

Legislative and Regulatory Trends in Policy

Will Goodman
Vice President for Policy

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International Pressures

- ISIS/IRAQ
- RUSSIA – UKRAINE
- CHINA
- IRAN
- SYRIA
- ETC.....

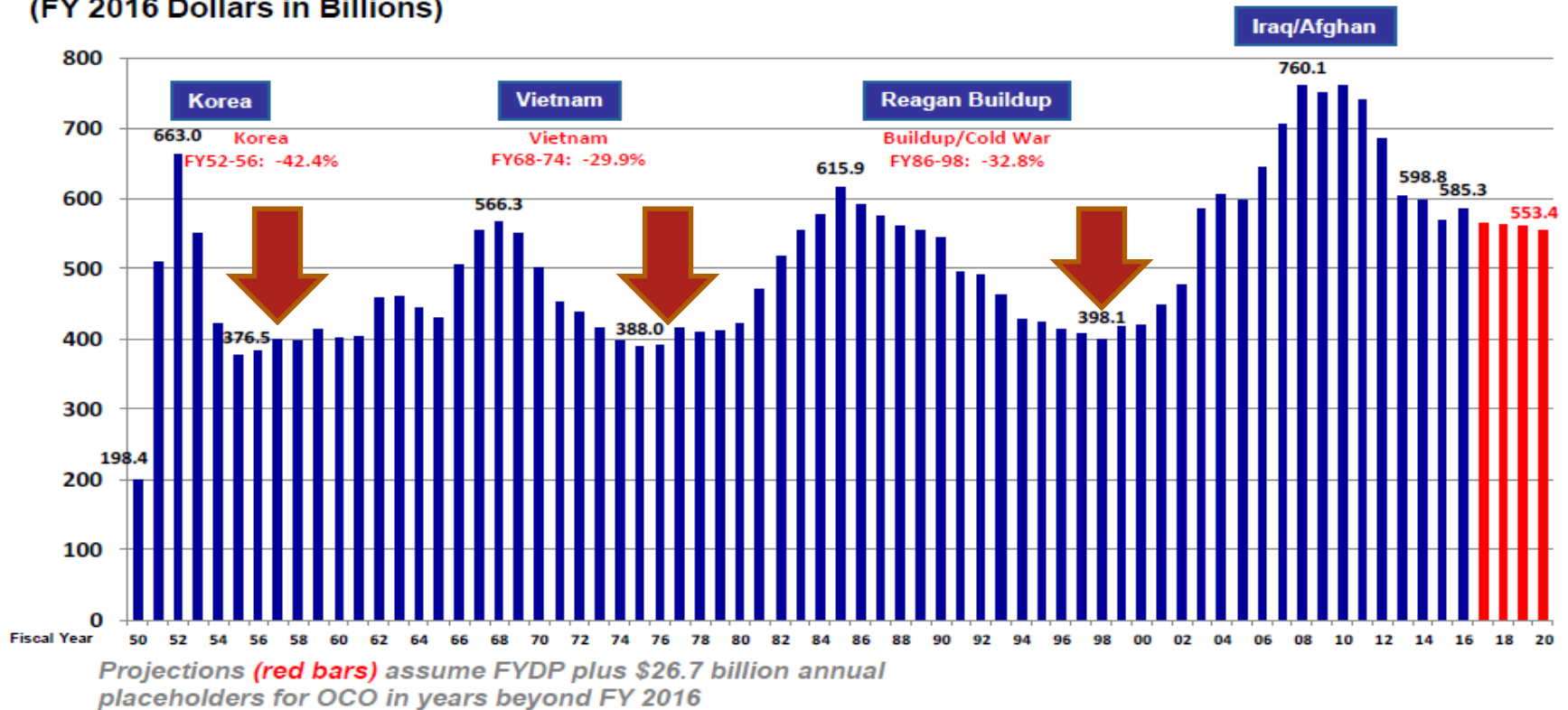
Issues Facing Congress

- GOVERNMENT FUNDING AND THE BUDGET
- ACQUISITION REFORM
- ENERGY
- DEBT CEILING
- HEALTH CARE
- EX-IM BANK
- TRANSPORTATION/INFRASTRUCTURE

Total Budget Trends

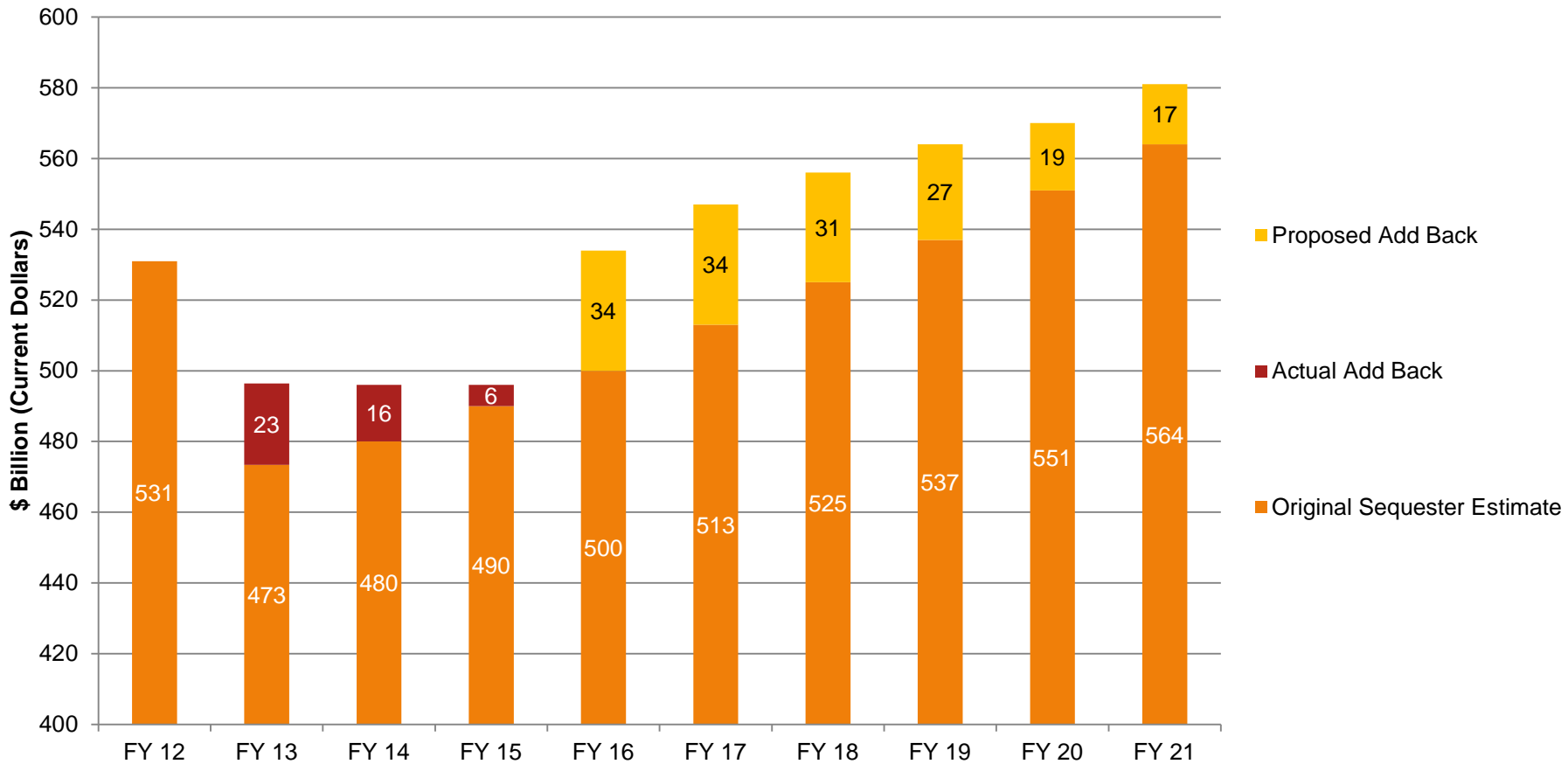
(Including supplemental and OCO funding)

(FY 2016 Dollars in Billions)



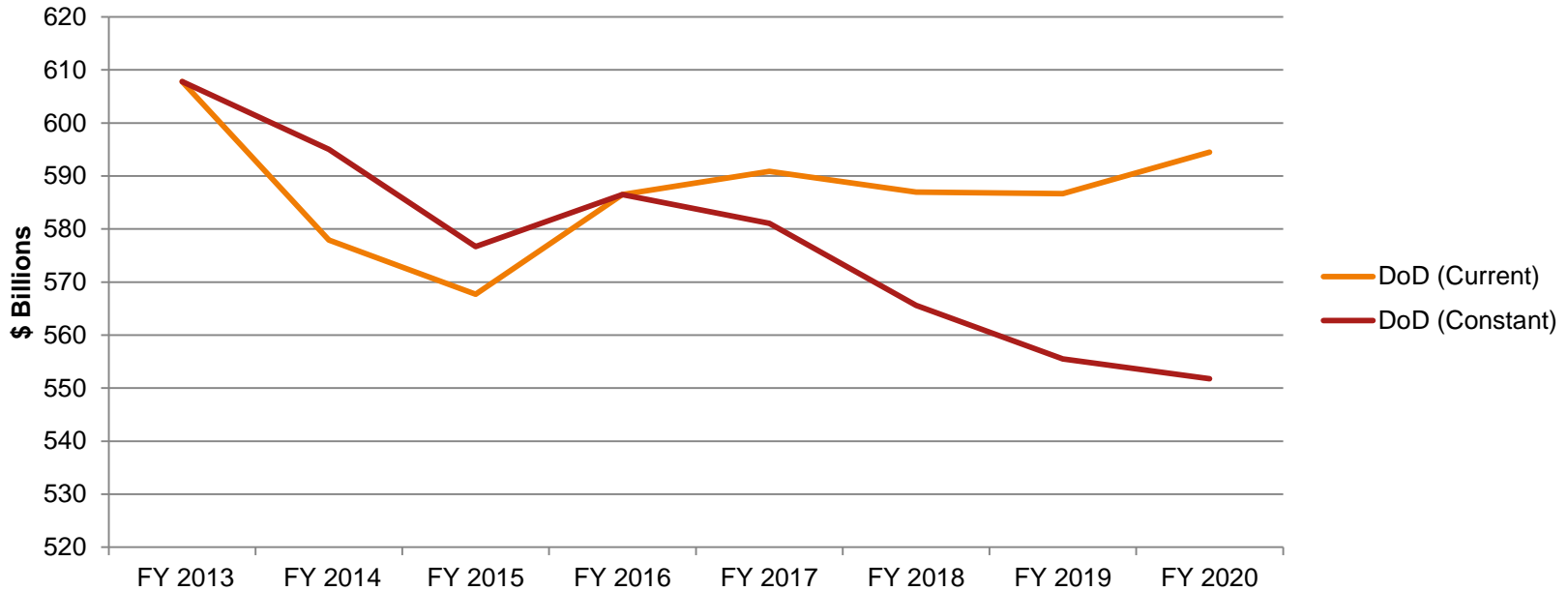
DoD's Actuals & Projected vs. Sequester

DoD Discretionary Base Budget Compared to Sequester



Defense Base + OCO Discretionary Outlays

Comparison of DoD Discretionary Outlays



- In both current and constant dollars, outlays are projected to increase in FY16 given the large increase in requested base budget funding.
- Outlays grow and remain constant through the FYDP in current dollars, but in real terms decrease each year. This could easily change since FY17 and beyond are based on an OCO level of \$26.7B in new authority each year.

FY2016 Budget Resolution

- BCA limit for defense in FY16: \$499B
- President's base defense budget: \$534B
- President's FY16 OCO request: \$51B
- Total: \$585B

- The House and Senate Passed Budget Resolution increased the President's OCO requests to \$96B;
 - BCA limit for defense in FY16: \$499B
 - Joint Budget Res. For OCO: \$96B
 - Total: \$595B

Post-Recess Agenda

- Iran Nuclear Resolution
- Cybersecurity legislation
- NDAA Conference Report
- Continuing resolution and possible policy riders/
 - Debt Ceiling/
 - Omnibus
- Ex-Im Bank

Appropriations

The House passed six of 12 spending bills, including the defense appropriations bill.

The Senate has not considered any spending legislation on the Senate floor.

At least one short-term CR, and then a debate between the Congress and the Administration over how to sort of the full-year appropriations.

NDAA

- Both the House and Senate have passed their respective versions of the annual defense bill.
- Timing of final conference report.
- Major issues
 - Personnel Benefits
 - Tricare and Prescription Drug Costs
- Veto threat?

Major Trends – Commercial Items

Commercial Items

H.R. 1735 as passed by House

H.R. 1735 as passed by Senate

Sec. 804. Procurement of commercial items.

- Central capability for CID
- Presumption based on prior determination

Sec. 805. Modification to information required to be submitted by offerors in procurement of major weapon systems as commercial items.

- Separates CID from price reasonableness determination

Sec. 815. Mandatory requirement for training related to the conduct of market research.

- Mandatory market research training for acquisition and requirements officials

Sec. 852. Use of recent prices paid by the Government in the determination of price reasonableness.

- Permits the use of recent prices paid by the government to establish price reasonableness of a commercial item if those earlier prices paid were determined to be fair and reasonable

Sec. 861. Inapplicability of certain laws and regulations to the acquisition of commercial items and commercially available off-the-shelf items.

- Establishes a list of DFARS clauses that do not apply to commercial item purchases
- Similar to the list of FAR clauses that do not apply

Sec. 862. Market research and preference for commercial items.

- Requires market research training
- Recognizes the value of a DoD effort underway, Technology Domain Awareness

Sec. 863. Continuing validity of commercial item determinations.

- Presumption of CID based on prior determination

Sec. 864. Treatment of commercial items purchased as major weapon systems.

- Separates CID from price reasonableness determination
- Spells out the factors required for a price reasonableness

Sec. 865. Limitation on conversion of procurements from commercial acquisition procedures.

- limits conversion of commercial procurements to cost-based unless the Secretary certifies significant savings

Sec. 866. Treatment of goods and services provided by nontraditional contractors as commercial items.

Regulation & Policy

- Establishment of DCMA Cost & Pricing Center
Commercial Item Center of Excellence
- Reissuance of the Commercial Item Guidebook
- Recent Inspector General report on Robertson Fuel Systems
- Recent DFARS rule on establishing price reasonableness
- Recent GAO report on requests for contractor information
- BBP 3.0, DIUx, Defense Innovation Initiative

Major Trends – Intellectual Property

Intellectual Property	
H.R. 1735 as passed by House	H.R. 1735 as passed by Senate
<p>Sec. 835. Review of Government access to intellectual property rights of private sector firms.</p> <ul style="list-style-type: none"> - Independent review of regulations and practices related to Government access to and use of intellectual property rights of private sector firms. 	<p>Sec. 825. Rights in technical data.</p> <ul style="list-style-type: none"> - Restores presumption of private ownership of IP in cases where the purchase was commercial, removing the current burden from contractor to demonstrate development entirely at private expense - Establishes a government-industry advisory panel on rights in technical data

Regulation & Policy

- USAF Bending the Cost Curve Sub-initiative on the proper balance of intellectual property rights
- BBP 3.0: modularity & commerciality
- Competition vs. ownership and reward

Major Trends – MDAPs

- Acquisition strategy – have one, make sure it's appropriate and realistic (both bills)
- **Milestone Decision Authority – who has it? (Senate)/Service Chiefs (both)**
- Program manager tenure from milestone to milestone (Senate)
- Penalty for cost overruns (Senate)
- DOT&E to consider costs (House)
- Intelligence input to programs (House)

Major Trends – Contract Type

- Senate: preference for fixed price development (Sec. 821)
- House: use appropriate contract types (Sec. 824)
- DoD: only incentive-type contracts make a difference (2014 Report on the Performance of the Defense Acquisition System)

Major Trends – Counterfeit Parts

- Senate: study on the impact of counterfeits on fielded systems (Sec. 232)
- House: creates a safe harbor for remediation costs where a contractor has behaved in accordance with counterfeit detection and avoidance best practices and has identified and voluntarily self-reported a counterfeit part (Sec. 861)
- DoD: 2015-D020, requiring that DoD acquire electronic parts only from trusted suppliers and defining the term, and DFARS 2014-D005, requiring that contractors and subcontractors acquire only from trusted suppliers of electronic parts

Major Trends – Workforce

- Joint credit for acquisition duty (both chambers)
- Dual-tracked acquisition career paths (both chambers)
- Increase to \$500M/yr and level fund the Defense Acquisition Workforce Development Fund
- Variety of pilot programs, career pathways, and special pay systems for technical experts, senior executives, and veterans

QUESTIONS?

EXTRAS

Major Trends – Services

- Limits funds authorized for OSD/P&R until it produces an inventory of contracts for services (House)
- DOD develops guidance for services contracts requirements development, source selection, and contract oversight and management (House)
- Extends the limitation on services contract spending (House)
- DOD develops guidance on identifying and addressing potential unfair competitive advantage of technical advisors to acquisition officials (Senate)
- DOD 5000.02 for Services (more trip-wires)

Major Trends – Small Business

- Expand the HUBZone authority for BRAC (both)
- Expand HUBZone to qualified disaster areas (Senate)
- Codify and expand mentor-protégé program (both)
- Report on failures to meet CS(T)P (Senate)
- Bundled and consolidated contracts (House)
 - SBA certifies agency data on them; GAO checks SBA's work
 - Provide quick, advance notice of them when they are called for
- Add SBA Administrator to FAR Council (House)
- Consider past performance of small businesses teaming or joint venturing for a bundled or consolidated contract (House)
- Look at small business contracting goals to make sure they are not overly grouped in specific NAICS codes (House)
- Would create a scorecard system for grading agency small business contracting and subcontracting (House)
- Raises Simplified Acquisition Threshold from \$150K to \$500K (House)
- Prohibits the use of reverse auctions for small business set aside contracts (House)