



**EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503**

June 15, 2015  
(House Rules)

## **STATEMENT OF ADMINISTRATION POLICY**

### **H.R. 2596 – Intelligence Authorization Act for FY 2016**

(Rep. Nunes, R-CA)

The Administration appreciates the Permanent Select Committee on Intelligence's continued support of the Intelligence Community (IC) and its efforts to ensure that the IC has the tools it needs to protect our national security. The Administration supports a number of provisions in H.R. 2596, the Intelligence Authorization Act for Fiscal Year 2016, including the provision relating to business system transformation and other technical and conforming provisions. However, while there are areas of agreement with the Committee, the Administration strongly objects to several provisions of the bill. If this bill were presented to the President, the President's senior advisors would recommend to the President that he veto it.

The Administration looks forward to reviewing the classified schedule of authorizations once it becomes available and working with Congress to address classified authorization levels. Nevertheless, the President has been very clear about the core principle that he will not support a budget that locks in sequestration, and he will not fix defense spending without fixing non-defense spending. Sequestration levels add risk to our national security by damaging the IC's ability to provide strategic warning to decision-makers across all levels of government; to improve collection technologies to exploit existing and future opportunities and increase resilience; to provide cutting-edge technical analysis of counterintelligence, cyber, advanced weapons, and proliferation threats; to spur IC integration; and to increase intelligence capacity by investing in critical information technologies. The Administration would strongly object to a bill that fails to authorize sufficient funding for the IC's priorities, and instead uses Overseas Contingency Operations (OCO) funding in ways that leaders of both parties have made clear are inappropriate. Shifting base budget resources into OCO risks undermining a mechanism meant to fund incremental costs of overseas conflicts and fails to provide a stable, multi-year budget on which defense and intelligence planning is based. The use of OCO funding to circumvent budget caps in defense and intelligence spending also ignores the long-term connection between national security and economic security and fails to account for vital national security functions carried out at non-defense agencies.

Furthermore, the President's national intelligence strategy depends on investing every dollar where it will have the greatest effect. The Administration would object should the classified schedule of authorizations continue to authorize funding of unrequested, multi-billion dollar acquisition programs that would provide little new capability at the expense of core mission areas that address validated intelligence requirements. The FY 2016 Budget includes a prioritized and balanced investment plan, and these extra programs create ripple effects across the entire intelligence portfolio.

The Administration looks forward to working with Congress to address the concerns outlined in more detail below.

Guantanamo Detainee Provisions: The Administration strongly objects to several provisions of the bill that relate to the detention facility at Guantanamo Bay, Cuba. As the Administration has said many times before, operating this facility weakens our national security by draining resources, damaging our relationships with key allies and partners, and emboldening violent extremists. Rather than taking steps to bring this chapter of our history to a close, as the President has repeatedly called upon Congress to do, this bill aims to extend it. Not only would it extend certain existing restrictions, it would impose an additional unwise and unnecessary restriction that would further impede efforts to responsibly close the facility. Sections 321 and 322 would prohibit the use of funds to transfer Guantanamo detainees to the United States or to construct or modify any facility in the United States to house detainees. Section 323 would seek to prohibit certain foreign transfers entirely. The Administration has objected to the inclusion of these and similar provisions in prior legislation. These restrictions are unwarranted and threaten to interfere with the Executive Branch's ability to determine the appropriate disposition of detainees and its flexibility to determine when and where to prosecute them, based on the facts and circumstances of each case and our national security interests, and when and where to transfer them consistent with our national security and our humane treatment policy. Sections 321 and 323 would, moreover, violate constitutional separation-of-powers principles under certain circumstances, and section 323 could in some circumstances interfere with a detainee's right to the writ of habeas corpus. In addition, sections 331 and 333 would require burdensome and unnecessary reporting to Congress and could interfere with the President's authority to protect sensitive national security information.

Prohibition on Sharing of Certain Information in Response to Foreign Government Inquiries: The Administration strongly objects to section 308, which prohibits the IC from responding to, sharing, or authorizing the sharing of any non-public information related to an intelligence activity carried out by the United States in response to a legislative or judicial inquiry from a foreign government into the intelligence activities of the United States. This provision could affect our relationships with foreign partners and interferes with the President's authority to conduct foreign relations and control the dissemination of sensitive national security information.

Cyber Threat Intelligence Integration Center (CTIIC): The Administration is committed to establishing the CTIIC as a robust element of the government's cyber capabilities, but objects to the language in this bill concerning the CTIIC's role and responsibilities. The Administration intends for the CTIIC to be a national intelligence center focused on "connecting the dots" regarding malicious foreign cyber threats to the nation and cyber incidents affecting U.S. national interests, and on providing reliable all-source analysis to U.S. policy makers. This bill seeks to significantly expand CTIIC's roles and responsibilities beyond those contained in the President's February 25 memorandum directing the establishment of the CTIIC. Further, the bill gives the CTIIC certain intelligence mission management functions already assigned elsewhere in the IC. Given the rapidly changing nature of cyber threats to the United States, the CTIIC will require flexibility in executing its core functions. Furthermore, the limits this bill would place on CTIIC's resources, and the expansive approach the bill would take with regard to CTIIC's missions, are unnecessary and unwise, and would risk the CTIIC being unable to fully perform the core functions assigned to it in the bill. Instead, the Administration believes that

responsibilities given to the CTIIC in the President's February 25 memorandum are appropriate given the need for the CTIIC to be a tailored, nimble organization that supports and enables the Federal government's efforts to identify, defend against, and respond to cyber threats.

Reporting Requirements: The Administration also objects to certain reporting requirements in the bill. For instance, section 303 would prohibit the use of funds to initiate any new special access program unless the Director of National Intelligence or the Secretary of Defense submits a notification to the congressional committees 30 days before initiating such program, subject to a limited exception. Such a requirement is unduly burdensome and does not offer the IC sufficient flexibility to efficiently manage special access programs while meeting the oversight needs of the Congress. The Administration also objects to section 332, which requires a report to Congress every 60 days for the next three years on foreign fighter flows to and from Syria. These provisions are unnecessary and overly burdensome and could, in certain circumstances, interfere with the President's authority with regard to sensitive national security information. The Administration stands ready to work with Congress on possible alternatives. The Administration is committed to ensuring that the relevant committees have the information they need for effective oversight of the IC and looks forward to working with Congress to address our concerns with these provisions.

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