



Please contact any member of our [Legislative and Government Affairs Practice Group](#) or one of the contributors listed below if you have questions regarding this newsletter.

Editor

Katie M. Cochran
kmcochran@Venable.com
202.344.4283

Contributors

Robert A. Burton
rburton@Venable.com
202.344.4776

Ashley W. Craig
awcraig@Venable.com
202.344.4351

Carrie A. Kroll
cakroll@Venable.com
202.344.4574

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House Passes Continuing Resolution but the Threat of a Government Shutdown is Still Looming

Early Saturday morning, the House voted 235 to 189 in favor of H.R. 1, "Full-Year Continuing Appropriations Act, 2011". The vote was mostly along party lines with only three Republicans (John Campbell (CA), Jeff Flake (AZ) and Walter Jones (NC)) joining Democratic lawmakers in opposition of the bill. The continuing resolution (CR), which cuts \$61 billion from spending compared with fiscal year 2010, would keep government operations funded through September when the current fiscal year ends.

Senate Majority Leader Harry Reid (D-NV) announced on Tuesday that he will attempt to pass a one-month stopgap funding bill that would keep the current spending levels and not allow any cuts. Reid said this would still be a \$41 billion cut from President Obama's 2011 budget request. The stopgap bill would allow both chambers more time to negotiate the current CR that is being debated, and provide a way to fund the government for the remaining months of the fiscal year. Senate Minority Leader Mitch McConnell (R-KY) and House Speaker John Boehner (R-OH) have said they will not support anything that simply extends the current CR, as Republicans are looking for a short-term measure that would also include spending cuts. Republican aides say the House will propose a stopgap bill at the end of this week.

Action on the CR will be the first agenda item when the Senate is back in session on Monday. As current funding will expire on March 4th, failure of the House and Senate to reach an agreement in just five days would result in the first government shutdown the nation has seen since 1996.

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President Obama Releases \$3.7 Trillion Budget Proposal

Last week, President Barack Obama released his fiscal year 2012 (FY2012) budget. His proposed \$3.7 trillion budget would reduce the deficit by \$1 trillion over 10 years. The proposal presents a 2.7 percent decrease in overall spending from President Obama's FY2011 budget. Republicans immediately blasted the President's proposal, saying it contained entirely too much spending during a time when the deficit is at a record high. Democrats have been slow to warm up to the proposal, as many believe it raises many of questions as to the priorities of the Administration.

President Obama's FY2012 budget has significant acquisition-related recommendations. For instance:

- The President seeks to terminate the Department of Defense (DoD) C-17 transport aircraft, Marine Corps Expeditionary Fighting Vehicle, and the alternate engine for the Joint Strike Fighter programs. The budget also aims at implementing a number of additional cost savings management and acquisition reforms, such as reducing its use of time-and-material and labor-hour contracts.
- With respect to the Department of Homeland Security (DHS), the President proposes to redirect over \$400 million from consulting and professional service contracts to high-priority initiatives, such as aviation screening technology.

- The President proposes over \$2 billion in savings resulting from a reduction in administrative expenses across civilian agencies, including professional and technical services and supplies. To the extent such services and supplies are necessary, agencies are encouraged to buy less, pay lower rates, and acquire such products and services in a fixed-price manner.

Notwithstanding the acquisition cut-backs, the Administration intends to increase the size of the federal workforce by approximately 15,000 employees, including 8,000 jobs at DHS and 5,000 jobs at the Treasury. This may further demonstrate that the Administration's insourcing effort has not been derailed and will continue into FY2012.

Rob Burton is a partner in Venable's [Legislative Practice Group](#). Mr. Burton can be reached at 202.344.4776 or at rburton@Venable.com.

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Party Politics Comes Face-to-Face with Trade Policy

What do you call a U.S. Federal Government initiative that has been succinctly introduced, relatively widely supported, and arguably well-coordinated with other job-spurring initiatives in today's constantly changing political and uncertain economic environment?

While it may sound like the punch line of an over-done Tea Party advertisement - interestingly, this is no political joke. The Obama Administration's "National Export Initiative" ("NEI"), which was announced last January at President Obama's State of the Union address and implemented by Executive Order in March 2010, has survived and thrived over this past year of divisive partisan politics in Washington and now confronts new leadership in the House, just as the GOP is confronting shifting dynamics within its own party. Believe it or not, the NEI has been called a "bright spot" in a year of political turmoil and gridlock.

So what is the NEI, and what does it mean for small and large U.S. businesses alike? The NEI outlines the ways in which the U.S. government can expand its efforts to assist businesses to win more foreign government contracts, receive more export financing, and learn new ways to sell their goods overseas with the goal of doubling U.S. exports by 2015. The initiative recognizes that approximately 95 percent of the world's customers lie outside the United States, and that current U.S. export controls still exist in the context of post-Cold War era realities and thus require major reform.

Current U.S. exporters will have undoubtedly noticed the succession of Proposed and Final Rules issued reforming U.S. export controls laws and regulations to reflect "a system where higher walls are placed around fewer, more critical items." Since last year, lawmakers have begun transforming the legal system governing exports through the issuance of Executive Orders and agency rulemaking, including: rules fundamentally altering classification and licensing requirements for "dual use" and "defense" articles, and technology governed by the U.S. Departments of Commerce and State; relaxing of controls regarding exports of "encryption items;" removal of various defense and space-related entities in India from controls in furtherance of U.S.-Indian commitments to strengthen global nonproliferation and bilateral export control cooperation between the countries; and the tightening of various U.S. embargoes implemented by the U.S. Department of the Treasury. U.S. exporters must monitor these changes to the basic laws and regulations governing their export business in order to ensure that they remain in compliance and as efficient as possible.

Another central focus of the NEI is the provision of additional assistance to small and medium-sized businesses, which are major drivers of new job creation. Recently, the U.S. Export-Import Bank announced a new initiative aimed at assisting small businesses export their products. The Bank is looking to double its transaction volume with small businesses, which would include increased access to credit lines, and assistance to insurers and small suppliers that sell parts and other materials to larger exporters, also by 2015. The Bank's new programs were endorsed by both the top Democrat and Republican on the Senate Small Business Committee. Additional overlap of the goals of this export initiative are seen, for example, in support for the Trans-Pacific Partnership, which is a pan-Asian free trade agreement aimed at Asia-Pacific regional economic integration.

Given the relationship between these international trade issues and domestic economic policy, we expect international trade and U.S. export control reform to remain key issues in the 112th Congress regardless of who is in control of the House and/or Senate.

Venable's Legislative and International Trade Practices are closely following these events and are well-situated to assist U.S. companies interested in the NEI. Expect more focus on expanding U.S. exports and how that might translate into new jobs - only this time, it may be more than just the same old politics.

Ashley Craig is a partner in Venable's [Legislative Practice Group](#). Mr. Craig can be reached at 202.344.4351 or at awcraig@Venable.com.

Carrie Kroll is an associate in Venable's [Regulatory Practice Group](#). Ms. Kroll can be reached at 202.344.4574 or at cakroll@Venable.com.

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EPA and IRS Among Issa's Top Targets

Newly appointed Chairman of the House Oversight and Government Reform Committee, Rep. Darrell Issa (R-CA), has quite a busy schedule ahead of him over the next two years. The committee has released their agenda for the 112th Congress, which highlights a number of issues that they plan to investigate. According to the Chairman, the committee will hold numerous hearings, work with the Government Accountability Office (GAO), conduct investigations and evaluate their findings in order to create more jobs, stimulate the economy and minimize unnecessary burdens on small businesses. Chairman Issa has said his "hearings will cover multiple issues and agencies, looking for patterns that indicate where the government may have lost sight of its proper mission." Among the many listed in the committee report, Issa has said the EPA and the IRS are among his top targets. The list below includes the other issues that the committee plans to investigate.

- American Recovery and Reinvestment Act of 2009
- Securities and Exchange Commission
- Troubled Asset Relief Program
- Home Affordable Modification Program
- Commodity Futures Trading Commission
- Fannie Mae and Freddie Mac
- Federal Trade Commission
- Government contracting
- Federal regulation and the regulatory process
- Department of Energy
- Environmental Protection Agency
- Food and Drug Administration
- Patient Protection and Affordable Care Act

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