of products. The DCS is already integrated with the CIA, as necessary and appropriate, throughout the breadth and depth of DOD and CIA clandestine operations around the world.

B-21 (Long Range Strike Bomber): The Administration strongly objects to section 844, which would establish a critical cost threshold for the B-21 program below the acquisition program baseline (APB), which was based on two fully independent cost estimates. This section represents an unprecedented and extremely damaging reversal of the approved acquisition strategy for the B-21 program. To enforce a different performance standard after the execution of the acquisition strategy has begun will result in the carefully established business plan becoming mired in reporting delays and unprecedented, redundant breach certifications. The Administration also strongly objects to the $302.3 million FY 2017 funding reduction. There are no excess funds in the program in FY 2017 and the reduction will result in a significant delay in moving forward with the development program. Furthermore, the Administration believes that the requirement to transfer funds to the Rapid Prototyping Fund could jeopardize the program through increased risk to the availability of funds, and the additional reporting requirements would be unnecessarily burdensome, would add schedule risk, and would detract from overall program management at a critical phase of the program.

Penalty for Use of Cost-Type Contracts/Preference for Fixed-Price Contracts: The Administration objects to section 826, which would require the Secretary of each military department and the head of each of the defense agencies to pay a penalty for some uses of cost-type contracts that are awarded over the next five fiscal years. Section 826 would unnecessarily constrain flexibility to tailor contract types for a given requirement. It also creates a complex financial transaction process that, to be auditable, will require extremely burdensome procedures. The Administration also objects to section 827, which would require higher level approval for the use of other than fixed-price contracts. This requirement is unnecessary and would result in the Department experiencing increased costs in situations where a cost-type contract would have been more appropriate. Acquisition officials and contracting officers should have the full range of contract types available to structure business arrangements that achieve a reasonable balance of risk between the Government and the contractor, while providing the contractor with the greatest incentive for efficient and economical performance. There is extensive history that demonstrates conclusively that fixed-price development is not in the Government or industry's interest in many circumstances.

Global Positioning System Next Generation Operation Control System (GPS-OCX): The Administration strongly objects to section 1610, which would withhold FY 2017 OCX funding until a Nunn-McCurdy certification is complete. OCX will provide a cyber-hardened ground control network to operate the current and future GPS satellites. Fencing off FY 2017 OCX funding will result in a stop-work for the development, test, and integration of OCX Block 0 and Block 1, resulting in a 6-12 month slip to the launch and operation of GPS III. Additionally, the provision de-funds ongoing efforts to synchronize and modernize the GPS Enterprise, resulting in cost and schedule impacts across the space, mission control/planning, and user segments, and

it stops all user equipment testing, preventing the deployment of M-code capable receivers as required in Public Law 111-383, section 913.

Non-applicability of EO 13673 to DOD Contractors: The Administration strongly objects to section 829H, which would limit DOD's application of EO 13673 ("Fair Pay and Safe Workplaces") only to contractors or subcontractors who have already been suspended or debarred as a result of Federal labor violations covered by the EO. Such limited applicability would undermine broader safeguards established by the President to ensure that agencies are identifying and working with contractors with track records of compliance with labor laws, which enhances productivity and increases the likelihood of timely, predictable, and satisfactory delivery of goods and services. Narrowing the scope of the EO to those contractors that have already been suspended or debarred would limit contracting officers' ability to identify contractors with track records of non-compliance. It also would limit enforcement agencies' ability to assist contractors with significant labor violations to improve their labor law compliance, including through the use of labor compliance agreements, before suspension and debarment becomes the only option.

Applicability of Certain Executive Orders to DOD: The Administration strongly objects to section 862, which would weaken a number of EOs and other actions taken by the President to protect taxpayer money and the integrity of the acquisition process and to improve the economy and efficiency of Federal contracting. For example, the President's Memorandum on Contractor Tax Delinquency laid the foundation for limiting agencies' ability to make new awards to contractors with serious tax delinquencies. These protections are no less relevant in the case of Federal contractors furnishing commercially-available off-the-shelf items. Section 862 also undermines other EOs such as EO 13665 that protect against discrimination in Federal contractors' workplaces. Discriminatory hiring and compensation practices decrease the likelihood that the most qualified and productive workers are hired at the market efficient price, and hence broad applicability is required to ensure an efficient market in Federal contracting. The remainder of EOs that section 862 seeks to weaken -- including those encouraging the use of Project Labor Agreements requiring that employees be notified of their statutory labor rights, as well as raising the minimum wage and providing paid sick leave for Federal contract employees -- similarly improve productivity of Federal contractors' workplaces. As such, section 862 should be struck as it would decrease the economy and efficiency of the Federal procurement system.

Personnel Background and Security Investigations: The Administration strongly objects to section 973, which would transfer responsibility for personnel background and security investigations of DOD personnel from the Office of Personnel Management (OPM) to the Defense Security Service. This provision would undermine the ability of the Federal Government to achieve economies of scale by further fragmenting the investigation process while diminishing the security, effectiveness, and efficiency of operations. The Administration is currently standing up the National Background Investigations Bureau (NBIB), which will strengthen how the Government performs background investigations. NBIB will be housed at OPM to conduct the vast majority of background investigations, but will leverage DOD expertise to bring the fullest national security and IT resources to bear against increasingly sophisticated cyber threats. Section 973 would upend this plan and interfere with the Executive Branch's ability to determine appropriate means for implementing this critical national security function. It would also delay ongoing security clearance reform efforts, and likely cause significant investigative delays.

Expansion of DOD Hiring Flexibilities: The Administration supports the inclusion of section 1106 (Direct Hire for post-secondary students and recent graduates), and section 1103 (temporary and term appointments), which would increase the ability of DOD to recruit and hire the talent it needs to carry out critical mission areas. We urge the Congress to broaden these provisions to include other Federal agencies under Title 5 of the United States Code. Hiring and recruitment flexibilities provided in these provisions would be extremely valuable for all Federal agencies, and would enable Government-wide improvements to help meet Federal workforce needs.

Program Acquisition and Contracting Restrictions: The Administration objects to section 145, which would prohibit the Department from using authorized funds to re-host the COMPASS CALL Primary Mission Equipment from the EC-130H to a commercial business jet without conducting a full and open competition. The Air Force requires the flexibility to employ appropriate contracting authorities as allowed by law, including the exemptions to full and open competition in order to efficiently and effectively execute the COMPASS CALL re-host plan. If the Air Force determines that less than full and open competition is allowable and advisable, conducting a full and open competition will unnecessarily delay fielding critical warfighter capability. The Administration also objects to section 146, which would restrict the Department from obligating or expending funds on the Joint Surveillance Target Attack Radar System recapitalization program, unless the Air Force uses a fixed-price contract for engineering and manufacturing development. The restriction places unacceptable risk on the program by restricting the Department's ability to use a contract type which is best suited for the development effort.

F-35 Joint Strike Fighter Program: The Administration strongly objects to sections 1086 and 1087, which would disband the F-35 Joint Program Office following the F-35 full-rate production decision (expected in April 2019), and establish the F-35 Follow-on Modernization program as a separate major defense acquisition program. The contention that the F-35A, F-35B, and F-35C are essentially three distinct aircraft with significantly different missions and capability requirements misses the mark and does not take into account the essential role that the F-35 Joint Program Office plays in the program, or the international nature of the program and the role that the international partners will continue to play for the remainder of this, the most complex cooperative weapons program DOD has ever undertaken. The follow-on modernization effort, which is just beginning, and the challenging transition from development to global sustainment and life-cycle support require continued management of the enterprise from a central Joint Program Office. While a transition to individual, Service-led, F-35 variant program offices might conceivably be advantageous at some time, now is not that time, and retaining the current program structure for the Follow-on Modernization program, with its existing oversight mechanisms, is the most prudent approach.

Missile Defense Programs: The Administration strongly objects to section 1663, which would require the initiation of concept definition, design, research, development, and engineering evaluation and test for a space-based intercept and defeat layer and space test bed. There currently is no requirement for a space-based intercept and there are concerns about the technical feasibility and long-term affordability of interceptors in space. The Department is conducting an evaluation on a space-based missile defense layer, as required by section 1685 of the FY 2016 NDAA. The results of that evaluation will inform the technical feasibility of such a capability.

Defense Cost Accounting Standards (CAS) Board: The Administration objects to the provision in section 811, which would create a new Defense-specific CAS Board to create standards addressing the measurement, assignment, and allocation of contractor costs. This action would result in unnecessary overlap and duplication with the functions of the existing Government-wide CAS Board and could result in contractors with both Defense and civilian contracts having to comply with two different standards for the same cost issue. Requiring the use of generally accepted accounting principles (GAAP) would impose inappropriate constraints on the Board's ability to carry out its responsibilities. GAAP focuses on reporting the financial results of overall operations, and addresses neither the allocation of costs to individual contracts nor the allowability of contract costs. Section 811 also imposes inappropriate limitations on the Defense Contract Audit Agency (DCAA) despite its historical success in savings on average of $3 billion annually due to findings, primarily those related to non-compliances with CAS and the Federal Acquisition Regulation Cost Principles. Commercial audit firms would audit GAAP costs, while DCAA would be limited to audits of direct costs on cost contracts and to audits of indirect costs only at contractors where their Government cost-type contracts are more than 50 percent of the entities' total sales. This would exclude some of DOD's largest contract from DCAA oversight. Audits by both DCAA and commercial audit firms would create burdens and inefficiencies for both contractors and Government agencies.

Modified Restrictions on Undefinitized Contractual Actions (UCAs): The Administration objects to section 816, which would require that UCAs be awarded on a fixed-price level of effort basis. Fixed-price level of effort is a contract type that is most appropriately used to acquire labor, as in the case of research or investigatory requirements. The Department employs UCAs largely in part to enable the contractor to acquire materials (e.g. long lead) for major weapon system programs, something this provision would seem to prohibit. UCAs are also used when the urgency of a Government need argues strongly against the negotiations delay caused by establishing final terms.

Requirement to Use Firm Fixed-Price Contracts for Foreign Military Sales (FMS): The Administration objects to section 828, which restricts the contract type for FMS. Frequently, DOD combines requirements with FMS requirements on a single contract, or has contractors concurrently producing weapon systems for its requirements and FMS requirements under separate contracts. If the Department were precluded from using the appropriate type contract in any particular environment, it would effectively constrain DOD's ability to deliver best value to the FMS customer, and eliminate opportunities to achieve efficiencies by combining U.S. and FMS requirements on the same contract.

Preference for Performance-Based Contractual Payments: The Administration objects to the provision of section 829 that would preclude DOD from conditioning performance-based payments on costs incurred. Performance-based payments are a method of contract financing and should not be used to pay contractors amounts in excess of costs incurred in advance of the Government's receipt of the item or service.

Products and Services Purchased through Contracting Program for Firms that Hired the Severely Disabled: The Administration strongly objects to section 829G, which would jeopardize approximately 33,000 existing jobs that DOD provides to people with severe disabilities, to include 2,800 veterans. Furthermore, this provision would effectively preclude the Department from awarding near-term contracts to enable opportunities for future employment for countless others with severe disabilities. The Department is by far the largest single procurer of goods and

services from Ability One within the Federal Government. The provision would require DOD to perform several statutory duties that are currently performed by the Committee for Purchase From People Who Are Blind or Severely Disabled, the Federal agency that administers the Ability One Program. For example, section 829G would require DOD contracting officers to determine when a firm's (nonprofit agency) employee is significantly disabled and ensure their hours equate to the 75 percent Direct Labor Hour (DLH) ratio in this section. Current law requires the 75 percent DLH ratio to be calculated based on all DLH in the firm's entire facility during the fiscal year. Additionally, there would be no mechanism available to legally add products or services to the Procurement List, restricting contracting with non-profits that employ people with severe disabilities to those items that are currently on the List. There is no practical way for the Department's contracting officers to meet the pre-contract formation and post-contract administration requirements of section 829G and would therefore bring these contracts and renewals to a standstill along with the employment opportunities that these contracts provide.

Defense Finance and Accounting Service (DFAS): The Administration objects to language in section 901, which would move DFAS from the Under Secretary of Defense (Comptroller) to the Under Secretary of Defense (Business Management and Support) organization. DFAS performs important financial management and pay functions that are and should remain under the purview of the Chief Financial Officer (CFO). This action would remove core financial management functions, including payment of the Department's vendors, cash management, and financial audit support from the supervision of the CFO and sever critical links between DFAS and the CFO with respect to management of the Department's funding and audit functions. A crucial ingredient to all the Services achieving unqualified financial audit opinions is the role DFAS plays as a service provider. As the DOD focal point for audit, the CFO's centralized control of the service provider and the audit plan ensures all are vectored properly.

Joint Improvised Explosive Device Defeat Fund (JIEDDF): The Administration objects to section 1531, which fails to address the successor fund to the JIEDDF mandated by the FY 2016 NDAA. Without the authorization of the Joint Improvised-Threat Defeat Fund, the successor fund proposed by DOD, the Administration is constrained in its ability to enable rapid response to non-traditional, unanticipated improvised threats on the battlefield, degrade improvised explosive device precursor facilitation networks of ISIL and other violent non-state actors globally, and protect against the rapidly emerging improvised threats currently faced by U.S. forces.

Preference for Commercial Services: The Administration objects to the provision of section 864 that would preclude agencies from acquiring certain services unless they are commercial services, except where the agency makes a written determination establishing that no commercial services are suitable to meet the agency's needs. The range of applicable services has been significantly expanded beyond the information technology services specified in section 855 of the FY 2016 NDAA to include broad service categories such as logistics management services. Because cost-type contracts cannot be used for the acquisition of commercial items, this expansion would unnecessarily and inappropriately limit the Department's ability to execute contracts using the most appropriate contract type. For example, even though planned logistics support services for the Joint Strike Fighter are optimally suited for a cost-type contract, the Department would be precluded from using a cost-type contract as long as the services were available commercially.

Uniform Code of Military Justice (UCMJ) Reform: The Administration appreciates that the bill adopts a number of the UCMJ reforms proposed by the Administration, including enhanced victims' rights (including anti-retaliatory measures), improvements to trial procedures, and updated sentencing guidelines.

National Defense Strategy: The Administration strongly objects to section 1096, which would require DOD to publish a new national defense strategy annually. A national defense strategy must provide strategic direction, priorities, and tradeoffs to address both near and longer-term challenges. If a document is truly strategic, its shelf-life will be far longer than one year. A new strategy takes time to integrate within and usefully impact the Department's many operational, budgetary, scenario, and other assessments, processes, and systems. DOD continually assesses and regularly adjusts its strategy; however, formal annual assessments would create substantial administrative burden and discordant direction that degrades the effectiveness and efficiency.

Authority to Provide Reimbursable Auditing Services to Certain Non-Defense Agencies: The Administration appreciates the modification to section 893 of the FY 2016 NDAA in section 892 of the bill. However, the Administration recommends that section 892 repeal section 893(a) of the FY 2016 NDAA, rather than amending section 893(a). The prohibition on DCAA performing audits for non-defense agencies is counterproductive to the intent to reduce DCAA's incurred cost inventory backlog. It would extend the length of time required to reduce the audit backlog and create burdens and inefficiencies in the audit process for both contractors and multiple Government agencies.

Transfer of the DCAA: The Administration strongly objects to the language in section 901 that would place DCAA under the Under Secretary of Defense (Management and Support). GAO previously concluded that audit independence would be impaired if DCAA was aligned with either the USD/AT&L or the Office of the Inspector General. Alignment under the Under Secretary of Defense (Management and Support) would impair DCAA's ability to perform independent audits. This would reduce DCAA's independence because it would locate DCAA within the organization responsible for acquisition and contract administration.

Asia-Pacific Rebalance Infrastructure: The Administration strongly objects to the exclusion of requested language which would authorize DOD to proceed with planning, design and construction for public infrastructure projects identified as necessary mitigation for several significant impacts identified in the Navy's 2015 "Guam and Commonwealth of the Northern Mariana Islands Military Relocation (2012 Roadmap Adjustments) Supplemental Environmental Impact Statement" and Record of Decision. The cultural repository and public health laboratory are critical projects required to address the impact of the expanding military installations and missions on Guam necessary to implement the Asia-Pacific rebalance. A key aspect of the Asia-Pacific rebalance is to create a more operationally resilient Marine Corps presence in the Pacific and invest in Guam as a joint strategic hub. This necessary authority supports the ability of the President to execute our foreign and defense policies in coordination with our ally, Japan. Additionally, it calls into question among regional states our commitment to implement the realignment plan and our ability to execute our defense strategy.

Transfer of Drug Interdiction and Counterdrug Funding: The Administration strongly objects to the section 4501 Other Authorizations transfer of $258.3 million from Drug Interdiction and Counter Drug Activities account to the unrequested Security Cooperation Enhancement Fund. The transfer of these funds would severely hinder DOD's drug interdiction and counter-drug

efforts at a time when drug trafficking to the United States is increasing. Estimates of opium poppy cultivation in Mexico nearly tripled from 2013-2015 and over 90 percent of the heroin produced in Mexico is trafficked to the United States. The rate of overdose deaths involving heroin have tripled in the past three years. Colombia's estimated potential cocaine production increased by 67 percent since 2014 and is now at an eight year high. It is critically important that DOD continue to provide targeted and focused counterdrug training, equipment, and other assistance to meet the President's objectives under the National Drug Control Strategy goals, while supporting national strategies that aim to enhance security in Colombia, Mexico, and Central America, and protect U.S. public health and safety. The new Fund also raises other concerns.

Increase of Micro-purchase Threshold, Simplification of Proposal Development and Evaluation, and Acquisition of Innovative Commercial Items: The Administration strongly supports the Committee's efforts to reduce the complexity of the acquisition process and believes that sections 812 and 815 should be broadened to ensure the entire Federal Government has the necessary tools to acquire best value solutions and bring even greater savings to the taxpayer. Section 812 would reduce unnecessary complexity of small dollar acquisitions by raising the micro-purchase threshold. Civilian agencies should be able to receive these benefits and the Administration supports increasing these benefits by including civilian agencies and raising the threshold even greater to $10,000. Section 815 would simplify proposal requirements for certain services under Multiple Award task order contracts. The Administration estimates that multi-agency contracts or Government-wide acquisition vehicles account for approximately half of all service contract dollars awarded each year. To receive the greatest benefit of this section and create parity among acquisition vehicles, the Administration supports expanding this provision to all multi-agency contracts or Government-wide acquisition vehicles including the Federal Supply Schedules. The Administration also appreciates inclusion of section 868 which would provide pilot authority for the Department to acquire, on a pilot basis, innovative commercial items in the same manner as it acquires research and development, but urges the Congress to broaden the pilot to include the Department of Homeland Security and the General Services Administration so that they too may take advantage of the pilot to obtain emerging technologies more efficiently.

Repeal of Moratorium on Public-Private Competition: The Administration objects to section 806, which would eliminate the moratorium on public-private competition between Government employees and private sector contractors to perform commercial activities that support DOD missions. OMB continues to work with DOD and other agencies on efforts to ensure the most effective mix of Federal employees and contractors and believes more time is needed for efforts to ensure core in-house capabilities for critical functions before the moratorium is lifted.

Board for the Correction of Military Records and Discharge Review Board Matters: The Administration objects to the overly-burdensome and duplicative reporting requirements in section 536. The Department has exercised extraordinary commitment to service members and veterans through extensive reforms to the military department's Review Boards' policies and procedures. These reforms include, but are not limited to, the inclusion of mental health professionals in all aspects of Discharge Review Board and Board for Correction of Military and Naval Records procedures, as well as highly-specialized procedures relative to cases in which petitioners alleged Post-Traumatic Stress Disorder and/or Traumatic Brain Injury as factors in determinations regarding their service records. These procedures have been highly effective in addressing petitions asserting such bases and the Boards have performed and continue to perform their missions in open and transparent fashion, including the publication of redacted decisions in

public reading rooms. The proposed reporting requirements, however, would not only require substantial, additional assets and take significant time, compromising the Boards' ability to accomplish their missions and provide equitable relief to deserving service members and veterans, but will also expose significant sensitive information and potentially Personally Identifying Information. The proposal would also mandate the revelation of factors both considered and not considered in each case. Such a requirement impinges on the Boards' ability to fashion appropriate remedies in highly individualized cases and also requires the creation and/or revelation of a template seemingly applicable in every case. Such an approach not only threatens the required autonomy of the Boards, but also creates a "checklist" approach belying the importance of discretion and consideration of each and every case on its merits while also creating the harmful practice of precedence in Board cases.

Notification on the Provision of Defense Sensitive Support: The Administration objects to section 1052, which would levy an unnecessary and burdensome reporting and notification requirement on the Department regarding sensitive support to agencies outside DOD. The existing clandestine quarterly reports keeps the Congress fully informed of the Defense Sensitive Support Activity (DSSA) process and each approved request for support. Introducing an additional requirement for prior notification of each instance of requested support is fundamentally impractical given their frequency, risks slowing or interrupting providing critical and timely support for operations, and burdens limited staff with duplicative reporting requirements in a time of declining resources, staff the Department relies upon to do the effective oversight and execution of the DSSA process that the Congress and supported organizations expect.

Associate Director for Military Affairs: The Administration objects to section 1049, which would specify criteria and responsibilities of an Associate Director for Military Affairs at the CIA, because it is unnecessary and duplicative. Existing policies, regulations, and interagency agreements already provide for an Associate Director for Military Affairs.

Transfer of Military-Grade Firearms to Private Companies: The Administration objects to section 1056, which could put the U.S. Army in the position of transferring certain military-grade firearms to dealers in the United States -- the kinds of transfers that are highly regulated under existing law -- and potentially make it more difficult for those weapons to be traced if later used in crimes.

Special Immigrant Visas: The Administration is deeply concerned that this legislation does not extend or authorize new visas as requested for the Afghan Special Immigrant Visa program, which enables Afghans who have worked alongside our troops and our diplomats to seek refuge in the United States. Thousands of Afghans have performed this work, often at great personal risk. Many have even lost their lives. Many continue to face grave threats. These Afghan civilians have been essential to accomplishing our mission in Afghanistan.

Use of Surplus Intercontinental Ballistic Missile (ICBM) Motors for Commercial Space Launches: Section 1607 would direct the Comptroller General to conduct an analysis of the costs and benefits of providing surplus ICBMs to the private sector for commercial space launch purposes. Both Federal law and the Administration's National Space Transportation Policy currently prohibit such transfers for commercial use. The Administration continues to support this long-standing policy, which seeks to avoid undermining investment, entrepreneurship, and innovation in the launch market.

The Administration looks forward to working with the Congress to address these and other concerns.

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