

The Bush Administration and the Power of the Purse

White House proposes unprecedented authority to circumvent Congress's constitutionally mandated role

U.S. Constitution



"No money shall be drawn from the Treasury but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."

- US Constitution, Article I, Section 9, Clause 7, 1787

U.S. Secretary of Defense



"Whatever is put forward by the Congress by way of money will be expended in a way that the president decides should be expended."

- U.S. Secretary of Defense Donald Rumsfeld, 4/7/03

WARTIME SUPPLEMENTAL: PROPOSALS FOR “FLEXIBILITY”

President Bush’s wartime supplemental request included various proposals to circumvent Congress’s constitutionally mandated role of oversight and of protecting the power of the purse. While the White House has called these proposals “flexibility” they are a clear affront to Congress and the public’s responsibility to oversee taxpayer dollars. When asked about this, Secretary of Defense Donald Rumsfeld said “whatever is put forward by the Congress by way of money will be expended in a way that the president decides should be expended” [4/7/03]. Here is how the most contentious of these issues stand before the Conference Committee convenes:

DoD - DEFENSE EMERGENCY RESPONSE FUND (DERF): The President requested total flexibility/unaccountability for roughly \$59.9 billion for the Pentagon’s “Defense Emergency Response Fund.” The House bill rejected this request and instead created a new \$25.4 billion "Combat, Stability, Operations, and Force Reconstitution Costs" account for the war in Iraq and the global war on terrorism. Funds in this new account require congressional approval before being spent. The Senate bill provided \$11 billion for the DERF.

DoD - FOREIGN CONTRIBUTIONS: The President requested authority to use foreign contributions in the Defense Cooperation Account without congressional approval. This was modified by the House to require advance approval of the Committees on Appropriations. The Senate bill sustains current law by requiring advance approval of Congress, in law.

DoD - INDIGENOUS FORCES FUND: The House and Senate rejected the President's request for the Department of Defense to have \$150 million to support indigenous forces. The Senate bill, however, includes an authority requested by the Administration to allow DOD to spend up to \$50 million for foreign nations, "in furtherance of the global war on terrorism." The House has no such provision.

DoD - IRAQ REBUILDING: The House approved \$2.4 billion for reconstruction of Iraq. Like the Senate, the House rejected the President's request to put these funds under the control of the President. Instead, both versions of the bill put the money in the State Department. Both versions of the bill require five-day advance notification. It is traditionally appropriate for the State Department to have primary control over the use of foreign assistance funds, rather than the Pentagon. The primary role of the Department of Defense should be to provide security, while reconstruction and humanitarian aid agencies are doing their work. Placing these funds under the control of the Secretary of State would allay concerns that key decisions on the use of these reconstruction dollars, including accountability for the funds and the approval of contracts, would be made behind White House doors, with the potential invocation of executive privilege.

DoD - FOREIGN REIMBURSEMENTS: The House bill provides \$1.4 billion for DOD for reimbursement to Pakistan, Jordan, and other nations for logistical support for the global war on terrorism. Like the Senate, the House includes language requiring advance notification to Congress. The House also requires that funds lapse if DOD does not send to Congress within 30 days of enactment a plan for the use of the funds. The House did not include language similar to the Senate that requires documentation of support by these nations prior to payment.

DHS – SECRETARY OF HOMELAND SECURITY: The President requested a \$1.5 billion unallocated fund under the control of the Secretary of Homeland Security. The House provided \$1.1 billion allocated to specific homeland security accounts (Secret Service, Customs and Border Enforcement, Immigration and Customs Enforcement, Coast Guard, Transportation Security Administration, and Emergency Planning). The Senate approved \$1.135 billion in an unallocated fund for the Secretary.

EOP – PRESIDENTIAL FUND: Both the House and Senate rejected the President's request to have a \$250 million fund under the control of the President for distribution to homeland security programs.

DoJ - ATTORNEY GENERAL: Instead of giving the Attorney General an unallocated \$500 million counter-terrorism fund as requested by the President, both the House and Senate allocate the funds by account.