



Legislative Bulletin.....July 18, 2012

H.R. 5856 — FY 2013 Department of Defense Appropriations Act

BY THE NUMBERS:

In Millions of Dollars

	FY12	FY13 Request	FY13 Committee	Cmte v. Request	Cmte v. FY12
Appropriations	518,146	516,232	519,219	2,987	1,073
<i>OCO Funding</i>	<i>115,083</i>	<i>88,480</i>	<i>88,480</i>	----	<i>-26,603</i>
TOTAL	633,229	604,712	607,699	2,987	-25,530

Excluding Emergency Appropriations, the Committee Bill is:

- **\$2.987 billion** or **0.6% more** than the request
- **\$1.073 billion** or **0.2% more** than last year

Spending Discussion: The bill provides a non-emergency spending level of \$519.2 billion, \$1.1 billion (or 0.2%) more than last year. The House Appropriations Committee approved the 302(b) allocations for the twelve spending bills that total \$1.028 trillion—consistent with the 302(a) allocation provided under the FY 2013 House-passed budget resolution. This allocation is a \$19 billion cut compared to the *cap* under the Budget Control Act, and a \$15 billion cut compared to last year. [The RSC Budget’s 302\(a\)](#) would have been \$931 billion (\$97 billion lower).

The legislation also provides a total of \$88.5 billion for FY 2013 war funding. This is the same as the request. In FY 2012, \$115 billion was spent for this purpose.

This is the seventh regular appropriations bill the House has taken up this year. The Senate has passed none.

Order of Business: H.R. 5856 is scheduled to be considered under an **open rule** on July 18, 2012 that provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Appropriations Committee. The rule authorizes the Chair to give priority recognition to Members who have pre-printed their amendments in the *Congressional Record*, and requires amendments to be considered under the five minute rule. The rule also waives all points of order against provisions in the bill for failure to comply with clause 2 of rule XXI (which prevents appropriations

bills from containing unauthorized appropriations or legislative provisions) except for section 8121 (regarding funds being used to sponsor any professional or semi-professional sporting event or competitor). Note that Members still cannot add authorizing language via amendment on the floor.

Funding Summaries:

Dollars in Thousands

	FY 2012 Enacted	FY 2013 Request	H.R. 5856	H.R. 5856 Vs. FY 12	H.R. 5856 Vs. Request	H.R. 5856 Vs. FY12	H.R. 5856 Vs. Request
Regular Funding							
Military Personnel, Total.....	131,090,539	128,430,025	128,462,794	-2,627,745	32,769	-2.0%	0.0%
Operations and Maintenance, Total.....	163,073,141	174,938,933	175,159,569	12,086,428	220,636	7.4%	0.1%
Procurement, Total.....	104,579,701	97,194,677	102,496,191	-2,083,510	5,301,514	-2.0%	5.5%
Research, Develop., Test & Evaluation, Total	72,420,675	69,407,767	69,984,145	-2,436,530	576,378	-3.4%	0.8%
Revolving and Management Funds.....	2,675,529	2,124,320	2,080,820	-594,709	-43,500	-22.2%	-2.0%
Defense Health Program.....	32,482,059	32,528,718	32,862,234	380,175	333,516	1.7%	1.0%
Joint Improvised Explosive Device Fund.....	----	227,414	217,414	217,414	-10,000	NA	-4.4%
Office of the Inspector General.....	346,919	273,821	350,321	3,402	76,500	1.0%	27.9%
Chemical Agents.....	1,554,422	1,301,786	1,301,786	-252,636	----	-16.3%	----
Drug Interdiction.....	1,209,620	999,363	1,133,363	-76,257	134,000	-6.3%	13.4%
Related Agencies (Intelligence, etc.).....	1,061,591	1,054,252	1,025,476	-36,115	-28,776	-3.4%	-2.7%
Overseas Deployment Funding							
Military Personnel, Total.....	11,639,252	13,788,421	13,786,221	2,146,969	-2,200	18.4%	0.0%
Operations and Maintenance, Total.....	89,016,326	62,512,514	63,478,841	-25,537,485	966,327	-28.7%	1.5%
Procurement, Total.....	13,633,461	7,911,841	7,906,039	-5,727,422	-5,802	-42.0%	-0.1%
Research, Develop., Test & Evaluation, Total	526,358	245,516	235,516	-290,842	-10,000	-55.3%	-4.1%
Revolving and Management Funds.....	435,013	503,364	293,600	-141,413	-209,764	-32.5%	-41.7%
Defense Health Program.....	1,228,288	993,898	993,898	-234,390	----	-19.1%	----
Drug Interdiction.....	456,458	469,025	469,025	12,567	----	2.8%	----
Joint Improvised Explosive Device Fund.....	2,441,984	1,675,400	1,614,900	-827,084	-60,500	-33.9%	-3.6%

Items of Note:

Guantanamo Bay: The legislation prohibits funds in the bill from being used to “transfer, release, or assist in the transfer or release to or within the United States, its territories, or possessions Khalid Sheikh Mohammed” or other detainees who meet certain criteria in the bill.

War Funding: Provides a total of \$88.5 billion for FY 2013 war funding. This is the same as the request. In FY 2012, \$115 billion was spent for this purpose.

ACORN Funding Prohibition: The legislation prohibits funds in the bill from going to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

Limit on Pakistan Funding: The legislation prevents funds appropriated or otherwise made available by this Act under the heading “Operation and Maintenance, Defense-wide” for reimbursement to Pakistan unless the Secretary of Defense, in coordination with the Secretary of State, certifies to the Committees on Appropriations that the Government of Pakistan is:

- “(1) cooperating with the United States in counterterrorism efforts against the Haqqani Network, the Quetta Shura Taliban, Lashkar e-Tayyiba, Jaish-e-Mohammed, Al Qaeda, and other domestic and foreign terrorist organizations, including taking steps to end support for such groups and prevent them from basing and operating in Pakistan and carrying out cross border attacks into neighboring countries;
- “(2) not supporting terrorist activities against United States or coalition forces in Afghanistan, and Pakistan’s military and intelligence agencies are not intervening extra-judicially into political and judicial processes in Pakistan;
- “(3) dismantling improvised explosive device (IED) networks and interdicting precursor chemicals used in the manufacture of IEDs;
- “(4) preventing the proliferation of nuclear-related material and expertise;
- “(5) issuing visas in a timely manner for United States visitors engaged in counterterrorism efforts and assistance programs in Pakistan; and
- “(6) providing humanitarian organizations access to detainees, internally displaced persons, and other Pakistani civilians affected by the conflict.”

Limitation on Funds Related to Iraq and Afghanistan: The legislation prohibits funds to:

- establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq;
- establish control over Iraqi oil; and
- establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Afghanistan.

Prohibition on Funding Related to Torture: The legislation prohibits funds available in the bill from being used in contravention of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Prohibition on International Political/Psychological Activities: The legislation prohibits funding from being used for “international political or psychological activities.”

War Powers Resolution: None of the funds made available in the bill can be used to violate the War Powers Resolution.

Prohibition on Sponsorship of Sports Events: The legislation prohibits funds made available in the bill from being used to “sponsor professional or semi-professional motorsports, fishing, mixed martial arts, wrestling, or other sporting events or competitors.”

Committee Action: H.R. 5856 was reported out of the House Appropriations Committee as an original measure on May 25, 2012.

Cost to Taxpayers: The bill appropriates a total of \$519.2 billion (non-emergency), \$1.1 billion more than last year. The legislation also appropriates \$88.5 billion for overseas contingency operations funding (compared to \$115 billion last year).

Earmarks: According to the committee report, the legislation contains no earmarks.

Does the Bill Expand the Size and Scope of the Federal Government?: As noted above, the legislation spends \$1.1 billion more than last year excluding emergency funding. Including the war funding, it spends \$25.5 billion less than last year.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No CBO score is available listing any possible mandates.

Constitutional Authority: According to the committee:

“Congress has the power to enact this legislation pursuant to the following: ‘The principal constitutional authority for this legislation is clause 7 of section 9 of article I of the Constitution of the United States (the appropriation power), which states: ‘No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law...’ ‘In addition, clause 1 of section 8 of article I of the Constitution (the spending power) provides: ‘The Congress shall have the Power... to pay the Debts and provide for the common Defence and general Welfare of the United States...’ Together, these specific constitutional provisions establish the congressional power of the purse, granting Congress the authority to appropriate funds, to determine their purpose, amount, and period of availability, and to set forth terms and conditions governing their use.”

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