



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D. C. 20503

THE DIRECTOR

August 5, 2015

The Honorable Thad Cochran
Chairman
Committee on Appropriations
U.S. Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On July 23, 2015, the Appropriations Committee considered the fiscal year (FY) 2016 Financial Services and General Government Appropriations bill. The Administration supports investments for improving taxpayer services and enforcement, protecting consumers and investors through the continued implementation of Wall Street reform, and reducing the Federal real property footprint. However, we have a number of serious concerns about this legislation, which would underfund these important investments and includes highly problematic ideological riders. I would like to take this opportunity to share some of our concerns with you.

The Financial Services and General Government Appropriations bill is the final appropriations bill being considered in the Senate under the congressional Republicans' 2016 budget framework, which would lock in sequestration funding levels for FY 2016. Sequestration was never intended to take effect: rather, it was supposed to threaten such drastic cuts to both defense and non-defense funding that policymakers would be motivated to come to the table and reduce the deficit through smart, balanced reforms. The Republicans' 2016 budget framework would bring base discretionary funding for both non-defense and defense to the lowest levels in a decade, adjusted for inflation. Compared to the President's Budget, the cuts would result in tens of thousands of the Nation's most vulnerable children losing access to Head Start, millions fewer workers receiving job training and employment services, and drastic cuts to scientific research awards and grants, along with other impacts that would hurt the economy, the middle class, and Americans working hard to reach the middle class.

Sequestration funding levels would also put our national security at unnecessary risk, not only through pressures on defense spending, but also through pressures on State, USAID, Homeland Security, and other non-defense programs that help keep us safe. More broadly, the strength of our economy and the security of our Nation are linked. That is why the President has been clear that he is not willing to lock in sequestration going forward, nor will he accept fixes to defense without also fixing non-defense.

The President's Budget would reverse sequestration and replace the savings with commonsense spending and tax reforms. It brings middle-class economics into the 21st Century and makes the critical investments needed to support our national security and accelerate and sustain economic growth in the long run, including research, education, training, and infrastructure. As the Administration has repeatedly made clear, the President's senior advisors

would recommend that he veto any legislation that implements the current Republican budget framework, which blocks the investments we need for our economy to compete in the future.

The inadequate overall funding levels in the Republicans' 2016 budget framework, along with misplaced priorities, cause a number of problems with the Committee bill specifically. Overall, according to the Committee, this bill reduces funding by nearly \$4.0 billion, or about 16.3 percent, below the President's Budget. The bill slashes funding for the Internal Revenue Service (IRS), undermining the fairness and integrity of the tax system in ways that would increase burdens on taxpayers, including by increasing the deficit. It undermines the basic functioning of Government through damaging cuts to the General Services Administration (GSA), and it underfunds reforms and safeguards for consumers, investors, and taxpayers jeopardizing essential regulatory independence and threatening the financial security of the middle class by encouraging the same kind of risky, irresponsible behavior that led to the Great Recession. For example, the bill:

Undermines IRS' ability to conduct many of its most basic responsibilities.

The bill cuts IRS by more than \$2.5 billion, or 20 percent, compared to the President's Budget, and by \$470 million, or nearly 4 percent, compared to the FY 2015 enacted level. These additional funding cuts would come on top of the drastic cuts already enacted since FY 2010. As a result, in real terms, the Committee funding level is less than IRS's FY 1992 budget—24 years ago, when there were 36 million fewer individual taxpayers and a far less complicated tax code. The consequences of these funding cuts include:

- **Diminished enforcement capabilities and increased deficits.** During FY 2015, as a result of funding cuts already enacted, IRS will lose approximately 1,800 key enforcement personnel that it cannot replace. These individuals are vital to ensuring that the tax code is administered fairly. In fact, every \$1 invested in IRS enforcement is estimated to produce at least \$4 in revenue, or at least a 4 to 1 return. As a result of funding cuts that have already occurred to date, IRS enforcement revenues this year are expected to be \$7 billion to \$8 billion lower than if FY 2010 funding levels had been sustained. These are tax revenues that are already owed under current law, but will go uncollected because IRS lacks the resources needed to track down tax cheats and ensure that large multinational corporations, the wealthiest, and ordinary American workers all play by the same rules.

If IRS is forced to absorb the bill's additional cut, enforcement revenues in FY 2016 are estimated to be approximately \$11 billion lower than if FY 2010 staffing levels had been maintained. To put that number in context, \$11 billion is more than the entire cost of the Head Start program for a year, or more than enough to fund the entire operating budgets for the National Science Foundation and the Department of Energy's Advanced Research Projects Agency, combined.

- **Locking in unacceptable levels of taxpayer services.** This fiscal year, IRS will answer fewer than half as many taxpayer calls as in FY 2010, with less than 4 out of every 10 callers reaching a live assistor and an estimated 28 million calls going unanswered. This is the lowest level of telephone service on record. So far this fiscal year, more than 11 million

callers have either been automatically disconnected by the system due to unmanageable call volume or chose to hang up while they were on hold. IRS has also been forced to cut staffing at Taxpayer Assistance Centers, resulting in unacceptably long wait times for face-to-face assistance.

Although the bill allocates \$90 million for telephone level of service, correspondence, and identity theft work, these funds would at best prevent further degradation to taxpayer experiences. Taxpayers deserve far better than the mediocre-at-best customer service the bill would provide. The funding levels requested in the President's Budget would double the telephone level of service, enabling 8 out of every 10 callers needing assistance to reach a live assistor, and providing the robust customer service that Americans deserve.

- **Protecting taxpayer information and fighting identity theft.** Maintaining up-to-date technological infrastructure is essential to the protection of taxpayer data, as IRS is a prime target for malicious cyber activity. However, on average, IRS is three upgrades behind current software releases. The Committee's lack of support for IRS' technology infrastructure would mean further deferral of cybersecurity and infrastructure upgrades, jeopardizing the strong defenses IRS needs. The bill would also bring a halt to progress on key projects, including expansion of the specialized Criminal Investigation Identity Theft Clearinghouse that processes identity theft leads, and other improvements that would enable IRS to detect and quickly resolve tax return anomalies that can signal identity theft.

Underfunds and undermines critical financial reforms and consumer protections.

Seven years ago, the worst financial crisis in generations spread from Wall Street to Main Street. Wall Street reform in 2010 built a stronger and more stable foundation for economic growth and made our financial system safer and more resilient by curbing excessive risk-taking, closing regulatory gaps, and putting in place the strongest consumer financial protections in history. However, the full benefit to the Nation's citizens and the economy cannot be realized unless the entities charged with establishing and enforcing the rules of the road have the resources and independence to do so. That is why the President has been clear that we have to fund Wall Street's regulators at levels that allow them to do their important work. In contrast, the Committee bill would fund these agencies at levels too low to properly implement Wall Street reform.

- **Commodity Futures Trading Commission (CFTC).** Compared to the President's Budget, the bill cuts funding for CFTC by \$72 million, or 22 percent, hindering its ability to ensure the safe and orderly operation of our markets. In order to respond quickly to market events and participants, including end-user concerns, CFTC needs resources commensurate with its evolving oversight framework. The bill's funding level would hamstring surveillance and enforcement capabilities, hinder examination of critical market activities and infrastructure, and undermine oversight of derivatives trading. Further, the bill would obstruct CFTC's efforts to add more rigor to economic analysis in rulemaking and modernize its technology capabilities, as proposed in the FY 2016 Budget. Finally, at this resource level, CFTC could not independently test cybersecurity defenses and adequacy of cyber resilience at

clearinghouses, derivatives exchanges, and swap data repositories. The risk of malicious cyber activity presents a major threat to financial stability.

CFTC is one of only two Federal financial regulators funded through annual discretionary appropriations and is the only one whose costs are paid by taxpayers rather than through user fees. The President's FY 2016 Budget includes a commonsense proposal to provide CFTC with appropriate and stable funding through user fees. CFTC user fees were first proposed by the Reagan Administration more than 30 years ago and have been supported by every Democratic and Republican Administration since that time, and we urge the Congress to adopt the proposal.

- **Securities and Exchange Commission (SEC).** Compared to the President's Budget, the bill cuts funding for SEC by \$222 million, or 13 percent, hindering its enforcement, examination, and market oversight functions and thereby reducing investor protections. The cut limits SEC's ability to respond to the high volume of securities-related misconduct, as the agency strives to keep pace with the use of new and increasingly technologically-complex financial products and services. Further, SEC would not be able to execute on its expanded responsibilities over private fund advisers, derivatives market participants, and clearing agencies, among others. The bill also rescinds \$25 million from the agency's mandatory Reserve Fund, established by the Wall Street Reform Act. This rescission continues a budget gimmick that inhibits technology spending on mission-critical, multi-year projects, including data analysis tools, enforcement and examinations improvements, and enhancements to the tips, complaints, and referrals system. SEC is fee-funded, and the Committee's decision to underfund key SEC activities neither reduces the deficit nor increases the amount of funding available for other agencies.
- **Consumer Financial Protection Bureau (CFPB).** The bill would subject CFPB to annual appropriations and politicize its leadership, which would severely weaken its independence and undermine its ability to serve the most vulnerable consumer populations. CFPB protects consumers of financial products from unfair, abusive, and deceptive practices and sets clearer rules so that responsible lenders and other providers of financial products and services know how to operate fairly. Unlike other Federal banking agencies, CFPB's independent funding is subject to a statutory cap and the bulk of its resources are spent on examining banks and nonbanks for compliance with Federal consumer financial laws. Politicizing the funding and management of bank supervision would be a giant step in the wrong direction. Independent funding and management are the foundations for ensuring that CFPB can examine all institutions fairly and provide a level playing field.

The Committee bill also jeopardizes the independent regulation of telecommunications by cutting funding for the Federal Communications Commission (FCC) by \$49 million, or 12 percent, compared to the President's Budget. These cuts would unnecessarily force FCC to delay much-needed IT improvements and scale back important work on public safety, wireless spectrum, and improvement of the integrity of payments made through the Universal Service Fund. Because FCC is funded by regulatory fees and auction proceeds, the cuts would neither reduce the deficit nor increase the amount of funding available for other agencies.

Undermines the core functioning of government by underfunding critical IT modernization efforts at OPM and continuing damaging cuts at GSA.

- **Office of Personnel Management (OPM).** The bill's funding level for OPM, which is \$7.6 million below the President's Budget, would significantly reduce the resource allocation for OPM's on-going information technology (IT) modernization effort and cybersecurity upgrades. Since FY 2014, OPM has worked aggressively to strengthen its severely outdated IT infrastructure, while simultaneously developing an entirely new data storage and management system. The Budget requested \$21 million in additional funding specifically to support this effort—the need for which is all the more urgent in the wake of the two severe and sophisticated cybersecurity breaches on OPM systems this year.

GSA's Federal Buildings Fund (FBF). Funding for GSA is central to ensuring that agencies can perform their missions in an efficient and effective way. The bill undermines GSA's ability to deliver services, impacting agencies Government-wide. In particular, the bill's funding level for FBF is unacceptable—nearly \$825 million below last year's level, \$1.5 billion below the anticipated level of rent collections from other Federal agencies in FY 2016, and more than \$2 billion below the President's Budget request. The bill funds construction of the Judiciary's priority courthouse in Nashville, Tennessee, but denies funding for all other priority construction. In addition, the bill funds only two of nineteen priority major building repair projects. By doing so, the bill forecloses opportunities to consolidate space and save taxpayer dollars over the long term (e.g., the Department of Homeland Security consolidation at St. Elizabeths, the American Red Cross Building purchase in Washington, D.C., the Philip Burton Federal Building and Courthouse in San Francisco, California, and the William Green Jr. Federal Building in Pennsylvania), modernize infrastructure (e.g., Federal Building and Courthouse, Milwaukee, Wisconsin), protect worker health and safety (e.g., the Denver Federal Center, the Abraham Ribicoff Federal Building in Connecticut, the Theodore Levin Courthouse in Michigan, the Goodfellow Federal Complex in Missouri, and the Potter Stewart Courthouse in Ohio), and advance important U.S. interests in international commerce (e.g., the Alexandria Bay, New York and Columbus, New Mexico Land Ports of Entry). The bill's funding level also dramatically underfunds minor maintenance and repair activities, further jeopardizing the condition of GSA Federal Buildings.

Since FY 2011, the Committee has chosen to fund FBF at funding levels that are billions below what GSA collects in rent from agencies. Underfunding renovation is particularly damaging, as the Government must be a good steward of its own assets, able to take advantage of opportunities to save money over the long term and maintain its buildings adequately to avoid more costly failures in the future. Further, the practice of chronically underfunding FBF is unfair to other Federal agencies, who are no longer receiving the space and services that they are paying for, as well as to the other appropriations subcommittees who are providing funds that are never used for their intended purpose.

- **Federal Priority Goals.** The bill also fails to include a high priority transfer authority proposal, which would provide a total of \$15 million in agency-transferred funding to accelerate progress on the Federal priority goals established by the Government Performance

and Results Modernization Act. By excluding this important transfer authority, the bill fails to establish a means of funding the execution of cross-agency efforts on areas critical to the Nation's economy and prosperity, including: infrastructure permitting and job creating investment. Without such authority, Cross-Agency Priority (CAP) Goal leaders are constrained in their ability to implement effective solutions, leaving various Federal programs to address shared issues in a duplicative, siloed, and ad hoc way.

The bill also does not include the full \$15.2 million increase requested in the President's Budget for the Information Technology Oversight and Reform (ITOR) fund. ITOR funds important efforts, managed by the Federal Chief Information Officer, to protect Federal systems through a dedicated cybersecurity unit to accelerate Government-wide implementation of leading solutions to address new and constantly evolving advanced, persistent cyber-threats. We appreciate the bill including a \$5 million increase. With the full increase in funding, the unit would also expand the number of specialized engineering experts available to assist agencies in implementing new solutions to help agencies migrate old and obsolete legacy technology solutions to more modern, cost-effective, and secure solutions, towards the goal of securing the Nation's highest value information targets. The ITOR fund also supports efforts to ensure the quality of the Nation's most impactful citizen-facing programs and improve customer satisfaction through the U.S. Digital Service, drive value in Federal IT investments, and implement the Federal IT Acquisition Reform Act. Not funding ITOR at the requested amount represents a missed opportunity to further expand and institutionalize these efforts, which have resulted in over \$2.5 billion in cost savings and countless other improvements across the Government to make Federal systems and programs more effective, efficient, and secure.

Includes inappropriate, costly, and objectionable riders.

The bill includes highly problematic ideological riders, including a 236-page package of unrelated special interest text that would undercut Wall Street reform by impeding regulators' ability to better oversee and address risks in the financial system, eroding safeguards in mortgage markets, letting large financial institutions off the hook for risky practices, and increasing the deficit, all under the guise of "regulatory relief." As the President has repeatedly emphasized, "we can't put the security of families at risk by . . . unraveling the new rules on Wall Street." Attempting a wholesale roll back of Wall Street reform by way of ideological riders on an appropriations bill is a cynical abuse of the Government's funding process.

The Administration also strongly opposes other problematic riders in the bill. These include sections of the bill that limit IRS funding, as well as provisions that prohibit the use of appropriated FY 2016 funds for the enforcement of rules, regulations, policies, or guidelines implemented pursuant to certain Administration policies on traditional coal or high-carbon power projects—policies that have catalyzed investments to support adoption of clean power technology. These prohibitions impede U.S. leadership in reducing carbon pollution, and would exacerbate climate change and its impact on communities—instead of promoting climate solutions and preparedness and meeting our responsibility to future generations.

The bill also contains a provision that would prevent implementation of key portions of the FCC's net neutrality order, which creates a level playing field for innovation and provides important consumer protections on broadband service. In addition, the bill removes existing spending limits on political party spending that is done in coordination with candidates. It also includes language that undermines the Consumer Product Safety Commission's statutory independence and authority to write public safety regulations by restricting the Commission's ability to complete rulemaking on recreational off-highway vehicles. The restriction would interfere with the Commission's regulatory independence and public safety mission intended to safeguard consumers, particularly children, from hidden hazards that continue to cause death and severe injuries. Further, the bill also includes an objectionable provision that prohibits the use of any funds to implement, administer, carry-out, or enforce the Federal Flood Risk Management Standard specified in Executive Order 13690. This prohibition would undermine national preparedness for flooding and anticipated sea level rise, putting taxpayer funded projects at risk.

The Administration believes that the Congress should consider appropriations bills free of ideological provisions. The inclusion of these provisions threatens to undermine an orderly appropriations process.

We look forward to working with the Congress to reverse sequestration for defense and non-defense priorities, and offset the cost with commonsense spending and tax expenditure cuts, as Members of Congress from both parties have urged.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shaun Donovan', with a long horizontal flourish extending to the right.

Shaun Donovan
Director

Identical Letter Sent to The Honorable Barbara Mikulski