

MEMORANDUM

SUBJECT: Senate Appropriations Committee Markup on FY 2004 VA, HUD and Independent Agencies Appropriations Bill

FROM: Linda M. Combs
Chief Financial Officer

TO: Marianne Lamont Horinko
Acting Administrator

Stephen Johnson
Acting Deputy Administrator

On September 4, 2003, the Senate Appropriations Committee considered and reported the FY 2004 VA, HUD and Independent Agencies Bill. In an unusual move, the VA-HUD Subcommittee did not hold a formal mark-up, which had been scheduled for September 3rd. Instead, the Subcommittee members were "polled" for their votes based on a review of the Bill and Report. This Bill, as reported by the Full Committee, includes \$8,182,718,000 for the Agency. This is \$556,180,700 above the President's Request and \$177,621,000 above the level passed by the House on July 25, 2003. Attachment A provides an Appropriations Account summary of the Committee mark.

Prior to the Full Committee mark-up a version of the Report and Bill were distributed to Members of the Committee. This version of the Report contained a number of numerical errors, which were corrected through Senator Bond's Manager's Amendment, as adopted by the Full Committee. The corrected version will be filed by the Committee and made available on the Internet. The dollars referenced in this memo reflect the corrected numbers.

The total amount provided for the Agency, although larger than requested, is very misleading. It includes a number of large increases, not requested by the President, including a \$500,000,000 increase for the Clean Water State Revolving Fund (SRF) and over \$252,000,000 in " add-ons" (both increases to base programs and member-sponsored earmarks). To pay for these, and other priorities within the total VA-HUD Bill, the Committee provided only \$28,073,817 of the \$153,610,417 requested increase for Superfund clean ups, reduced Categorical grants in STAG by \$72,700,000, did not fund the President's Request for the Puerto Rico Drinking Water plant, and made both directed and general reductions to EPM of over \$78,000,000 and to S&T of over \$60,000,000. So, despite the increase to the over-all Agency total, the prospects for our core programs are sobering, especially when coupled with House action earlier this summer.

Consequences of a Tight Budget Allocation:

The VA-HUD Subcommittee's budget allocation is only \$600,000,000 above the President's Budget. Within that allocation they made a number of adjustments to the President's Budget, including additional funds for the National Science Foundation, HUD HOPE VI, HUD Brownfields programs, and Veterans Medical Care. To fund these additional programs, the Senate, unlike the House, did use at least one budget "gimmick." They provided \$1,570,000,000 more for Veterans Medical Care than requested by the President. Of that amount, \$1,300,000,000 has been characterized as "contingent emergency funding", which means it does not count against the Subcommittee's overall allocation. Despite this action, the Subcommittee still did not have sufficient funds to pay for their earmarks without significant reductions to EPA core programs. As you will see from the discussion below and the attached charts, the Senate proposals are anything but the "status quo" used by the House to meet its mark.

Reductions to Core Agency Programs:

The EPM Account has taken a large hit. When coupled with House action, the potential for reductions by the Conference Committee is troubling. As is Congressional practice, the Committee has provided increases to a number of EPM base programs (such as Environmental Justice, Regional 10's Environmental Compliance Program and the National Estuary Program); included funds for programs zeroed out in the President's Request (Environmental Education and Rural Water programs); and, earmarked almost \$45,000,000 for projects sponsored by Senators. To pay for these increases the Committee has directly reduced a number of Key Programs, including \$5,000,000 less for the Great Lakes Legacy Act than the \$15,000,000 requested, and a General Reduction of more than \$42,000,000. To put this into perspective, at this point last year, the General Reduction recommended by the Senate was \$3,156,500.

Although it might seem impossible, the situation with the S&T Account could be considered even worse. In a reversal from past practice, the Committee did not protect the S&T account from large decreases. The total reductions to this account, both directed and general, exceed the amount provided for add-ons, thus appearing as though the Committee has used funds from this account to pay for activities in other accounts. The Committee added funds to three base programs (Children's Centers +\$1,500,000; STAR Fellowships +\$4,875,000; and Small Systems Arsenic Research +\$5,000,000) and provided almost \$33,000,000 for member -requested earmarks. These "add-ons", which total over \$44,000,000, were paid for by \$20,000,000 in directed cuts and a General Reduction of more than \$40,000,000, the largest in recent memory to this account. This proposed General Reduction is more than 150% higher than the FY 2003 General Reduction in S&T.

The following is a list of highlights from Committee action. Attachment B provides more detail and a general accounting of how the Committee reached the total numbers for each account. Funding Highlights of Committee Action:

. Superfund Funding Level: Of the \$153,610,417 increase proposed by the President for Superfund Response, the Committee has provided only \$28,073,817. In response to much criticism of the program, the Report Language will direct the Agency to spend 22% of the account total on site remedy construction and long-term response. The Committee estimates that the Agency currently spends 16% on these activities. At the Senate mark, 22% of the Superfund account would be approximately \$278,300,000. Despite what would appear to be a contradiction to the above mentioned directive on spending for construction, the Committee has delayed obligation of \$100 Million until September, 2004.

. Brownfields: The Senate Committee has provided only \$100,500,000 of the \$120,500,000 request for Brownfields Infrastructure projects in STAG. However, unlike the House, the Senate has provided the total request of \$60,000,000 for the Brownfield Categorical Grants and the total EPM portion of \$30,254,000. In total, the Committee has provided \$190,754,000 of the \$210,745,000 requested by the President for this program.

. Pesticides Fees: Consistent with House action, the Committee did not entertain the fee structure as proposed by the President, which included a mix of maintenance, registration and tolerance fees. Instead, they employed the same scenario used in the recent past: a prohibition on promulgating the tolerance fee and an extension of the maintenance fee for one additional year, with authorization to collect up to \$21,500,000 [all in bill language]. The Committee Report does not address the comprehensive legislative proposal to revise the fee structure for this program. However, Senator Cochran asked to add a statement to the record of the Committee meeting, which most likely will express his desire to add the proposal as a floor amendment when the full Senate considers this bill.

. STAG Increases/Decreases: As stated above, the Senate Committee has increased the Clean Water SRF to \$1,350,000,000, which is \$500,000,000 over the President's Request. Although this level is \$150,000,000 more than what the House provided, it is virtually certain to be the final level approved by the Conference Committee. Senator Mikulski noted that when the Senate considers this bill, she intends to offer an amendment to increase funding, by up to \$3,000,000,000, for the Clean Water and Drinking Water SRFs. She noted that the Subcommittee receives more requests for EPA water project earmarks than any other program in the Bill.

Consistent with earlier House action, the Senate Committee has not provided funds for the Puerto Rico Drinking Water plant, as requested by the President. In deference to Full Committee Chairman Stevens, the Committee has increased the request for Alaska Native Villages by \$5,000,000, for a total of \$45,000,000, and included \$3,500,000 for Alaska Above Ground Storage Tanks. Finally, the Committee reduced the President's Request for the following categorical grants: Non-point Source (-\$42,500,000), Wetlands Program Development grants (-\$5,100,000), the Targeted Watershed Grants (-\$4,000,000), the Information Exchange Network grants (-\$5,000,000). They also accepted a recommendation from the GAO to reduce the Lead state grants by \$9,000,000, the first time this grant has been reduced in a long while.

. Energy Star and OECA: The Committee supports the President's Request for these programs, the effect of which is to hold those activities harmless from the General Reduction. The Full Committee accepted an amendment to Report Language, as offered by Senator Mikulski, that directs the Agency to report to the Committee on its plan to reduce case backlogs and restore adequate funding for the criminal enforcement program.

Additions to Bill Language:

The Committee has included a number of new provisions in Bill Language not included in the President's Budget. In response to the uncertainty surrounding the Superfund Trust Fund levels, the Bill Language will read "such sums as are available" from the Trust Fund, with as much as the full account total coming from the General Fund if necessary. Like the House, the Senate Committee expects to further refine this language and/or estimate by the time the Conference Committee meets. The Subcommittee also has included, within the Administrative Provisions of the Bill, two technical corrections to the Brownfields authorizing statute: the first permanently "fixes" the date of purchase issue, the second deals with use of the grant funds for administrative costs (See Attachment C).

In relation to the STAG earmarks, the Committee has mandated in law that each grantee provide a 45% match, unless that match is waived by the Administrator for financial capability reasons. In addition, the Committee has included Bill Language that will allow any Special project grant jointly funded by one of the SRFs to be administered according to the procedural requirements of that SRF. In response to grantee concerns about dual oversight, this would allow the states to manage a large percentage of the STAG earmarks. As part of the Manager's Amendment, the Committee accepted new language for the Alaska Native Villages funds. This language specifies how Alaska is to use the funds and requires a 25% match. (See Attachment D).

Finally, the Committee adopted Bill language that amends Section 209 of the Clean Air Act to prohibit California from setting its own emissions standards for off-road engines under 175 horsepower, which include lawn mowers, generators, and forklifts. Senator Feinstein offered an amendment to strike this provision, but the amendment to strike failed on a party-line vote of 12 yeas to 17 nays.

There are a number of FY 2004 bills, as reported by the Senate Appropriations Committee, in the "queue" awaiting consideration by the Full Senate. It is very unlikely that the Senate would consider the VA-HUD bill before late September or October, pushing Conference Committee into the next fiscal year. We expect to start the year under a Continuing Resolution. We will keep you informed as Congressional action on our funding bill proceeds.

Attachments

cc: Tom Gibson
Chief of Staff (1101A)
Assistant Administrators
General Counsel
Inspector General
Associate Administrators
Regional Administrators

(See attached file: ATT_B.wpd) (See attached file: SEN_ACCT.123)