

## Holland & Knight Defense Situation Report: June 2023

### A monthly roundup of defense policy news

Welcome back to Holland & Knight's monthly defense news update. We are excited to bring you the latest in defense policy, regulatory updates and other significant developments. If you see anything in this report that you would like additional information on, please reach out to authors or members of Holland & Knight's [National Security, Defense and Intelligence Team](#).

### LEGISLATIVE UPDATES

#### Debt Ceiling and Setting the Stage for Congress

Following weeks of high-stakes negotiations on the debt ceiling, the White House and House Speaker Kevin McCarthy (R-Calif.) announced a deal to raise the debt ceiling until 2025, averting what could have been the first-ever default. This deal, which was signed into law by President Joe Biden on June 3, 2023, after both chambers passed the bill, averted factors that could have caused a wider financial crisis and protects the faith and credit of the United States.

Notably, the deal suspended the debt limit until January 2025 and funded discretionary programs at the same levels as Fiscal Year (FY) 2023. The agreement includes a two-year debt limit suspension and establishes caps on discretionary spending from FY 2024 through 2025. This differs from the House Republican debt limit bill that passed the chamber and called for a 10-year cap on spending.

The deal sets a limit of \$886.349 billion in national defense topline spending and a non-defense spending limit of \$703.651 billion, the former of which is the topline number that President Biden sent to Congress in his budget request for FY 2024. The deal also set 302(a) allocations for discretionary spending starting at \$1.62 trillion in FY 2026 and increasing to \$1.67 trillion through FY 2029. However, defense spending in FY 2025 would increase by a modest 1 percent over FY 2024 levels to \$895 billion.

The defense funding level for FY 2024 agreed to in the debt ceiling plan marks an approximately 3.2 percent increase from current defense spending levels passed in the FY 2023 budget. However, because this increase is lower than the rate of inflation, many defense hawks in both chambers, and on a bipartisan basis, have called for an increased topline defense spending number, which members will continue to debate. Finally, as part of the deal, Congress must pass all 12 appropriations bills, including the defense spending bill, by the end of December 2023. If that does not happen, spending will revert to 1 percent less than FY 2022 levels across the board.

#### FY 2024 NDAA Making Progress

As we reported in the [April 2023 Holland & Knight Defense Situation Report](#), the congressional defense committees had been busy the past few months with posture hearings on the Biden Administration's FY 2024 budget request to Congress. Civilian and military leadership of the Department of Defense (DOD), the military services and certain defense agencies testified on behalf of their respective budget requests, and members of Congress had the chance to dive deeper into various funding lines. Given the information gathered during the posture hearings, the House and Senate Armed Services

Committees (HASC and SASC, respectively) began writing their versions of the FY 2024 National Defense Authorization Act (NDAA), which sets policies and authorizes funding for the DOD and other national and defense programming.

However, because of the negotiations between House Republicans and the White House, the NDAA and appropriations process was put on hold. Given that the debt ceiling was passed into law, the HASC and SASC agreed to resume work on the annual NDAA, and the House and Senate Committees on Appropriations agreed to resume work on their spending bills in early June.

HASC Chairman Rep. Mike Rogers (R-Ala.) on June 12, 2023, [released](#) the Chairman's mark for the FY 2024 NDAA, and the seven subcommittees subsequently released their marks. The mark is a draft legislative proposal with funding and policy recommendations for matters in the bill under each subcommittee's jurisdiction. These are typically seen as noncontroversial, must-pass provisions – such as soldier pay – and include funding tables. During the subcommittee markups, each subcommittee considered and quickly voted on a bipartisan basis to send their subcommittee marks for consideration by the full HASC.

On June 21, 2023, the HASC held a full committee markup of the NDAA. Members of the full committee had the opportunity to submit and debate amendments over the 14-hour markup. While the subcommittee marks passed with little debate or controversy, there were some sticking points during the full committee markup. However, just past midnight on June 22, the HASC passed the NDAA from committee by a vote of 58-1, sending the bill to be considered by the full House chamber.

In the Senate, the SASC held its subcommittee markups on June 20 and 21, and the full committee considered its version of the FY 2024 NDAA between June 21 and June 23. Unlike the process in the HASC, which is open to the public, the SASC process takes place behind closed doors. Nonetheless, on June 23, the SASC passed the NDAA from committee for full consideration of the Senate chamber by a vote of 24-1.

While both the HASC and SASC approved the FY 2024 NDAA from committee by committing \$886.3 billion, which is marked up to the president's budget request, both chambers will have to pass the bill, then come together in a conference in which negotiators from each chamber will hash out final text.

## **Defense Appropriations**

While Congress is making progress on its annual defense authorization bill, the House and Senate Appropriations Committees on Defense are working through their legislation that funds the DOD and other national security programs. On June 22, 2023, the full House Appropriations Committee passed the FY 2024 defense funding bill on a party-line vote of 34-24. Though the bill provided defense funding at the level of the president's budget request, which was \$886.3 billion, the legislation specifically provides \$826 billion directed toward the DOD. All Democrat members of the Committee objected due to perceived policy riders on social policies they deemed unacceptable. Nonetheless, the bill will head to the full House for consideration. View the text of the FY 2024 [defense spending bill](#) and the [legislation's report](#) before adoption of amendments in full committee.

On June 22, 2023, the Senate Appropriations Committee approved allocations for numerous spending bills, including the defense bill, on a party-line vote of 15-13. Allocations for the FY 2024 defense spending bill will maintain the president's budget request of \$886.3 billion. Republicans on the

committee objected because they claim that the totals for each spending bill, called 302(b) allocations, were written solely by Democrats. View [full allocations](#) as approved by the committee.

## National Security and SASC Nominations

With the 118th Congress ongoing, all nominations that were not confirmed by the Senate in the 117th Congress were sent back to the White House and the nomination process started over. As such, on Jan. 3, 2023, President Biden nominated and renominated roughly 60 people for Senate-confirmed jobs and judicial nominations. Since then, President Biden has made numerous high-profile nominations, including that of [U.S. Air Force Gen. Charles Q. Brown](#) to be the next Chairman of the Joint Chiefs of Staff, which we profiled in the [May 2023 Holland & Knight Defense Situation Report](#). The Chairman role is the highest-ranking military officer and serves as the principal military advisor to the president.

Various pending nominations to serve in key DOD and national security positions include:

- Ronald T. Keohane to be Assistant Secretary of Defense for Manpower and Reserve Affairs
- Anjali Chaturvedi to be General Counsel at the U.S. Department of Veterans Affairs
- Nickolas Guertin to be Assistant Secretary of the Navy for Research, Development and Acquisition
- Cara Abercrombie to be Assistant Secretary of Defense for Acquisition

## Biden Sends Other High-Profile Nominations to the Senate

President Biden on May 30, 2023, officially sent numerous high-profile nominations to the Senate, which were announced by Defense Secretary Lloyd Austin the following day in a [press release](#). The list, which included Brown's nomination for Joint Chiefs Chairman, also included:

- Air Force Lt. Gen. Timothy Haugh to be Commander of the U.S. Cyber Command and Director of the National Security Agency (NSA). If confirmed, Haugh will replace Gen. Paul Nakasone, who has held both positions since 2018 and was asked to stay on another year after his four-year term lapsed last year.
- U.S. Marine Corps Gen. Eric Smith to be the top officer of the Marine Corps. Smith currently services as the Marines' No. 2 officer.
- Air Force Lt. Gen. Gregory Guillot to lead U.S. Northern Command, which oversees military forces in North America. This position also heads the North American Aerospace Defense Command, which is tasked with defending U.S. and Canadian airspace and made news during the sighting of the Chinese high-altitude balloon, which was covered in the [April 2023 Holland & Knight Defense Situation Report](#).
- Air Force Lt. Gen. Jeffrey Kruse to be Director of the Defense Intelligence Agency. Kruse currently serves as the military affairs advisor for Director of National Intelligence Avril Haines.
- Air Force Maj. Gen. Heath Collins to be Director of the Missile Defense Agency (MDA). Collins is currently MDA's program executive officer for ground-based weapons systems.

## EXECUTIVE AND DEPARTMENTAL UPDATES

### Ukraine Updates

In the past month, the Biden Administration announced two drawdowns of equipment from DOD inventories to meet Ukraine's national security needs. These drawdowns represent the [39th](#) and [40th](#) drawdowns of equipment since August 2021 and are valued at up to \$300 million and \$325 million, respectively. These drawdowns include key capabilities to support Ukraine's air defense, containing artillery, anti-armor capabilities and ammunition, comprising tens of millions of rounds of small arms ammunition, including that for the Patriot air defense system.

Relatedly, during a visit to Washington, D.C., United Kingdom Prime Minister Rishi Sunak and President Biden reassured their ongoing support for Ukraine. The following day, the Biden Administration announced a package totaling up to \$2.1 billion, which included critical air defense and ammunition capabilities. The package is being provided under the Ukraine Security Assistance Initiative (USAI). Unlike Presidential Drawdown authority, which the DOD has continued to leverage to deliver equipment to Ukraine from DOD stocks at a historic pace, the USAI is an authority under which the U.S. procures capabilities from industry or partners. This announcement represents the beginning of a contracting process to provide additional priority capabilities to Ukraine. In total, the U.S. has committed more than \$40 billion in security assistance since the beginning of the war in Ukraine in February 2022.

While the final FY 2024 NDAA and defense appropriations bills will likely include additional funding for Ukraine, the DOD announced that due to an accounting error, which we covered in the [May 2023 Holland & Knight Defense Situation Report](#), overestimated the amount of military aid sent to Ukraine by \$6.2 billion – double the previous \$3 billion estimate that the DOD acknowledged last month. After that announcement, Reps. Mike Rogers (R-Ala.) and Michael McCaul (R-Texas), chairmen of the HASC and House Foreign Affairs Committee, respectively, called for answers from the Biden Administration.

### New India-U.S. Defense Acceleration Ecosystem

Against the backdrop of India Prime Minister Narendra Modi's state visit to the White House, and at a time of historic momentum for the relationship between the U.S. and India, the DOD and Indian Ministry of Defense launched the India-U.S. Defense Acceleration Ecosystem (INDUS-X). INDUS-X will vitalize U.S.-India defense industrial cooperation and seeks to unlock new innovations in technology and manufacturing. The event convened representatives from more than 30 U.S. and Indian startups, as well as government, business, academic and thought leaders, for wide-ranging discussions to advance cutting-edge technology cooperation between the nations' defense industrial ecosystems.

Following the launch event, the DOD and Indian Ministry of Defense released an ambitious [collaboration agenda](#) that outlines the initiatives INDUS-X stakeholders intend to spearhead. These initiatives complement existing government-to-government collaboration and include challenges for startups, roundtable events, mentor-protégé initiatives between major primes and startups, and the formation of a senior advisory group.

### DOD Transmits 2023 Cyber Strategy

Following publication of the [May 2023 Holland & Knight Defense Situation Report](#), the DOD released an [unclassified fact sheet](#) of the 2023 DOD Cyber Strategy. The strategy was transmitted a week earlier in a classified form and, according to the DOD, provides direction to the DOD to operationalize

the concepts and defense objectives for cyberspace set forth in the 2022 National Defense Strategy. It builds upon the direction set by the 2018 DOD Cyber Strategy and is informed by years of real-world experience of significant DOD cyberspace operations. An unclassified summary of the strategy will be rolled out in the coming months.

## DIU Solicitations

In the past month, the Defense Innovation Unit (DIU), which leverages new technologies for the U.S. military, published two new solicitations. The first is to improve the DOD's Common Operational Database (COD). The U.S. and Allied Joint Forces collectively ensure freedom of navigation and access to waterways around the world within a globally connected and information-driven warfighting environment. This is crucial to the free flow of goods and commerce, but there are insufficient assets to maintain a constant physical presence across the many critical maritime domains. However, with a network of unmanned and autonomous platforms to augment its existing forces, the U.S. Navy can maintain Maritime Domain Awareness (MDA) more efficiently and effectively. To make progress toward this goal, the DOD has identified several types of unmanned vehicles (UxVs) that support its effort to deliver domain awareness to commanders by providing mobile, autonomous sensing capacity. However, the ability of these UxVs to deliver domain awareness may be frustrated by a disconnected, denied, intermittent and/or limited (DDIL) communications environment, which is common in military operations. In particular, currently available UxVs often require substantial bandwidth to operate effectively and are unable to efficiently exchange information among themselves and crewed platforms that would result in more effective coordination. This inability to move data to, from and between UxVs limits the DOD's ability to operationalize data-driven battlefield advantage. As such, the DOD seeks proven commercial solutions for creating and distributing an edge world model among a group of UxVs. One or more agreements will be awarded to companies to provide components of an edge world modeling stack to support myriad operations to be performed by UxV groups.

The second solicitation is for 5G co-channel interference mitigation. DOD operations heavily depend on the reliability and efficacy of satellite communications (SATCOM) systems. However, the integration of 5G wireless technology into the global telecommunications infrastructure presents a significant challenge. The bandwidths used by SATCOM equipment often encounter substantial overlap with the 5G radio frequency (RF) spectrum, which, in turn, is causing a detrimental impact on the quality and dependability of received SATCOM signals. This issue is especially pronounced due to the proliferation of 5G technology, which is rapidly becoming ubiquitous in many regions worldwide. In particular, DOD satellite communications equipment users often encounter reception degradation due to overlap with the 5G RF spectrum. This affects the quality and reliability of the received global SATCOM signals. The DOD seeks to develop a solution that sufficiently mitigates C-band co-channel interference emanating from 5G towers and nearby users that was once reserved for SATCOM use only.

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