

OLC Guidelines for the Fiscal Year 2016 DoD Legislative Program – Coordination Requirement; Disposition of Late Proposals; Legislative Review Panel

Contents

I. COORDINATION REQUIREMENT; RESOLUTION OF UNRESOLVED DIFFERENCES	1
II. DISPOSITION OF PROPOSALS SUBMITTED LATE	1
III. LEGISLATIVE REVIEW PANEL	3

I. COORDINATION REQUIREMENT; RESOLUTION OF UNRESOLVED DIFFERENCES

Using the Office of Legislative Counsel (OLC) website, OLC will coordinate throughout the Department every legislative proposal that is accepted into the Fiscal Year (FY) 2016 legislative program. Components will have the opportunity to review and comment on each proposal.

The coordination process requires that all participants engage in full and frank discussions of legislative proposals. Pursuant to DoD Directive 5500.1 and OMB Circular No. A-19, DoD will forward to Office of Management and Budget (OMB) and Congress only those proposals that reflect a single and fully-coordinated Department of Defense (DoD) position. Accordingly, sponsors should monitor comments posted regarding their proposals and address any concerns raised.

If participants in the DoD legislative program are unable through the coordination process to resolve differences regarding a proposal, OLC may ask the differing components to set forth their respective positions in writing. These position papers (which must be signed by the agency head) should be concise, persuasive, and limited to one page. The sponsoring component should rebut any objections that have been raised.

If, after exhausting all options for resolution, the proposal remains in dispute, the proposal may be scheduled for review at the next standing meeting of the Legislative Review Panel (LRP). As part of its review, the LRP will consider the position papers submitted by the differing components, including whether a component did not submit a position paper. Should a proposal be scheduled for review at an LRP meeting, the LRP may request that the sponsoring component have a representative appear at the meeting to advocate its position and answer any questions from the LRP. Sponsoring components should be prepared for that situation to occur.

II. DISPOSITION OF PROPOSALS SUBMITTED LATE

Timeline for DoD Legislative Program:

August 4, 2014	<i>Deadline for submission of proposals by DoD components to the OLC for consideration in the FY 2016 legislative cycle.</i>
-----------------------	--

October 1, 2014	<i>Deadline for completion of internal coordination of all DoD proposals submitted on time.</i>
October 15, 2014	<i>Target date for initial submission of cleared proposals to OMB.</i>
December 31, 2014	<i>Target date for submission of all DoD proposals to OMB for the FY 2016 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, as stated in the Call Memo, the deadline for submission of proposals to OLC for this cycle (August 4, 2014) is critical. Any proposal submitted after this deadline will be considered late and subject to the process set forth below.

The LRP will enforce firm deadlines (both for the submission of proposals and for budget information) for the FY 2016 legislative program. Therefore, the only proposals that will be accepted late will be those submitted in response to actual exigencies or unforeseeable needs. For example, since the submission deadline is earlier than the anticipated completion of Congressional action on the FY 2015 NDAA, a component may submit a new proposal drafted in response to a provision in the FY 2015 NDAA if the proposal could not have been reasonably anticipated before final congressional action on the FY 2015 NDAA. Failure by a component to identify an issue or to identify 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 2017 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. Components also should notify OLC as soon as possible if they intend to submit a late proposal and work with OLC to expedite the submission of the proposal. For any proposal that is submitted late, the head of the component, in the cover memorandum accompanying the proposal, must explain 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 2016.
- Why it is **essential** for the proposal to be enacted in the FY 2016 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. The head of the component should also include any necessary supporting documentation.

Every late proposal will be referred to the Assistant Secretary of Defense for Legislative Affairs (ASD(LA)) and the LRP to determine whether it addresses an actual exigency or an unforeseeable need and should be accepted for the FY 2016 cycle. A late 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 after it is received, 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 and in a PB-16 exhibit.

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 2017 legislative cycle if it chooses to do so.

III. LEGISLATIVE REVIEW PANEL

The LRP will meet periodically during the legislative cycle to review the proposals submitted by each of the components. Approval of a proposal by the LRP is required for the proposal to be considered as cleared by the Department for submission to OMB. The LRP may require changes to proposals before their transmission to OMB and Congress to ensure that the Department's proposed NDAA as transmitted to Congress accurately reflects the Department's priorities.

Any significant modification to a proposal after LRP approval and transmittal to OMB, 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 specifically identify each of its proposals that it considers to be a "must have" and explain why that proposal **must** be enacted during the FY 2016 cycle. Other proposals may be characterized as "desirable". If a component has more than five "must have" proposals, the component must identify which of those are its top five. Further, each component must prioritize its "must have" proposals (or its top five, if there are more than five), in terms of its relative priority with each other (i.e., 1 of 5, 2 of 5, 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.

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. A sponsoring component may be requested 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.

As in the FY 2015 cycle, the LRP will consider all legislative proposals related to Building Partnership Capacity together, to ensure that such proposals are appropriately prioritized.