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MEMORANDUM

TO: ADC BOARD OF DIRECTORS
TIM FORD
TODD HERBERGHS
TRISH JONES

FROM: MR. SCHLOSSBERG
MR. PERSKY, LEGISLATIVE ASSISTANT

DATE: MARCH 22, 2011

RE: SENATORS CONSIDER 2012 MILCON BUDGET

Introduction

The Fiscal Year 2012 MilCon budget will be scrutinized, according to Senate Armed Services Subcommittee Chair Claire McCaskill. The Senate Armed Services Subcommittee on Readiness and Management Support met on March 17 to review the FY12 DoD budget request for military construction and base closure programs. This was the subcommittee's first hearing of the 112th Congress.

Dr. Dorothy Robyn, Deputy Under Secretary of Defense for Installations and Environment, provided testimony, along with Assistant Secretary of the Army, Katherine Hammack; Assistant Secretary of the Navy, Jackalyn Pfannenstiel; and Assistant Secretary of the Air Force, Terry Yonkers. Subcommittee Chair McCaskill presided over the hearing, with the assistance of Ranking Member Ayotte. Senators Shaheen, Webb, and Mark Udall were also in attendance.

The hearing was characterized by the gloomy economic and budgetary climate, as the senators searched the MilCon budget for potential savings. The Senate Appropriations Committee has already indicated that it will not accept earmarks in spending bills this year, but McCaskill took a hard line when she said that, as long as she is chair, no earmarks would go through her subcommittee.

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Ayotte said the government “cannot afford to waste even one dollar” and that spending should only be on “critical priorities.” She went further, saying the subcommittee should lead the way by stopping the use of defense dollars for non-defense projects, such as medical research, local roads, and other community projects. Ayotte called the Office of Economic Adjustment a drain on defense priorities, and asserted that the office is a pass-through for soft earmarks.

Cuts were also threatened to allegedly extravagant or inefficient programs and practices, such as the use of temporary structures and the construction of expensive gym facilities. McCaskill summed up the hearing’s mood when she said, “I do not believe any part of the budget can be off limits.”

Other topics included the race to finish BRAC 2005 on time; scrutiny of the Office of Economic Adjustment; revisiting the Defense Access Road program; new Economic Development Conveyance regulations; the KC-X tanker basing decision; and the proposed relocation of 8,000 Marines from Okinawa to Guam. Neither senators nor witnesses mentioned the possibility of a future BRAC round.

Tight Budget

In her opening statement, Chairwoman McCaskill said “the era when cost is no object must come to an end.” She went on to reference Secretary of Defense Gates’ unflattering description of overly expensive, “gold-plated” weapons systems, saying “this problem is not limited to weapons systems.”

As an example, McCaskill cited the proposed construction of a \$50M gym facility at Naval Amphibious Base Coronado. Assistant Secretary of the Navy Pfannenstiel defended the facility by saying the location is a hub for the Navy and Marines and that it will have 80,000 patrons. McCaskill was clearly not satisfied, saying she would keep a close eye on the matter.

McCaskill also indicated that she may seek new language in the Defense Authorization Bill to stop the reprogramming of bid savings. This would prevent planning authorities from using leftover money from one project to fund other projects. Robyn spoke about the practice, saying that economic conditions affect market prices and can make initial project cost projections inaccurate. In cases where conditions inflate costs, planners are left scrambling to manage their priorities. Balancing out this problem, planners are able to reprogram left-over money when deflated costs result in savings. Upon aggressive questioning from McCaskill, Robyn conceded that bid savings should not necessarily be reprogrammed. In reference to her possible new Defense Authorization language, McCaskill said “fair warning that it’s coming down the pike.”

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BRAC 2005

The assistant secretaries said all three services are on track to meet the deadlines for completion of BRAC 2005, although Assistant Secretary of the Army Hammack did concede that the Army has six projects on a “close-watch list.”

Hammack said that the Army is very busy, with one third of its forces moving as part of BRAC this summer and fall. She went on to say that the continuing resolutions have made it difficult to fund certain projects. According to Hammack, the Army has approximately \$1.5B of military construction projects that are ready to award in 18 different states, pending receipt of a year-long appropriations bill. The other assistant secretaries did not discuss complications caused by the continuing resolutions.

Office of Economic Adjustment Scrutinized

Ayotte spoke at length about the Office of Economic Adjustment, saying she is troubled that DoD money is often funneled through the office without a firm DoD request. Ayotte equated this practice to a soft earmark. Robyn replied that her office supports many of the projects and that she does not consider them earmarks. Robyn went on to say that non-defense spending is often necessary to alleviate problems caused by defense realignment, such as the construction of new roads in response to increased traffic. Ayotte replied that she is concerned the funding is a drain on real priorities and that it seems like circumvention of earmark rules.

Defense Access Road Program Revisited

In her prepared statements, Robyn addressed the Department’s responsibility for development issues in affected communities. “While our investments are creating economic opportunities for communities experiencing growth as a result of BRAC,” Robyn said, “some of those communities feel that the Department has ignored potential adverse effects.” One such area of particular interest to Robyn is the Defense Access Road (DAR) program.

The Department has authority to mitigate transportation impacts of BRAC through the Defense Access Road (DAR) program, but Robyn says “we have been criticized for defining those impacts too narrowly.” The Department plans to revise the DAR funding criteria based on the findings of a recently completed study by the National Academy of Sciences, which was directed by Congress. According to Robyn, the revision “will make it easier for us to mitigate adverse traffic impacts caused by the Department’s actions, particularly in congested urban areas.”

Economic Development Conveyance Regulations

Last year, Congress amended the statutory authority underlying Economic Development Conveyance, which is a property transfer method created in 1994 to promote the rapid transfer of

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BRAC property for job-creating economic development. Robyn addressed these changes, saying “EDC conveyances have been delayed by complicated negotiations over the value of one-of-a-kind parcels of property.”

The amended law removes the requirement that the Department seek to obtain Fair Market Value for an EDC and provides explicit authority for the Department to use flexible tools for determination of payment, such as “back-end” financing. According to Robyn, the Department is “finalizing a regulation that will implement these much-needed amendments to the EDC law, and we hope to issue it soon.”

KC-X Basing

In response to a question about where the new KC-X tanker will be stationed, Assistant Secretary of the Air Force Yonkers said the award was made recently and the basing decision is a large project. According to Yonkers, every station in the Air Force is being considered. He went on to say that the process will be transparent and use known criteria. Considering that the first aircraft will come online in 2015, Yonkers said a decision should be made in approximately 12 to 18 months.

Okinawa to Guam

The proposed relocation of 8,000 Marines from Okinawa to Guam was a focal point of the hearing. McCaskill referenced the lack of a master plan and the recent tragedy in Japan as why it may be “time for a real pause.” Ranking member Ayotte joined McCaskill by asserting that the plan depends partly on the Japanese government’s pledge to provide billions of dollars in support, which could now be in jeopardy. Pfannenstiel conceded that there is not a master plan and agreed that she would work to provide one. Senator Webb, who cited his background as a military planner in the Pacific, said the relocation project is very important. According to Webb, the US should work hard to honor its significant relationship with Japan, and the US should better recognize considerable Japanese efforts on the project. He concluded by saying that the US should plan carefully, but should not take a time out.

If you have any questions concerning this information, please call George Schlossberg directly at (202) 828-2418 or email him at george.schlossberg@kutakrock.com, or call Eli Persky directly at (202) 828-2465 or e-mail him at eli.persky@kutakrock.com.

E.W.P.

Attachment: Robyn Prepared Testimony