

FY 2016 Continuing Resolution (CR) Appropriations Issues (anomalies required for a short CR)

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Drafted language cites sections 101 and 106 and assumes that section 101 refers to the "authority and conditions" section and that section 106 refers to the expiration date of the continuing resolution (CR). These anomalies are needed for a short CR. Section 101 is assumed to include the following:

- Divisions A through K of the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235), excluding the following specific provisions and funding:
 - The funding designated by the Congress as being for disaster relief pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA) in the Emergency Watershed Protection Program appropriation; the Emergency Forestry Restoration Program appropriation; and the Emergency Conservation Program appropriation in section 743 in title VII of Division A, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2015.
 - The funding designated by the Congress as being an emergency requirement pursuant to section 251(b)(2)(A)(i) of BBEDCA in the Department of Health and Human Services, Food and Drug Administration, Salaries and Expenses appropriation in title VIII of Division A, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2015.
 - The funding designated by the Congress as being an emergency requirement pursuant to section 251(b)(2)(A)(i) of BBEDCA in the Department of Defense, Procurement, Defense-Wide appropriation; and the Research, Development, Test and Evaluation, Defense-Wide appropriation in title X of Division C, the Department of Defense Appropriations Act, 2015.
 - The funding designated by the Congress as being an emergency requirement pursuant to section 251(b)(2)(A)(i) of BBEDCA in the Department of Health and Human Services, Centers for Disease Control and Prevention, CDC-Wide Activities and Program Support appropriation; the National Institutes of Health, National Institute of Allergy and Infectious Diseases appropriation; and the Office of the Secretary, Public Health and Social Services Emergency Fund appropriation in title VI of Division G, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2015.
 - The funding designated by the Congress as being an emergency requirement pursuant to section 251(b)(2)(A)(i) of BBEDCA in the Department of State, Administration of Foreign Affairs, Diplomatic and Consular Programs appropriation; the United States Agency for International Development, Funds Appropriated to the President, Operating Expenses appropriation and the Office of the Inspector General appropriation; the Bilateral Economic Assistance, Funds Appropriated to the President, Global Health Programs appropriation, the International Disaster Assistance appropriation, and the Economic Support Fund; and the International Security Assistance, Department of State, Nonproliferation,

Anti-Terrorism, Demining and Related Programs appropriation in title IX of Division J, the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2015.

- Department of Homeland Security Appropriations Act, 2015 (Public Law 114-4).
- Section 139 of Continuing Appropriations Resolution, 2015 (Public Law 113-164) pertaining to the Children's Health Insurance Fund, CHIP National Allotment.

General

Appropriated Entitlements

Sec. ____ . (a) For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2015, and for activities under the Food and Nutrition Act of 2008, activities shall be continued at the rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2015, to be continued through the date specified in section 106(3).

(b) Notwithstanding section 106, obligations for mandatory payments due on or about the first day of any month that begins after October 2015 but not later than 30 days after the date specified in section 106(3) may continue to be made, and funds shall be available for such payments.

Language is needed to ensure that funding for appropriated entitlements and other mandatory payments will continue at the rate to maintain program levels under current law and to ensure benefit payments are issued in a timely manner. Appropriated entitlements include, but are not limited to: Grants to States for Medicaid; Payments to States for Child Support Enforcement and Family Support Programs; Social Services Block Grant; Payments for Foster Care and Permanency; Payments to Health Care Trust Funds; Supplemental Nutrition Assistance Program; Child Nutrition Programs; the Supplemental Security Income Program; readjustment benefits for veterans; and compensation, pension, and burial benefits to veterans and their spouses and dependent children.

Intelligence Programs, State and International Assistance Waivers

Sec. ____ . Funds appropriated by this joint resolution may be obligated and expended notwithstanding section 10 of Public Law 91-672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 3094(a)(1)).

Language is needed to authorize specific intelligence activities for the various Intelligence Program components before funds can be obligated or expended, as required by section 504 of the National Security Act of 1947. Intelligence Program components include: the Departments of Defense, Energy, the Treasury, State, Homeland Security, and Justice; the Office of the Director of National Intelligence and the Central Intelligence Agency. Intelligence activities will not continue in the absence of this authority. In addition, in the absence of an authorization bill, the Department of State, U.S. Agency for International Development, Broadcasting Board of Governors, and other agencies that operate under the authority of the State Department Basic Authorities Act and Foreign Relations Authorization Act also need waiver language that enables them to expend funds.

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies

Rural Housing Service - Rental Assistance Program

Sec. ____ . Amounts made available by section 101 for "Department of Agriculture—Rural Housing Service—Rental Assistance Program" may be apportioned up to the rate for operations necessary to pay ongoing debt service for the section 514 and 515 multi-family direct loan programs.

Language is needed to allow the Department of Agriculture's Rental Assistance Program to obligate funding under the CR formula at a rate for operations necessary to pay ongoing debt service for the section 514 and 515 multi-family direct loan programs. Due to the shortfall in funding over multiple years, the timing of contract renewals has shifted heavily to the first few months of the fiscal year. The demand for renewal needs in FY 2016 has increased to 259,000 compared to the FY 2015 level of approximately 244,000, and FY 2016 will see the most rental assistance units needing renewal since the Congress mandated one-year funding in FY 2006. Without this anomaly during the CR, the Rental Assistance Program will be unable to meet the renewal needs as they come due.

Commerce, Justice, Science, and Related Agencies

Joint Polar Satellite System (JPSS) Weather Satellite Acquisition

Sec. ____ . Amounts made available by section 101 for "Department of Commerce—National Oceanic and Atmospheric Administration—Procurement, Acquisition and Construction" may be apportioned up to the rate for operations necessary to maintain the planned launch schedules for the Joint Polar Satellite System.

Language is needed to authorize the National Oceanic and Atmospheric Administration's Procurement, Acquisition and Construction account to obligate funding under the CR formula at a rate for operations necessary to maintain planned launch schedules for the JPSS-1 and JPSS-2 weather satellites. These satellites provide the primary input to the numerical weather prediction models for forecasting weather three to eight days and beyond in advance of severe weather such as hurricanes, severe thunderstorms, and blizzards. Preserving the JPSS-1 and JPSS-2 launch schedules is critical to maintaining these weather forecasting capabilities since there is only one polar orbiting satellite of this class currently in operations and it is nearing the end of its design life.

Federal Prisoner Detention

Sec. ____ . (a) Notwithstanding section 101, amounts are provided for "Department of Justice—Legal Activities and U.S. Marshals—Federal Prisoner Detention" at a rate for operations of \$1,454,414,000.

(b) Notwithstanding section 101, the language under the heading "Department of Justice—Legal Activities and U.S. Marshals—Federal Prisoner Detention" is amended by striking the following proviso: "Provided, That section 524(c)(8)(E) of title 28, United States Code, shall be applied for fiscal year 2015 as if the following were inserted after

the final period: "The Attorney General shall use \$1,100,000,000 of the excess unobligated balances available in fiscal year 2015 for necessary expenses related to United States prisoners in the custody of the United States Marshals Service as authorized by section 4013 of title 18, United State Code."

Language is needed to provide a rate for operations of \$1.45 billion for the Department of Justice's Federal Prisoner Detention (FPD) account in order to cover projected detention costs for FY 2016. Further, language related to the use of Asset Forfeiture Program (AFP) balances for FPD purposes should be removed. In FY 2015, the Congress provided FPD with \$1.59 billion, of which \$1.10 billion was derived from excess unobligated balances from the AFP. Since the AFP does not currently project excess unobligated balances, additional new resources are required for FPD to cover operational expenses. Without an anomaly, the FPD account will be unable cover projected detention costs and the AFP will be required to deplete its carry over balances and reduce programmatic expenses.

Commercial Crew

Sec. . Amounts made available by section 101 for "National Aeronautics and Space Administration—Exploration" may be apportioned up to the rate for operations necessary to maintain the planned schedule for the Commercial Crew Program.

Language is needed to authorize the National Aeronautics and Space Administration's (NASA's) Exploration account to obligate funding under the CR formula at a rate for operations necessary to maintain the planned schedule for the Commercial Crew Program. Without the anomaly, NASA would have insufficient funding for activities carried out by its commercial contractors during the CR period, forcing a work stoppage that would result in substantial delays that would lengthen U.S. dependence on other countries for crewed access to space.

Space Shuttle Program Closeout

Sec. . (a) The authority regarding closeout of Space Shuttle contracts and associated programs provided by language under the heading "National Aeronautics and Space Administration—Administrative Provisions" in the Omnibus Appropriations Act, 2009 (Public Law 111-8) shall continue in effect through fiscal year 2021.

(b) This section shall become effective immediately upon enactment of this joint resolution.

Language is needed to extend the availability through FY 2021 of amounts that have expired but have not been cancelled in the National Aeronautics and Space Administration's (NASA's) Exploration, Space Operations, Human Space Flight, Space Flight Capabilities, and Exploration Capabilities accounts to support closeout activities of the Space Shuttle Program. These funds will be used for the liquidation of valid obligations incurred during FY 2001 through FY 2013. NASA anticipates potential adjustments to range between \$45 to \$100 million. Without an extension, approximately \$68 million of expired funds will be cancelled on September 30, 2015 and returned to the Treasury and will be unavailable to cover closeout costs.

Defense

OCO Funding Level

Sec. 101(b). Whenever an amount designated for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (in this section referred to as an "OCO/GWOT amount") in an Act described in paragraph (3) of subsection (a) that would be made available for a project or activity is different from the amount requested in the President's Fiscal Year 2016 Budget request, the project or activity shall be continued at a rate for operations that would be permitted by, and such designation shall be applied to, the amount in the President's Fiscal Year 2016 Budget request.

Language is needed to reduce the Department of Defense's Overseas Contingency Operations funding to a rate for operations that is below the FY 2015 enacted level to reflect the decreasing scale of operations, consistent with the President's FY 2016 Budget request.

Space Procurement, Air Force

Sec. ____ . Notwithstanding section 101, amounts are provided for "Department of Defense—Procurement—Space Procurement, Air Force" at a rate for operations not to exceed \$2,584,061,000, to be derived by reducing the amount otherwise made available by section 101 for "Department of Defense—Procurement—Missile Procurement, Air Force", and may be obligated in the account and budget structure set forth for such account in S. 1558.

Language is needed to allow the Department of Defense, Air Force to execute appropriations under a Continuing Resolution in the proposed FY 2016 account structure for Space Procurement, Air Force. The FY 2016 President's Budget requested a new account structure and the Department of Defense Appropriations Act, 2016 (S. 1558) reflects this structure. Without the anomaly, the Air Force would need to execute the program in the FY 2015 budget structure during the CR. If the budget structure is adopted in the final FY 2016 appropriation, manual adjustments of the obligations and disbursements would be required. This administrative burden would create cost growth and delays in fielding assets for the warfighter as staff would devote more time to duplicative administrative work.

Financial Services and General Government

SBA 7(a) Loan Guarantees FY 2016 Lending Authority

Sec. ____ . Amounts made available by section 101 for "Small Business Administration—Business Loans Program Account" may be apportioned up to the rate for operations necessary to accommodate increased demand for commitments for general business loans authorized under section 7(a) of the Small Business Act (15 U.S.C. 636(a)).

Language is needed to authorize the Small Business Administration to obligate the amount provided under the CR formula at a rate for operations necessary to accommodate potential increases during the period of the CR. Demand for 7(a) small business lending has been record-setting in FY 2015 and could exceed \$23 billion in FY 2016. Without this anomaly,

strong loan demand in early FY 2016 could lead to the program reaching its pro-rated ceiling before the end of the CR period, forcing program shutdown and delaying financing to thousands of small businesses during the CR.

D.C. Access to Local Funds

Sec. _____. Notwithstanding any other provision of this joint resolution, the District of Columbia in fiscal year 2016 may expend local funds for programs and activities in the amount set forth in the Fiscal Year 2016 Budget Request Act of 2015 (D.C. Act B21-0157), as modified as of the date of the enactment of this joint resolution.

Language is needed to allow the District of Columbia (D.C.) to spend, in FY 2016, funds received from local tax revenues and other non-Federal sources in the amount and for the programs and activities provided in D.C.'s FY 2016 Budget Request Act of 2015.

Homeland Security

Special Acquisition Authority for Homeland Security Research and Development

Sec. _____. The authority provided by section 831 of the Homeland Security Act of 2002 (6 U.S.C. 391) shall continue in effect through the date specified in section 106(3).

Language is needed to authorize the Department of Homeland Security to access certain procurement techniques for research and development, such as other transaction agreements that facilitate the Department's ability to work with non-traditional Government contractors. Without this authority, some projects, depending on their stage of development, may have to stop and be suspended until the authority is provided.

Interior, Environment, and Related Agencies

Fire Transfer Repayment

Sec. _____. In addition to the amount otherwise provided by section 101 for "Department of Agriculture—Forest Service—Wildland Fire Management", there is appropriated \$450,000,000 for an additional amount for fiscal year 2016, to remain available until expended, for urgent wildland fire suppression activities: Provided, That such funds are also available for transfer to other appropriations accounts to repay amounts previously transferred for wildfire suppression: Provided further, That such amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

Because the Administration's proposed wildfire suppression cap adjustment, which would limit the current practice of detrimental "fire transfers" from non-suppression Forest Service programs, has not yet been enacted and funded, language is needed to provide an additional \$450 million to the Wildland Fire Management account within the Department of Agriculture's Forest Service for wildfire suppression for the 2015 fire season, similar to previous years. These additional funds would repay amounts the account received in FY 2015 and prior years from other landscape management program accounts via transfer to cover the cost of firefighting activities.

Recreation Fee Authority Extension

Sec. ____ . Section 810 of the Federal Lands Recreation Enhancement Act (16 U.S.C. 6809) is amended by striking "September 30, 2016" and inserting "September 30, 2017".

Language is needed to extend the authority for the recreation fee programs at the Department of the Interior and the Department of Agriculture, which are set to expire on September 30, 2016. The recreation fee program includes the sale of annual passes and the revenues generated by these fees are used to repair, maintain, and enhance facilities, provide interpretation, information, or other public lands visitor services, restore habitat directly related to wildlife-dependent recreation, and provide law enforcement related to public use. Due to the September 30, 2016 termination date, annual passes cannot be sold beyond September 30, 2015 since any sales of annual passes beyond that point could not be honored for a full year.

Oil and Gas Special Pay Authorization Extension

Sec. ____ . The authorities provided by sections 117 and 123 of division G of Public Law 113-76 shall continue in effect through the date specified in section 106(3).

Language is needed to extend authorization for the Department of the Interior (DOI) to establish higher rates of pay for certain highly skilled employees of the Bureau of Ocean Energy Management, the Bureau of Safety and Environmental Enforcement, the Bureau of Land Management, and the Bureau of Indian Affairs. Without the anomaly, pay rates for both new and current employees in the petroleum engineering and geoscience fields working on both offshore and onshore oil and gas development would revert back to standard GS pay scale levels, complicating the agencies' ability to compete with industry in the hiring and retention of key personnel.

Labor, Health and Human Services, Education, and Related Agencies

Definition of Highly Qualified Teacher

Sec. ____ . Subsection (b) of section 163 of Public Law 111-242, as amended, is further amended by striking "2015-2016" and inserting "2016-2017".

Language is needed for a one-year extension of the highly qualified teacher (HQT) provision enacted in section 163(b) of Public Law 111-242, as amended by the Continuing Appropriations and Surface Transportation Extensions Act, 2011 (Public Law 111-322). This language allows the Department of Education to continue to include teachers who are pursuing alternative routes to certification in the definition of HQT under the No Child Left Behind Act of 2001 (Public Law 107-110). This provision expired after the 2012-2013 school year, but was previously extended through the 2013-2014 school year by section 145 of the FY 2013 short-term CR (Public Law 112-175) and again through the 2015-2016 school year by section 144 of the FY 2014 short-term CR (Public Law 113-46). Without this language, this No Child Left Behind provision would expire and alternative routes to certification programs may reduce the number of new teaching candidates they recruit and accept for the 2016-2017 school year. This would impact an otherwise steady source of new teachers and the millions of students they serve, most of whom are in high need schools and in high need subjects, including math and science.

Centers for Disease Control and Prevention (CDC) - Building and Demolition Authority

Sec. ____ . Funds made available by prior appropriations Acts for the Centers for Disease Control and Prevention for construction and renovation of facilities may also be used, in fiscal year 2016, for the construction of a replacement freezer building in the Fort Collins, Colorado, area.

Language is needed to provide CDC with the authority to use previously appropriated funding for design and construction of a replacement freezer on non-federally-owned property at its Fort Collins Colorado Campus. The existing freezer, which will revert back to the leaseholder in November 2016, provides conditioned laboratory support space for long-term storage of critical biological specimens. Without the anomaly, CDC would be unable to meet time-sensitive construction deadlines for the replacement freezer facility prior to the end of the lease.

Military Construction, Veterans Affairs and Related Agencies

Veterans Benefits Administration - General Operating Expenses

Sec. ____ . Amounts made available by section 101 for "Department of Veterans Affairs—Departmental Administration—General Operating Expenses, Veterans Benefits Administration" may be apportioned up to the rate for operations necessary to sustain staffing levels and technological support for disability claims processing equivalent to such levels and support achieved on September 30, 2015, and to continue veterans transitional services.

Language is needed to allow the Department of Veterans Affairs, Veterans Benefits Administration (VBA) to obligate funding in its General Operating Expenses account under the CR formula at a rate for operations necessary to sustain staffing levels and technological support for disability claims processing and to continue veterans transitional services. Without the anomaly, VBA would be unable to support nearly 800 FTE brought on board over the last six months and would limit the capacity for claims processing overtime needed to sustain efforts to eliminate the disability claims backlog.

Denver Replacement Medical Center

Sec. ____ . (a) Section 2(a) of the Construction Authorization and Choice Improvement Act (Public Law 114-19), as amended by Public Law 114-25, is further amended by striking "\$1,050,000,000" and inserting "\$1,675,000,000".

(b) Of the unobligated balances of amounts available to the Department of Veterans Affairs for fiscal year 2015 and prior fiscal years, and of the amounts appropriated to the Department in advance for fiscal year 2016, the Secretary of Veterans Affairs may transfer up to a total of \$625,000,000 to the appropriations account under the heading "Department of Veterans Affairs—Departmental Administration—Construction, Major Projects", to be merged with amounts under such heading: Provided, That no amounts may be transferred from amounts that were designated by the Congress as an emergency requirement pursuant to the Concurrent Resolution on the Budget, the Balanced Budget and Emergency Deficit Control Act of 1985, or the Statutory Pay-As-You-Go Act of

2010: Provided further, That the Secretary shall notify the Committees on Appropriations of the House of Representatives and the Senate promptly after any such transfer.

Language is needed to authorize additional amounts for construction of the Denver Replacement Medical Center by the Department of Veterans Affairs (VA). Existing authority for construction of the facility is limited to \$1.05 billion. The anomaly would increase the amounts authorized for the project to \$1.675 billion and provide authority to VA to transfer amounts already appropriated in FY 2015 and prior years, including advance amounts available in FY 2016 for VA medical care, to cover the additional costs for construction. Without the anomaly, VA will reach the authorization limit for the facility and funding for the contract will be exhausted during the CR period, forcing a work stoppage that would result in substantial delays and additional costs.

Transportation, Housing and Urban Development, and Related Agencies

New Core

Sec. ____ . Notwithstanding section 101, amounts are provided for "Department of Housing and Urban Development—Management and Administration—Administrative Support Offices" at a rate for operations of \$550,600,000.

Language is needed to provide a rate for operations of \$550.6 million for the Department of Housing and Urban Development's (HUD's) Administrative Support Offices account to allow the Department to transfer key financial management and procurement responsibilities to the Department of the Treasury on October 1, 2015, as part of HUD's scheduled third release of its New Core shared services project. Treasury and HUD have been working for several years toward this transition of accounting services beginning in FY 2016, and it would generate substantial new costs to delay this launch. Without the anomaly, HUD would be unable to migrate these functions without substantial reprogrammings and funds transfers from within its other salaries and expenses accounts to pay for the additional costs, depleting crucial resources necessary to accomplish basic administrative functions within the Department.