

Holland & Knight Defense Situation Report: May 2024

A monthly roundup of defense policy news

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

LEGISLATIVE UPDATES

NDAAs Update

As covered in the [December 2023 Holland & Knight Defense Situation Report](#), Congress passed the National Defense Authorization Act (NDAA) for fiscal year (FY) 2024, the 63rd consecutive NDAA passage. The Senate and House passed the compromise measure on a bipartisan basis, and President Joe Biden signed the bill into law on Dec. 22, 2023. The FY 2024 NDAA included a topline funding level of \$886 billion, which matched the Biden Administration's budget request to Congress that was sent in March 2023. The topline funding level in the FY 2024 NDAA represents a \$28 billion increase over levels in the FY 2023 NDAA. View the full text of the [FY 2024 NDAA conference report](#).

Almost immediately after passing the FY 2024 NDAA, members of congress turned their attention to the FY 2025 NDAA. The House Armed Services Committee (HASC) accepted requests from its members from Feb. 1 to March 1, 2024, with HASC members soliciting requests from stakeholders who wanted to influence the FY 2025 bill.

On May 13, 2024, the HASC released the Chairman's mark and the seven subcommittee marks for the FY 2025 NDAA. As covered in the [April 2024 Holland & Knight Defense Situation Report](#), the HASC made quality of life policies for servicemembers and their families the centerpiece for this year's authorizing legislation. The legislation – H.R. 8070, the [Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025](#) – included a topline funding level of \$895 billion. This is a 1 percent increase over FY 2024 defense and national security funding levels and is in line with levels negotiated to increase the debt limit by President Biden and then-Speaker Kevin McCarthy (R-Calif.) under the Fiscal Responsibility Act (FRA, P.L. 118-5). Despite bipartisan calls that the topline levels be increased, ultimately HASC Chairman Mike Rogers (R-Ala.) acknowledged that sticking to the budget caps puts Congress and the U.S. Department of Defense (DOD) in a tough position, as Congress wants to robustly fund defense and national security programs while also providing a much-needed down payment on servicemembers and their families.

HASC NDAA Markup

On May 22, 2024, the HASC held a markup of the FY 2025 NDAA, with the committee reporting the bill favorably by a vote of 57 to 1, with Rep. Ro Khanna (D-Calif.) voting against advancing the legislation. Though usually a marathon affair that can go into the early hours of the morning, this year's markup ended much quicker. This can be attributed to electronic voting that the Committee began last year. More important, however, it is also because Chairman Rogers and HASC Ranking Member Adam Smith (D-Wash.) held a relatively noncontroversial markup that left most of the contentious social policy issues on the sidelines in favor of providing a bipartisan NDAA. This is in part due to the political

realities that carried over from the FY 2024 process in that the Senate is still majority Democrat, in line with the White House, and that all legislation must be bipartisan. It is also in part due to the fact that a vacancy left by former Rep. Mike Gallagher (R-Wis.) was not filled, leaving Republicans on the committee with a two-vote margin, meaning that any contentious vote could be defeated with just one Republican voting with all Democrats.

Speaking to the press after the markup on the process and the bill being much less partisan, Chairman Rogers said, "If we couldn't keep those provisions in last year, what makes us think we can do it this year?" He continued: "There's no reason to go through that exercise again when we know it's futile ... and that's kind of the advice I'm giving to our members as we lead up to the floor vote." Ranking Member Smith said in a statement, "Perhaps most importantly this bill sends a critically important message to the American people that bipartisanship is still possible."

Before the full House chamber will consider a vote on the floor, which is expected the week of June 10, 2024, the House Rules Committee must send a rule of debate and comb through hundreds of amendments filed by all members of the House, not just those on the HASC. The House Rules Committee announced that amendments to the [FY 2025 NDAA, as reported by the HASC](#), are due by May 31, 2024.

Should you or your organization have any questions about the NDAA process, specific amendments or how Holland & Knight might assist, please do not hesitate to reach out to *Holland & Knight Defense Situation Report* authors.

SASC NDAA Update

The Senate Armed Services Committee (SASC) plans to mark up its version of the FY 2025 NDAA on June 12, 2024. However, this is a closed-door process whereby debate is not public. After the SASC reports out its version of the NDAA, Senate priorities and topline funding levels should become clearer. Nonetheless, SASC Ranking Member Roger Wicker (R-Miss.) has said that he plans to propose a \$55 billion increase to the FY 2025 NDAA over a three-year period. Though he did not share further details of this proposal, this would be a significant increase above the budgetary caps outlined by the debt deal.

Defense Appropriations

As covered in the [March 2024 Holland & Knight Defense Situation Report](#), Congress completed the FY 2024 appropriations process, fully funding the federal government through the remainder of the fiscal year ending Sept. 30, 2024. The FY 2024 Defense Appropriations bill – which was included within the second of two "minibus" appropriations packages – included a total funding agreement of \$825 billion when accounting for mandatory funds, according to the measure's [joint explanatory statement](#). This funding is an increase of \$26.8 billion above FY 2023 levels.

The federal government's FY 2025 begins on Oct. 1, 2024, and Congress has already begun the appropriations process for the next fiscal year. Because Congress is unlikely to pass the FY 2025 bills before the end of the calendar year and before the next Congress begins on Jan. 3, 2025, uncertainties are already present. Notably, Rep. Kay Granger (R-Texas), who announced her retirement from Congress effective at the end of her term, also announced she would step down as chair after Congress passed the FY 2024 bills and signaled that it is best that the committee is served by someone who will be in Congress next year. As such, the House Republican Conference selected Rep.

Tom Cole (R-Okla.) to serve as the next chair of the House Appropriations Committee. Rep. Cole, who was already a member of the Defense Appropriations Subcommittee, has numerous defense interests within his district.

Because of the contours of the Fiscal Responsibility Act that stipulate a national defense spending cap of \$895 billion for FY 2025, Chair Cole will now need to address changes that defense hawks want to make to increase President Biden's FY 2025 budget, as well as address likely policy riders that hard-right legislators will seek to include within the appropriations bills.

Chairman Cole Announces 302(b) Allocations

On May 16, 2024, House Appropriations Committee Chair Cole [previewed](#) interim subcommittee 302(b) allocations for FY 2025, which were developed using the caps outlined in the Fiscal Responsibility Act of 2023. According to the committee, defense funding would increase 1 percent, which is an increase of nearly \$9 billion, with nondefense spending decreasing by 6 percent and an overall total federal government budget of just over \$1.6 trillion. The total defense budget under Chair Cole's 302(b) allocations are \$895 billion, which equals the amount previewed in the FY 2025 NDAA. Though \$895 billion would go toward overall defense spending, the DOD would receive \$832 billion on the funding, with other agencies with national security and defense interests seeing the remainder.

On May 23, 2024, the House Appropriations Committee approved the 302(b)s by a party-line vote of 30 to 22, with Democrats voting against the levels because they decrease nondefense spending.

Because Senate leaders have signaled that they would like to see an increase of funding, particularly of nondefense spending, it is anticipated that another drawn-out appropriations process will take place, with the 2024 fiscal year spending expiring on Oct. 30, 2024.

Markup Schedule Announced

Also on May 23, 2024, House Appropriations Committee Chair Cole announced the full schedule to mark up the 12 appropriation subcommittee bills with an ambitious target to approve all of the FY 2025 bills by the full House Appropriations Committee by mid-July. Noteworthy in the schedule is that the Defense Appropriations Subcommittee will markup the bill on June 5, 2024, with the full committee to consider the Defense bill on June 13, 2024, and the full House to vote on the bill in late-June. Additionally, the House Appropriations Committee marked up the Military Construction, Veterans Affairs, and Related Agencies bill in subcommittee and in the full committee on May 21 and 23, 2024, respectively. It will be on the floor for full House consideration on June 4-5, 2024.

Rep. Bacon Takes the Helm of HASC CITI Subcommittee

On April 29, 2024, HASC Chair Mike Rogers announced that Rep. Don Bacon (R-Neb.) will serve as the chair for the Subcommittee on Cyber, Information Technologies, and Innovation (CITI) for the remainder of the Congress. In a statement, Chair Rogers said, "Staying ahead of our adversaries in the digital space is vital. I know Rep. Bacon will bring valuable knowledge and expertise to the subcommittee and I look forward to continuing our work together to strengthen our military." Rep. Bacon is a retired brigadier general and served as wing commander at Ramstein Air Base in Germany and Offutt Air Force Base in Nebraska before he retired in 2014. He also served as chair of the HASC Quality of Life panel, which focused on issues that impact U.S. servicemembers and their families, including compensation, child care, housing, support programs for spouses of servicemembers and

healthcare. Rep. Bacon is known as a moderate in Congress and serious policymaker. The CITI Subcommittee, which has jurisdiction over artificial intelligence (AI), all things cybersecurity, and many DOD Research, Development, Test, and Evaluation (RDT&E) programs, will play an important role during the FY 25 NDAA process. After the announcement that he would take the helm of the CITI Subcommittee, Rep. Bacon said that "we must make modernization and innovation a priority" and that he "will continue to support enhancing our cybersecurity and will work to advance artificial intelligence and emerging technologies that will be vital for our success on the battlefields of the future."

Congress Continuing Work on DPA Reauthorization

On May 8, 2024, the House Financial Services Subcommittee on National Security, Illicit Finance, and International Financial Institutions [held a second hearing](#) to discuss reauthorization of the Defense Production Act (DPA) (P.L. 81-774, 50 U.S.C. §§4501 *et seq.*), as amended, ahead of the law's expiration in its current form in 2025. The DPA gives the president broad authorities to influence domestic industry in the interest of national defense and has been used for a variety of purposes, including responding to the COVID-19 pandemic, increasing production capacity for clean energy technologies and supporting Ukraine in its war against Russia. The hearing focused on how the DPA can be reauthorized to better serve U.S. national security, with witnesses discussing the history and mechanics of the DPA, how it has been employed and how it can be focused, modernized and improved. One of the key questions raised was how to balance the need to use the DPA for national defense with the need to use it for other purposes, such as addressing climate change. The subcommittee also discussed the need for more transparency and accountability in the way the DPA is used.

House Republicans Urge Administration to Send American-Made Drones

Along with 10 House Republicans, Congressman Rob Wittman (R-Va.) [sent a letter](#) to U.S. Secretary of Defense Lloyd Austin urging the DOD to send more American-made drones to Ukraine to deploy on the battlefield. Currently, most drones being used in Ukraine's fight against Russian aggression are made by a single Chinese company. The letter argues that the use of American drones in Ukraine allows the U.S. to build systems superior to Chinese drones and develop capabilities that are necessary for deterring and winning future near-peer conflicts. It also argues that displacing Chinese drones is a geopolitical victory for the U.S. as drones are becoming an increasingly significant tool for influence, military readiness and helpfulness for soldiers abroad.

Bicameral Quantum Legislation Introduced

Last month, Rep. Elise Stefanik (R-N.Y.) and Sen. Marsha Blackburn (R-Tenn.), members of the HASC and SASC, respectively, introduced legislation that seeks to advance the DOD's approach to quantum technology and advance U.S. national security, as these members have seen a lack of streamlined efforts to focus quantum-enhanced capabilities to the warfighter on a relevant timeline. As such, the [Defense Quantum Acceleration Act](#) would establish a framework for the DOD to optimize its approach to the development and transition of quantum technology by creating a Principal Quantum Advisor to the Defense Secretary to develop a strategic quantum roadmap and provide an independent budget assessment of current DOD quantum budgets to Congress. The bill would also authorize a defense quantum technology testbed to enable the Defense Innovation Unit (DIU) to successfully execute the transition of near-term quantum capabilities using the \$55 million of funding it received for this purpose in FY 2024.

EXECUTIVE AND DEPARTMENTAL UPDATES

U.S.-Japan Defense Initiatives

As the U.S. and allies around the world are taking seriously the threat and growing aggression from the Chinese government, President Biden and Japanese Prime Minister Fumio Kishida announced during the latter's visit to Washington, D.C., in April 2024 a historic U.S.-Japan alliance to further the countries' relationship. At the summit, President Biden and Prime Minister Kishida [announced in a joint statement](#) their intent to strengthen defense and security cooperation between the two countries, deepen coordination between the defense industries, and enhance workforce training and equipment maintenance.

In response, Sens. Mitt Romney (R-Utah), Tim Kaine (D-Va.), Bill Hagerty (R-Tenn.) and Jim Risch (R-Idaho), all members of the Senate Foreign Relations Committee, introduced the [Coordinating AUKUS Engagement with Japan Act](#), legislation aimed at increasing U.S. cooperation with allies in order to combat the growing threat of China. The legislation would require Australia-United Kingdom-United States (AUKUS) coordinators at the U.S. Department of State and DOD to engage with the Japanese government and consult with counterparts in the U.K. and Australia to discuss what including Japan in certain advanced technology cooperation activities under the AUKUS framework would look like.

The AUKUS trilateral partnership, announced in September 2021, was a historic step toward increased cooperation between the U.S. and its allies to deter aggression and maintain stability around the world. Part of the AUKUS agreement envisioned deeper collaboration among AUKUS partners on advanced military capabilities – including cyber, artificial intelligence, quantum and more – to support innovation, improve technology sharing and develop vital new defense and security applications. In April 2024, AUKUS partners announced they would consider cooperating with Japan on AUKUS-related advanced technology projects.

The senators' bill seeks to operationalize this announcement by directing the AUKUS coordinators at the State Department and DOD to engage with Japan and consult with counterparts in the U.K. and Australia at a technical level to better understand how Japan could augment the partnership and what steps Japan might need to take in order to engage quickly and meaningfully in AUKUS advanced technology projects. Additionally, the Biden Administration would be required to provide a briefing and a report to Congress detailing these engagements, areas where Japan could add value to AUKUS, a plan for engaging Japan on AUKUS cooperation moving forward and feedback provided by Australia and the U.K.

DOD Releases Open Announcement Through Defense Industrial Base Consortium

On May 14, 2024, the DOD released a new [Open Announcement through the Defense Industrial Base Consortium Other Transaction Authority](#) (DIBC OTA) that will accept unsolicited white papers to be considered for Defense Production Act (DPA) Title III and Industrial Base Analysis and Sustainment (IBAS) funding. DIBC membership is free and open to U.S. organizations as well as international partners from the U.K., Australia and Canada. The FY24 NDAA designated the U.K. and Australia as domestic sources for DPA funds; Canada has been a domestic source since 1992.

This announcement is seeking ideas for research or prototype project solutions that will benefit the industrial base and expand sources of supply chains. The Open Announcement seeks to accelerate the

timeline to project award, which will bring critical capabilities to the industrial base faster. This effort also supports the critical Supply Chain Resiliency Focus Areas identified as part of [President Biden's Executive Order on America's Supply Chains](#).

The critical sectors sought under this announcement include:

- kinetic capabilities
- energy storage and batteries
- casting and forgings
- strategic and critical minerals
- microelectronics
- workforce development

The Open Announcement is currently accepting white papers and will remain open until Sept. 30, 2024. Learn more at the [DIBC OTA website](#).

DIU Solicitations

In the past month, the DIU, which focuses on leveraging new commercial technology adaptation for the U.S. military, published four new solicitations.

The first solicitation is for the Joint Cyber Hunt Kit (JCHK). As the DOD conducts hunt operations on DOD and international or domestic partner networks to discover advanced persistent threats (APT), and analyze their tactics, techniques and procedures (TTP), these hunt operations require a next-generation deployable JCHK with cutting-edge commercial off the shelf (COTS) and free and open-source software (FOSS) capabilities. The desired JCHK solution is best described as a mobile "security operations center (SOC) in a box" that can be transported by a nine-person team anywhere in the world. This hunt kit must be capable of stand-alone operation because it will most often operate in an environment where it is not permissible to connect to the internet and not permissible to send data offsite for analysis. The hunt kit must also be capable of performing all hunt operation activities without requiring additional processing or storage resources from a partner's on-premise infrastructure. Furthermore, the hunt kit must be transportable as carry-on luggage, meeting weight and dimension limitations on international commercial airlines, and compatible with the limited wattage and poorly conditioned power available in developing nations. In addition to the described "SOC in a Box" capability, the JCHK shall also be a modular system that allows for additional processors, storage, software and capability packages as future requirements are realized.

The second solicitation is for a transition of quantum sensors (TQS) program. Denial or degradation of global positioning system (GPS) signals impact the effectiveness of U.S. forces' position, navigation and timing (PNT) capabilities, in the process impeding key warfighting missions. These key mission areas include precision weapon employment; position, navigation and timing (PNT); communications, intelligence, surveillance, target acquisition and reconnaissance (ISTAR); and electronic warfare. As such, this solicitation focuses on demonstrating the military utility of quantum sensors as a critical emerging technology. Specific areas of interest for this topic include inertial measurement system sensors including gyroscope and accelerometer physics sensor packages, magnetometers for magnetic navigation and anomaly detection, and maturation of integrated photonic systems, laser components and other enabling technology for improved quantum sensor performance and reduction of Size, Weight, Power and Cost (SWaP-C).

The third solicitation is for biosurveillance. To generate leadership-decision support and analytic products, the DOD seeks a dynamic cross-domain, cloud-based information technology capability, enabled by AI and machine learning, to make sense of big data and create analytic bandwidth for user-driven analysis and automation of routine processes across public health, biodefense, environmental and intelligence data. To support the biodefense program, the DOD seeks a system with the ability to adaptively license, ingest, structure and correlate primary and secondary data sources at scale to build a dynamic intelligence picture.

The final solicitation is for Modular Spectrum Characterization. Traditional methods of electromagnetic spectrum signature gathering are constrained by a number of factors, including the inability to capture wideband, high-bandwidth signatures; existing software solutions that are not easily configurable, autonomous or have limited to no data parsing utilities, or are not interoperable with a variety of different software defined radios (SDRs); and that size, weight and power (SWaP) constraints make solutions difficult to transport and/or limit use cases due to lack of portability/ability to deploy in the field. As such, the DOD is seeking autonomous solutions capable of passively detecting and gathering data primarily against wideband, high-bandwidth electromagnetic spectrum while also storing this data securely.

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