

Fiscal Year 2014 DoD Legislative Program – Disposition of Late Proposals; Legislative Review Panel

Timeline for DoD Legislative Program:

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| August 6, 2012 | <i>Deadline for submission of proposals by DoD components to the Office of Legislative Counsel for consideration in the FY 2014 legislative cycle.</i> |
| October 1, 2012 | <i>Deadline for completion of internal coordination of all DoD proposals and submission to OMB.</i> |
| December 31, 2012 | <i>OMB will not accept any DoD proposals after this point for the FY 2014 NDAA legislative cycle.</i> |

As noted in the Call Memo from the Deputy Secretary of Defense, late submissions make the legislative proposal process less effective and efficient and require a significant expenditure of resources to obtain the necessary internal and interagency coordination on an expedited basis. Therefore, the deadline for submission of proposals to OLC for this cycle (August 6, 2012) 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 2014 legislative program. Therefore, only proposals submitted in response to actual exigencies 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 exigency or an unforeseeable need. Submitting a proposal late may result in that proposal being deferred until the FY 2015 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 2014; and
- why it is **essential** for the proposal to be enacted in the FY 2014 legislative cycle.

It is not sufficient to submit a memo that merely asks that the proposal be permitted late; the memo must address the items specified above.

An exception to the deadline for submissions will be granted only for a proposal that addresses an actual exigency or an unforeseeable need. Every late proposal will be referred to the

Assistant Secretary of Defense for Legislative Affairs (ASD(LA)) and the LRP to determine whether it meets one of these criteria and should be accepted for the FY 2014 cycle. Any such proposal will not be coordinated within the Department until that determination is made, most likely during a monthly LRP meeting. As a result, a proposal that is submitted late might not be coordinated within the Department for several weeks, if at all. In addition, prior to consideration by the LRP, every late proposal must be reviewed by the staff of the Under Secretary of Defense (Comptroller) to determine whether it is included in the President's Budget.

Since the submission deadline is earlier than the anticipated completion of Congressional action on the FY 2013 NDAA, each component should include with its FY 2014 submission any of its FY 2013 Administration-cleared proposals that remain Departmental priorities and still are pending in the bills passed by the House of Representatives and/or the Senate. When a component submits a carryover proposal, it should identify the proposal as an FY 2013 resubmission, note whether the proposal was adopted by the House and/or Senate (including the section number(s) in the House and/or Senate NDAA), and update the proposal as necessary (including the budget information). Once the FY 2013 NDAA is enacted, each carryover proposal will be reviewed and, as warranted, will either be dropped from the FY 2014 legislative program or referred back to the sponsoring component for reconsideration and possible modification in view of the congressional action. A component may submit a new proposal drafted in response to a provision in the FY 2013 NDAA if the proposal could not have been reasonably anticipated before the Congressional action on the FY 2013 NDAA.

Whatever the circumstance, any delivery of legislation to the House and Senate Armed Services Committees after they have marked up their respective versions of the FY 2014 NDAA will require the personal approval of the ASD(LA).

II. LEGISLATIVE REVIEW PANEL:

The LRP will meet periodically during the legislative cycle to review the proposals submitted by 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 strategic approach described in the Secretary's 2012 strategic guidance for the Department.

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; in fact, stating that all of the proposals are priorities will lessen the importance accorded to the component's most important proposals. Additionally, the component must specifically identify each of its proposals that is a "must have," i.e., the proposal **must** be enacted during the FY 2014 cycle. If helpful, a component may consider placing its proposals into three categories, such as

identifying each proposal as one which: (a) must be enacted this cycle; (b) would be helpful if enacted this cycle; or (c) would be helpful, but does not address immediate needs.

The Department and OMB will use the components' lists 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 disputes 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 2015 legislative cycle, if it chooses to do so.