

**Fiscal Year 2013 DoD Legislative Program –  
Disposition of Late Proposals; Legislative Review Panel**

Timeline for DoD Legislative Program:

<b>August 8, 2011</b>	<i>Deadline for submission of proposals by DoD components to the Office of Legislative Counsel for consideration in the FY 2013 legislative cycle.</i>
<b>September 8, 2011</b>	<i>Deadline for completion of any revisions of required information for each submitted proposal, including revisions to any budget tables or budget implications language for review by the Office of the Under Secretary for Defense (Comptroller).</i>
<b>October 3, 2011</b>	<i>Deadline for completion of internal coordination of all DoD proposals and submission to OMB.</i>
<b>December 30, 2011</b>	<i>OMB will not accept any DoD proposals after this point for the FY 2013 NDAA legislative cycle.</i>

As noted in the Call Memo from the Deputy Secretary of Defense, the number of proposals submitted late in the legislative cycle has increased dramatically in recent cycles. The defense congressional oversight committees have expressed strong objections to the Department's repeated late submissions of legislative proposals. Therefore, the deadline for submission of proposals to OLC for this cycle (August 8, 2011) will be strictly enforced. Any proposal submitted after this deadline will be considered late and subject to the process set forth below.

The Legislative Review Panel (LRP) will enforce firm deadlines (both for submission of proposals and for budget information) for the FY 2013 legislative program. Therefore, only proposals submitted in response to actual emergencies or unforeseeable needs will be accepted late. A component's failure to identify an issue or a needed extension of an expiring authority does not qualify as either an actual emergency or an unforeseeable need. Submitting a proposal late may result in that proposal being deferred until the FY 2014 legislative cycle; therefore components should take a comprehensive approach to the legislative process to ensure that all needed proposals are submitted in a timely manner.

**I. DISPOSITION OF PROPOSALS SUBMITTED LATE:**

For any proposal that is submitted late, the head of the component, in a cover memorandum accompanying the proposal, must explain the circumstances that prevented the submission of the proposal by the submission deadline. The head of the component should also include any necessary supporting documentation. The memorandum must include an explanation of the following:

- the circumstances that prevented the submission of the proposal by the submission deadline;
- how the proposal will be incorporated within the DoD budget for FY 2013; and
- why it is **essential** for the proposal to be enacted in the FY 2013 legislative cycle.

Please note that it is not sufficient to submit a memo asking that the proposal be permitted late and failing to address the items specified above. If components currently use a template for these memos, the templates should be revised to ensure all required information listed above is included.

An exception to the deadline for submissions will be granted only for a proposal that addresses an actual emergency or an unforeseeable need. Every late proposal will be referred to the ASD(LA) and the LRP to determine whether it meets one of these criteria and should be accepted for the FY 2013 cycle. Any such proposal will not be coordinated within the Department until that determination is made, most likely during a monthly LRP meeting. In addition, prior to consideration by the LRP, every late proposal must be reviewed by the staff of the USD(Comptroller) to determine the proposal's PAYGO effects and whether it is included in the President's Budget.

As the submission deadline is earlier than the anticipated completion of Congressional action on the FY 2012 NDAA, components should submit placeholders for any FY 2012 Administration-cleared proposals that remain Departmental priorities, even if those proposals were included in the bills passed by the House of Representatives and/or the Senate. When a component submits a placeholder proposal, it should include the required justification for a resubmitted proposal and note whether the proposal was adopted by the House and/or Senate. If a proposal later is enacted into law, it will be removed from the FY 2013 Legislative Program. A component may submit a new proposal drafted in response to a provision in the FY 2012 NDAA, if the proposal could not have been reasonably anticipated before the Congressional action on the FY 2012 NDAA.

Whatever the circumstance, any delivery of legislation to the House or Senate Armed Services Committees after they have marked up their respective versions of the FY 2013 NDAA will require the personal approval of the Assistant Secretary of Defense (Legislative Affairs).

## **II. LEGISLATIVE REVIEW PANEL:**

The Department must be able to identify its top legislative priority proposals to enable the Department to develop a successful legislative strategy for the enactment of these proposals into law. To achieve this, each component must identify its respective top legislative priorities when it submits its proposals to OLC.

The LRP will meet periodically during the legislative cycle to identify DoD's top legislative priorities and review those priorities and the top priorities of each of the components. The LRP will recommend necessary changes to these proposals before their transmission to the Office of Management and Budget (OMB) and Congress to ensure that the Department's proposed NDAA as transmitted to Congress accurately reflects the Secretary's priorities.

Any significant modification to a proposal, especially as a result of comments received through the interagency review process, is subject to further review and approval by the LRP.

To aid in this process, each component must prioritize each proposal it submits to OLC, in terms of its relative priority with respect to all of the other proposals submitted by that component. For

example, if the component submits 15 proposals, it must prioritize each specific proposal as 1 of 15, 5 of 15, 15 of 15, etc. It is not sufficient to state that all of the proposals are priorities. Additionally, the component must specifically identify each of its proposals that is a “must have,” i.e., the proposal **must** be enacted during the FY13 cycle. If helpful, a component may consider placing its proposals into four categories, such as identifying each proposal as one which: (a) must be enacted this cycle; (b) would be helpful if enacted this cycle; (c) would be helpful, but does not address immediate needs; or (d) would be a helpful addition, but is not realistic in the current cycle.

The Legislative Review Panel will review each component’s priorities to determine the Department’s priority proposals for this legislative cycle. The Department and OMB will use this list of priorities to focus their efforts during the legislative cycle and to make certain that the Department’s top priority proposals are transmitted to Congress in a timely manner.

The LRP will resolve any outstanding dispute between components with respect to pending proposals that are referred to it by OLC for consideration and resolution. Each sponsoring component may be required to come before the LRP to make its case for any disputed proposal placed before the LRP, and must be prepared to address any question or disputed issue that may arise.

If the LRP directs OLC to accept a proposal that was submitted late, OLC will expedite coordination of the proposal through the Department for possible transmittal to OMB for interagency coordination.

If the LRP directs OLC not to accept a proposal that was submitted late, OLC will not put the proposal into the department coordination process or will cease coordination, if already begun. The sponsoring component will be free to submit the proposal for the FY 2014 legislative cycle, if it chooses to do so.