

Legislative Bulletin.....May 8, 2012

H.R. 5326 — FY 2013 Commerce and Justice, Science, and Related Agencies Appropriations Act

BY THE NUMBERS:

In Millions of Dollars

	FY12	FY13 Request	FY13 Committee	Cmte v. Request	Cmte v. FY12
Appropriations	52,744	51,862	51,131	-731	-1,613
<i>Emergency Approps</i>	200	0	0	-200	-200
TOTAL	52,944	51,862	51,131	-931	-1,813

Excluding Emergency Appropriations, the Committee Bill is:

- **\$731 million or 1.4% less than the request**
- **\$1.6 billion or 3.1% less than last year**

Spending Discussion: The bill provides a spending level of \$51.1 billion, \$1.6 billion (or 3.1%) less than last year. The House Appropriations Committee approved the 302(b) allocation for the twelve appropriations bills that totals \$1.028 trillion—consistent with the 302(a) allocation provided under the FY 2013 [House-passed budget resolution](#). This allocation is a \$19 billion cut compared to the *cap* under the Budget Control Act, and a \$15 billion cut compared to last year. The RSC budget’s 302(a) allocation would have been \$931 billion (\$97 billion lower).

Order of Business: H.R. 5326 is expected to be considered under an open rule providing for germane amendments under the five minute rule.

Items of Note:

United States Patent and Trademark Office: The legislation appropriates \$2.93 billion, with \$2.93 billion of offsetting fee collections, for a total net appropriation of \$0.00. The resources available to the Patent Office represent a \$255 million or 9.5% increase compared to last year.

Economic Development Administration: \$219.5 million—\$238 million or 52.0% below last year and \$219,000 or 0.09% below the President’s request. Duplicating the efforts of 86 other federal programs, the Economic Development Administration provides various grants, loans, and other subsidies for economic development to state and local governments. Approximately 10% of the program’s funding goes to administrative expenses. There are many examples of

questionable spending by the EDA. One notable example was a grant to Bedford, Indiana to build smaller-replicas of the Great Wall of China and the Pyramids which were never completed and are now known as the Cursed Pyramid. Vindicating former Administration Director Orson Swindle's labeling of the program as a congressional cookie jar, the Administration's website had a picture in 2008 of Senate Majority Leader Harry Reid (D-NV) giving a \$2 million EDA check to the University of Nevada for the Harry Reid Research and Technology Park. The RSC [Spending Reduction Act](#) (H.R. 408) would eliminate the Administration and remove an easily abused avenue to congressional pork. Representative Mike Pompeo (R-KS) has introduced legislation (H.R. 3090) to eliminate the program (see [here](#)).

Legal Services Corporation: \$328 million—\$20 million or 5.7% less than last year and \$74 million or 18.4% less than the President's request. The Legal Services Corporation (LSC) was established by the Legal Services Corporation Act of 1974 to provide free, legal assistance to the poor in civil, non-criminal matters. Its origins lie in President Lyndon Johnson's War on Poverty, specifically with the Office of Economic Opportunity (OEO), which in 1965 began making direct grants to local legal aid organizations. Instead of focusing on this core mission, the LSC has assisted lawyers and groups engaged in lobbying, advocacy of political causes, and litigation against the federal government. The program has not been authorized since 1980. Services currently provided by the LSC are duplicated by state and local governments, bar associations, and private organizations. The RSC [Spending Reduction Act](#) (H.R. 408) would eliminate the program. Representative Austin Scott (R-GA) has introduced legislation (H.R. 2774) to eliminate the program.

National Oceanic and Atmospheric Administration (NOAA): \$4.96 billion—\$68.0 million or 1.4% more than last year and \$92.8 million or 1.8% below the President's request.

NASA: \$17.6 billion—\$226.2 million or 1.2% less than last year and \$137.6 million or 0.8% less than the request.

National Drug Intelligence Center: Provides no funding for the National Drug Intelligence Center, located in Johnstown, Pennsylvania. This is consistent with the President's request and \$20 million less than last year. Many conservatives have advocated eliminating this program.

FBI: \$8.27 billion—\$148.0 million or 1.8% above last year and \$33.4 million or 0.4% less than the request.

Community Oriented Policing Services: \$72.5 million—\$126.0 million or 63.5% less than last year and \$217.1 million or 75.0% less than the President's request.

Drug Enforcement Administration: \$2.04 billion—\$8.9 million or 0.4% above last year and \$7 million or 0.3% below the President's request.

ATF: \$1.153 billion—\$1.3 million above last year (0.1% increase) and the same as President's request.

ACORN Prohibition: None of the funds made available in this Act may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

Disparate Impact: None of the funds made available by this Act may be used to implement, administer, or enforce the final regulations on "Disparate Impact and Reasonable Factors Other Than Age Under the Age Discrimination in Employment Act" published by the Equal

Employment Opportunity Commission in the Federal Register on March 30, 2012. Some information on that regulation may be found [here](#).

Values Provisions: The legislation contains both of the long standing pro-life riders traditionally included in this bill: the ban on funding elective abortions at federal prisons and the prohibition on Legal Services Corporation funding for entities that engage in abortion-related litigation.

Prohibiting Enforcement of Regulations on Pools: Section 218 of the bill prohibits funds from being made available for implementing the requirement for public entities, places of public accommodation, and commercial facilities to provide a permanent means of accessible entry to pools and spas under the revised regulations for titles II and III of the Americans with Disabilities Act of 1990. Representative Mick Mulvaney (R-SC) has introduced a bill to repeal this provision (HR 4256). For more information on this regulation, see [here](#).

Outsourcing/A-76 Activities: Prohibits funds from being used under OMB Circular A-76 (governing the federal government’s outsourcing policies) to implement any pending or future competitive sourcing for work performed by employees of the Bureau of Prisons or of Federal Prisons Industries, Incorporated. In other words, this provision would prohibit federal employees from having to compete with private-sector entities for certain non-inherently governmental functions of the agencies (like food service and lawn-mowing).

Funding Summaries:

In thousands

	FY 2012 Enacted	FY 2013 Request	FY 2013 Cmte	Cmte Vs. FY 2012	Cmte Vs. Request	Cmte Vs. FY 2012	Cmte Vs. Request
Department of Justice							
General Administration.....	262,129	161,093	143,748	-118,381	-17,345	-45.2%	-10.8%
Parole Commission.....	12,833	12,772	12,772	-61	----	-0.4%	----
Administrative review and appeals....	301,000	309,438	309,438	8,438	----	2.8%	----
Legal Activities.....	3,187,191	3,240,690	3,185,191	-2,000	-55,499	-0.06%	-1.7%
U.S Marshals Service.....	1,189,000	2,881,723	2,845,871	1,656,871	-35,852	139.3%	-1.2%
FBI.....	8,117,973	8,232,003	8,265,989	148,016	33,986	1.8%	0.4%
National Security Division.....	87,000	90,039	90,039	3,039	----	3.5%	----
Interagency Law Enforcement.....	527,512	524,793	521,793	-5,719	-3,000	-1.1%	-0.6%
DEA.....	2,035,000	2,050,904	2,043,904	8,904	-7,000	0.4%	-0.3%
ATF.....	1,152,000	1,153,345	1,153,345	1,345	----	0.1%	----
Federal Prison System.....	6,643,981	6,922,106	6,912,917	268,936	-9,189	4.0%	-0.1%
State and Local Law Enforcement.....	2,227,300	1,798,387	1,849,800	-377,500	51,413	-16.9%	2.9%
Office of Justice Programs.....	1,616,300	1,240,800	1,362,300	-254,000	121,500	-15.7%	9.8%
Office of Violence Against Women....	412,500	268,000	415,000	2,500	147,000	0.6%	54.9%
COPS Program.....	198,500	289,587	72,500	-126,000	-217,087	-63.5%	-75.0%
Commerce Department							
International Trade Administration.....	455,561	517,000	458,298	2,737	-58,702	0.6%	-11.4%
Bureau of Industry and Security.....	101,000	102,328	101,000	----	-1,328	----	-1.3%
Economic Development Admin.....	457,500	219,719	219,500	-238,000	-219	-52.0%	-0.09%
Minority Business Development Agency.....	30,339	28,689	28,689	-1,650	----	-5.4%	----
Economic & Statistical Analysis.....	96,000	100,269	96,000	----	-4,269	----	-4.3%
Bureau of Census.....	888,336	970,425	878,693	-9,643	-91,732	-1.1%	-9.5%

Telecommunications & Information Admin.....	45,568	46,925	45,568	----	-1,357	----	-2.9%
Natl. Institute of Standards and Technology.....	750,824	857,000	830,173	79,349	-26,827	10.6%	-3.1%
Natl. Oceanic & Atmospheric Administration.....	4,893,675	5,054,546	4,961,669	67,994	-92,877	1.4%	-1.8%
Departmental Management.....	88,946	86,793	83,753	-5,193	-3,040	-5.8%	-3.5%
Science							
NASA.....	17,800,000	17,711,400	17,573,800	-226,200	-137,600	-1.2%	-0.8%
National Science Foundation.....	7,033,095	7,373,100	7,332,513	299,418	-40,587	4.3%	-0.6%
Related Agencies							
Civil Rights Commission.....	9,193	9,400	9,193	----	-207	----	-2.2%
Equal Employment Opportunity Commission.....	360,000	373,711	366,568	6,566	-7,143	1.8%	-1.9%
International Trade Commission.....	80,000	82,800	83,000	3,000	200	3.8%	0.2%
Legal Services Corporation.....	348,000	402,000	328,000	-20,000	-74,000	-5.7%	-18.4%
Marine Mammal Commission.....	3,025	3,081	3,025	----	-56	----	-1.8%
Office of the U.S. Trade Representative.....	51,251	53,041	51,251	----	-1,790	----	-3.4%
State Justice Institute.....	5,121	5,121	5,121	----	----	----	----

Potential Conservative Concerns/Supporting Arguments:

Potential Conservative Arguments in Favor of H.R. 5326

Values Riders: The legislation maintains the values riders in current law: the ban on funding elective abortions at federal prisons, and the prohibition on Legal Services Corporation funding for entities that engage in abortion-related litigation.

\$1.6 Billion Spending Cut: The legislation cuts non-emergency spending by \$1.6 billion compared to last year. The legislation eliminates the National Drug Intelligence Center. It also makes cuts to other programs long opposed by many conservatives including the Legal Services Corporation (\$20 million cut), the COPS Program (\$126 million cut), and the Economic Development Administration (\$238 million cut).

Potential Conservative Concerns with H.R. 5326

Continues Wasteful Spending: While cutting overall spending by \$1.6 billion, the legislation does, however, continue funding for many programs that many conservatives have historically proposed to eliminate: the Legal Services Corporation (\$328 million funding, \$20 million less than last year), the Economic Development Administration (\$219.5 million, \$238 million less than last year), and the Manufacturing Extension Partnership (MEP) program (\$128 million, \$443,000 less than last year).

Earmarks: According to the [committee report](#):

“Neither the bill nor the report contains any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.”

Committee Action: The House Committee on Appropriations reported an original measure on May 2, 2012.

Cost to Taxpayers: The bill appropriates a total of \$51.1 billion in FY 2013.

Does the Bill Expand the Size and Scope of the Federal Government?: No, the legislation reduces spending by \$1.6 billion compared to last year.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No CBO score is available listing any possible mandates.

Constitutional Authority: The House Appropriations Committee states:

“The principal constitutional authority for this legislation is clause 7 of section 9 of article I of the Constitution of the United States (the appropriation power), which states: ‘No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law . . .’ In addition, clause 1 of section 8 of article I of the Constitution (the spending power) provides: ‘The Congress shall have the Power . . . to pay the Debts and provide for the common Defense and general welfare of the United States. . .’ Together, these specific constitutional provisions establish the congressional power of the purse, granting Congress the authority to appropriate funds, to determine their purpose, amount, and period of availability and to set forth terms and conditions governing their use.”

The committee did not cite constitutional authority for the various spending items themselves. Clearly the congressional power to spend money does not imply a power to spend money on anything.

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