EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

June 10, 2019

The Honorable Nita Lowey
Chairwoman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Chairwoman Lowey:

On June 3, 2019, the Financial Services and General Government Subcommittee considered the fiscal year (FY) 2020 Financial Services and General Government Appropriations bill. We are strongly opposed to the budgetary framework that underlies this and other appropriations bills being considered by the Appropriations Committee. In advance of Full Committee consideration of this bill, I would like to take this opportunity to share both these overall concerns as well as specific concerns related to this bill.

The Financial Services and General Government Appropriations bill is being considered under House Democrats' budget framework, which would raise the discretionary spending caps by more than $350 billion in FYs 2020 and 2021 and does not reflect a House-passed budget resolution or a bipartisan, bicameral agreement. This would put the Federal Government on track to add nearly $2 trillion to deficits over 10 years, while the national debt is already above $22 trillion and rising.

In addition, the House Democrats' framework continues the misguided notion that increases to defense spending must be matched or exceeded by increases to non-defense spending. The bills under consideration actually provide more than twice as much additional funding in FY 2020 for non-defense than for defense programs, relative to FY 2019 levels. Investing in our national security remains a key Administration priority, but ensuring our defense does not require additional non-defense discretionary funding.

Excessive deficits continue to threaten the Nation's progress, and without action to restore the proper size and role of Government, deficits will remain over a trillion dollars per year for the foreseeable future. The President's FY 2020 Budget provides the Congress with a clear roadmap for bringing Federal spending under control. It proposes more spending reductions than any other administration has proposed in history, while providing necessary funding for defense, national security, and other critical needs. Importantly, the Budget protects these key priorities while adhering to the discretionary spending caps in current law. The Congress must do the same.

Overall, according to information provided in the Subcommittee press release, the bill provides $24.6 billion, about $0.4 billion, or nearly 1.5 percent above the FY 2020 Budget request and $1.4 billion above the FY 2019 enacted level.

The Administration appreciates that the Subcommittee bill includes funding for some critical priorities, including the newly-requested Committee on Foreign Investment in the United States (CFIUS) fund, which is fully funded with $20 million in discretionary appropriations offset by up to $10 million in user fee revenue. The Administration appreciates that the bill provides sufficient resources to support anticipated increases in CFIUS caseload and the investments required to successfully implement the Foreign Investment Risk Review Modernization Act. The bill also provides the $22 million included in the FY 2020 Budget request to implement the National Archives and Records Administration's electronic records initiative, which is part of the Administration's Government Reform Plan.

However, the bill includes funding that the Administration believes is not in line with the overall effort to control non-defense spending reflected in the FY 2020 Budget request or underfunds key investments in critical areas supported in the FY 2020 Budget request, including:

- Community Development Financial Institutions (CDFI) Fund. The bill provides $300 million for the CDFI Fund within the Department of the Treasury, $286 million above the FY 2020 Budget request. The level in the FY 2020 Budget request provided for administrative expenses is sufficient to support oversight of existing commitments and administration of other CDFI Fund programs.

- District of Columbia (D.C.) Education. The Administration is disappointed that the bill does not provide the funding increase for the D.C. Opportunity Scholarship Program (OSP) based on family demand included in the FY 2020 Budget request, as well as increases for school improvement and choice in D.C. Instead, the bill would continue to provide funding for the poorly-targeted Tuition Assistance Grants program. In addition, title IV of the bill requires private schools participating in the OSP to certify with the Department of Education that they comply with Federal requirements for which they do not receive funds to implement. The unprecedented application of such requirements would severely limit private schools' ability to participate in OSP and therefore seriously reduce the number of high-quality educational options to which disadvantaged D.C. families have access.

- Small Business Administration (SBA) Entrepreneurial Development Programs. The bill provides $281.8 million for SBA's Entrepreneurial Development Programs, $100 million above the FY 2020 Budget request and $34 million above the FY 2019 enacted level. The Administration is concerned that the bill does not include the reforms proposed in the FY 2020 Budget request to the Small Business Development Centers program to create a competitive set-aside and allow for data sharing, which would enable the program to better measure and evaluate effectiveness.

- Federal Buildings Fund (FBF) Capital Program. The Administration is disappointed that the bill continues to underfund the General Services Administration's (GSA) capital program. The diversion of receipts fails to provide Federal agencies with the commercial equivalent space and services that agencies pay for in rent payments. The FY 2020 Budget request proposed $2.3 billion in priority projects; in comparison, the bill funds only two land ports of entry and only one-third of the major renovation projects proposed in the FY 2020 Budget request. The bill fails to fund critical construction, renovation, and consolidation priorities within the FBF capital program, including the next phase of construction at the Department of Homeland Security's consolidated headquarters at St. Elizabeths. Since FY 2011, the Congress has redirected approximately $8 billion in GSA rent receipts to other congressional priorities.

- Federal Capital Revolving Fund (FCRF). In addition, while a fully funded GSA FBF is critical to making smart real-property decisions, the Administration also recognizes that larger, more complex capital transactions would still be difficult to achieve, given competing priorities, particularly for annual operating needs. This is why the Administration proposed in the FY 2020 Budget request a new budgetary mechanism for large civilian real property projects, the FCRF. The FCRF would provide the Committee full mandatory funding upfront in return for the Committee repaying those amounts with discretionary budget authority over 15 years. The Administration transmitted legislative language in June 2018 and looks forward to working with the Congress to enact the FCRF proposal.

- Technology Modernization Fund. The Administration appreciates the Subcommittee's attention to modernizing vulnerable and inefficient legacy information technology (IT) systems and welcomes continued support for the Technology Modernization Fund (TMF) with an increase in funding over FY 2019 enacted levels. However, this is well below the $150 million requested in the FY 2020 Budget and would result in the delay or deferral of IT modernization that would increase the costs and risks to taxpayers. The Administration urges the Committee to provide funding at the level in the FY 2020 Budget request, which would support a more rapid transition of legacy systems and the adoption of more commercial technology.

- Public Buildings Reform Board (PBRB). The bill fails to fund PBRB and the Asset Proceeds and Space Management Fund, both of which were established under Federal Asset Sales and Transfer Act of 2016. Funding for the PBRB was not needed in FY 2019 as the result of no-year appropriations in FY 2018, however, absent appropriations in FY 2020, the PBRB would be unable to carry out its mission.

- Election Assistance Commission (EAC). The bill provides $600 million to the EAC for election security grants for States. Securing election infrastructure is a partnership between Federal, State, and local governments and private sector entities. States have only begun to expend the $380 million received for election security grants in FY 2018. Additional support from the Federal Government should only be provided once existing funds have been deployed.

The Administration opposes the inclusion of numerous language provisions that limit the President's constitutional authority, are counter to Administration policy, or constrain the Administration's ability to conduct the business of the American people, including:

- Poverty Measure. The Administration opposes section 634 of the bill that would preclude funds from being used to make changes to the Official Poverty Measure. This provision would prevent the Office of Management and Budget (OMB) from completing its statutory responsibility to establish and maintain statistical classification standards per the Paperwork Reduction Act of 1995 and would also undermine the established process for reviewing and updating these standards, which is intended to ensure the objectivity and relevance of Federal statistical data.

- Border Security Infrastructure. Section 126 of the bill includes an objectionable provision that would prohibit certain amounts authorized for law enforcement activities of any Federal agency from being used to enhance border security infrastructure. The Administration is committed to working with the Congress to address the urgent need to fully secure the southern border.

- Apportionment Reporting. The Administration objects to section 204 of the bill that would require OMB to create an automated system and website through which each OMB-approved apportionment would be publicly posted, and requires OMB to provide a monthly report to the Appropriations Committees documenting all apportionment requests that have been with OMB for 30 days or more without being approved. This reporting requirement is unnecessarily onerous as it would require thousands of documents to be posted online each year.

- Restrictions on Withholding under the Impoundment Control Act (ICA). The Administration objects to section 750 of the bill which would prohibit withholding from obligation any budget authority proposed for rescission or deferral pursuant to the ICA within 60 days of the expiration of that budget authority. In addition, this provision would treat any violation of this prohibition as if it were an Antideficiency Act violation. This provision would undermine longstanding budget law and impinge on the President's ability to exercise fiscal management of the Executive Branch, including by proposing rescissions.

- Supervision of the Executive Branch. The Administration is also disappointed that the bill includes certain provisions that seek to interfere with the President's supervision of the Executive Branch, such as one purporting to bar OMB from expending funds to alter the annual work plan of the Army Corps of Engineers, in contravention of the separation of powers between the Executive Branch and the Congress.

- District of Columbia Riders. Section 802 of the bill amends a previously-enacted provision allowing for Government-funded abortion in the District of Columbia. The bill also fails to include language in the FY 2020 Budget request that would prohibit funding for lobbying, marijuana legalization, and physician-assisted suicide in the Nation's capital.

- Office of Personnel Management (OPM) Reorganization. Section 632 of the bill would prevent the reorganization or transfer of any function or authority of OPM to GSA or OMB. The Administration continues to stress the need for structural and organizational change at OPM and strongly opposes the inclusion of language prohibiting the merger. The status quo is unsustainable, and the provision would maintain an organizational construct that is ill-equipped to meet the needs of today's modern workforce. The Administration is pursuing this needed structural reform to better align resources with mission and create long-term stability, sustainability, and increased operational excellence. The bill would also prevent OPM from entering into, or carrying out, any interagency agreement with GSA that was not in effect prior to October 1, 2018. The Administration is concerned that the provision would effectively preclude GSA and OPM from entering into any partnership, even those routinely entered into by agencies for cross-agency support. As worded, the provision would significantly impair coordination between GSA and OPM on a host of shared interests, including modernization of IT and improvements to service delivery.

- Across-the-Board Civilian Pay Increase. Section 747 of the bill provides Federal civilian employees an across-the-board pay increase of 3.1 percent in calendar year 2020. The Administration continues to support the alignment of pay with strategic human capital objectives, including the recruitment of those with critical skill sets and the retention of high-performing Federal employees. A 3.1 percent pay increase presents long-term fixed costs, yet fails to address strategic human capital objectives.

- Collective Bargaining Agreement (CBA) Conditions. Section 749 of the bill would prohibit agencies from administering, implementing, or enforcing any CBA finalized after April 30, 2019, unless that agreement is mutually and voluntarily agreed to by all parties to the agreement. It also mandates that all agreements that expired prior to April 30, 2019, without a new agreement having been established, shall remain in full force until a new agreement is finalized. As expressed in Executive Order 13836, the Administration has directed agencies to review their collective bargaining agreements to ensure that all agreement provisions are consistent with all applicable laws, rules, and regulations, and in keeping with the requirements of the Federal Service Labor-Management Relations Statute. Section 749 would prevent agencies from addressing language in their CBAs that violate Government-wide requirements. By stipulating that a CBA shall remain in full force and effect until a new bargaining agreement is reached through mutual consent, this provision would effectively trap agencies and force them to remain party to agreements they do not believe conform with law or regulation. It would also retroactively nullify many agency policies that have become effective since April 30, 2019.

- Public-Private Competition. The Administration is disappointed that the bill continues the moratorium preventing agencies from using public-private competition as a tool for determining whether specific work of the Government should be performed by Federal workers or contractors. Such a tool would enable more efficient use of resources, helping to achieve important goals of the Administration, including those laid out in the President's Management Agenda.

As the Committee takes up the Financial Services and General Government Appropriations bill, the Administration looks forward to working with you to address these concerns.

Sincerely,

Russell T. Vought
Acting Director

cc: The Honorable Mike Quigley
The Honorable Tom Graves

Identical Letter Sent to the Honorable Kay Granger