

Statement on Signing the Omnibus Appropriations Act, 2009

March 11, 2009

Today I have signed into law H.R. 1105, the "Omnibus Appropriations Act, 2009." This bill completes the work of last year by providing the funding necessary for the smooth operation of our Nation's Government.

As I announced this past Monday, it is a legitimate constitutional function, and one that promotes the value of transparency, to indicate when a bill that is presented for Presidential signature includes provisions that are subject to well-founded constitutional objections. The Department of Justice has advised that a small number of provisions of the bill raise constitutional concerns.

- *Foreign Affairs.* Certain provisions of the bill, in titles I and IV of Division B, title IV of Division E, and title VII of Division H, would unduly interfere with my constitutional authority in the area of foreign affairs by effectively directing the Executive on how to proceed or not proceed in negotiations or discussions with international organizations and foreign governments. I will not treat these provisions as limiting my ability to negotiate and enter into agreements with foreign nations.
- *United Nations Peacekeeping Missions.* Section 7050 in Division H prohibits the use of certain funds for the use of the Armed Forces in United Nations peacekeeping missions under the command or operational control of a foreign national unless my military advisers have recommended to me that such involvement is in the national interests of the United States. This provision raises constitutional concerns by constraining my choice of particular persons to perform specific command functions in military missions, by conditioning the exercise of my authority as Commander in Chief on the recommendations of subordinates within the military chain of command, and by constraining my diplomatic negotiating authority. Accordingly, I will apply this provision consistent with my constitutional authority and responsibilities.
- *Executive Authority to Control Communications with the Congress.* Sections 714(1) and 714(2) in Division D prohibit the use of appropriations to pay the salary of any Federal officer or employee who interferes with or prohibits certain communications between Federal employees and Members of Congress. I do not interpret this provision to detract from my authority to direct the heads of executive departments to supervise, control, and correct employees' communications with the Congress in cases where such communications would be unlawful or would reveal information that is properly privileged or otherwise confidential.
- *Legislative Aggrandizements (committee-approval requirements).* Numerous provisions of the legislation purport to condition the authority of officers to spend or reallocate funds on the approval of congressional committees. These are impermissible forms of legislative aggrandizement in the execution of the laws other than by enactment of statutes. Therefore, although my Administration will notify the relevant committees before taking the specified actions, and will accord the recommendations of such committees all appropriate and serious consideration, spending decisions shall not be treated as dependent on the approval of congressional committees. Likewise, one other provision gives congressional committees the power to establish guidelines for funding

costs associated with implementing security improvements to buildings. Executive officials shall treat such guidelines as advisory. Yet another provision requires the Secretary of the Treasury to accede to all requests of a Board of Trustees that contains congressional representatives. The Secretary shall treat such requests as nonbinding.

- *Recommendations Clause Concerns.* Several provisions of the Act (including sections 211 and 224(b) of title II of Division I, and section 713 in Division A), effectively purport to require me and other executive officers to submit budget requests to the Congress in particular forms. Because the Constitution gives the President the discretion to recommend only "such Measures as he shall judge necessary and expedient" (Article II, section 3 of the Constitution), the specified officers and I shall treat these directions as precatory.

BARACK OBAMA

The White House,
March 11, 2009.

NOTE: H.R. 1105, approved March 11, was assigned Public Law No. 111-8.

Categories: Bill Signings and Vetoes: Omnibus Appropriations Act, 2009, statement.

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