

## **DoD Appropriations Biggest Problems with a Continuing Resolution Come from Congress**

Members of Congress are again complaining about national security under a possible full-year continuing resolution instead of new appropriations legislation. The defense industry and the White House's Office of Management and Budget are raising alarms as well. Yet Congress' appropriations legislation bears responsibility for some of the Department of Defense's challenges under a continuing resolution. Even much of the apparent gap between current spending levels and those desired by many members of Congress is covered by tens of billions in savings from President Biden's termination of the mission in Afghanistan. DoD managers need a reasonable amount of flexibility to apply their expertise in carrying out the policy objectives that Congress gives them. In reality, Congress micromanages DoD and does so poorly. Provisions of defense appropriations extend beyond proper legislative powers and ventures into managerial activities that are within the core competencies of the executive branch.

- **No New Starts.** Take the prohibition on “new starts” for defense in last year's 2,216-page Consolidated Appropriations Act. DoD's development process for new systems certifies them as ready for deployment when they reach “Milestone C.” In a rational world, DoD could start fielding the next generation of weapons and equipment when they're ready for action—not wait for Congress to give permission. Yet section 8010 of last year's defense appropriations says that “none of the funds provided in this Act shall be available to initiate” various contracts above specified dollar amounts. This means that CRs extend the time between congressional approval of new starts.
- **Funding tables.** Providing funds for new starts—or any unanticipated priority—is difficult because defense appropriations legislation is specific about the permissible uses of funds. The “explanatory statement” accompanying the legislation includes hundreds of pages of detailed tables matching use to funding level, even down to line items for different types of ammunition. Unique among appropriations, defense appropriations legislation incorporates the tables in the report as if they were directly included in the statute through section 8006 on page 123. All spending is “hereby required by law to be carried out in the manner provided by such tables to the same extent as if the tables were included in the text of this Act.” No other appropriations act incorporates tables like that. CRs extend the duration of these detailed instructions while our security needs shift.
- **Limited reprogramming authority.** Congress nods to the need to move funds around for higher priorities through “reprogramming authority.” But such requests from DoD are to the Appropriations committees, not the full Congress, let alone simply left to DoD. Section 8005 blocks DoD from even asking “unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.” In other words, DoD's hands are tied unless the knot-tyers let them do something different. DoD budget staff have told us that program managers have little faith that even an obviously beneficial reprogramming

request is likely to be worth the effort. CRs extend spending details even when they stop making sense, like the \$3 billion Afghanistan Security Forces Fund.

- **Impoundment Control.** Finally, the Impoundment Control Act (ICA) of 1974 requires federal agencies to spend as much of their budget authority as possible. Congress passed it in response to President Richard Nixon's already-unlawful impoundments. Unfortunately, the ICA creates management challenges, and the last administration's OMB said it "is unworkable in practice and should be significantly reformed or repealed." The ICA's near mandate to spend all available funds before they expire produces waste throughout the government. The exceptional level of congressional micromanagement of DoD forces budget officers to spend on low-value items even if they have clear alternatives to provide more security at less cost.

Every defense appropriations bill severely limits new starts, ties funding to excessive specific items, and prevents agency officials from proactively connecting our national security ends with the available personnel, equipment, and financial means. The Impoundment Control Act helps convert this sclerosis into waste. Under these strictures, CRs amplify defense waste and undermine good management.

Congress has the power to restore managerial capacity and efficiency to our defense enterprise. The armed services committees have actively pursued agency modernization, including a new focus on DoD's Planning, Programming, Budgeting, and Execution system. Executive branch reforms can go only so far, however. Much of the dysfunction stems from appropriations restrictions. CRs make these problems worse, but addressing the root causes elsewhere would make CRs far less problematic.