BP Blunted U.S. Demand

BY JONATHAN WEISMAN

WASHINGTON—BP PLC, despite being put under pressure by the U.S. government to pay for the oil-spill aftermath, has succeeded in pushing back on two White House proposals it considered unreasonable, even as it made big concessions, said officials familiar with the matter.

BP last week agreed to hand over $20 billion—to cover spill victims such as fishermen and hotel workers who lost wages, and to pay for the cleanup costs—a move some politicians dubbed a “shake down” by the White House. Others have portrayed it as a capitulation by an oil giant responsible for one of the worst environmental disasters in history. A more accurate picture falls somewhere between.

The fund is a big financial hit to BP. But behind the scenes, according to people on both sides of the negotiations, the company achieved victories that appear to have softened the blow.

BP successfully argued it shouldn’t be liable for most of the broader economic distress caused by the president’s six-month moratorium on deep-water drilling in the Gulf of Mexico. And it fended off demands to pay for restoration of the Gulf coast beyond its prespill conditions.

After the high-profile meeting of administration and BP officials on Wednesday, it was in the interest of neither to discuss such details. BP wanted to look

Focus shifting to BP's Dudley A6
Heard on the Street: Backlash against oil could backfire C8

Continued from Page One
contrite and to make a grand gesture, and the White House wanted to look tough.

President Barack Obama came away touting how BP’s money would be handed over quickly and impartially to those hurt by the spill. Not only did BP earmark the $20 billion fund but it promised an additional $100 million for Gulf workers idled by the drilling moratorium.

But BP didn’t offer a blank check. The $100 million—0.5% of the total—won’t come close to covering collateral damage from the White House’s moratorium.

The drilling industry estimates the moratorium will cost rig workers as much as $330 million a month in direct wages, not counting businesses servicing those rigs like machine-shop workers.

BP and its defenders argue that the moratorium was a White House policy decision for which it shouldn’t be responsible. The final deal was structured to limit the company’s exposure to such claims.

BP negotiators also said the company won’t pay for Mr. Obama’s pledge to restore the Gulf of Mexico to a condition better than before the Deepwater Horizon exploded on April 20.

White House officials want to use the oil-spill disaster to implement long-developed plans to restore marshlands and waterways. Facing record budget deficits, that pledge could
founder with BP balking.

Administration officials say the concessions extracted from BP are unprecedented. Negotiators were able to graft a deal onto the Oil Pollution Act of 1990, the main law dictating corporate responsibility in such a disaster, without having to ask Congress to change the law.

"A blank check was never in the cards," said an administration official at the talks. But, he added, the deal hammered out "went a very long way."

The Wednesday meeting at the White House was designed to go smoothly, the latest in a string of administration showdowns with corporate titans from General Motors to Wall Street banks. By the time BP Chairman Carl-Henric Svanberg and Chief Executive Tony Hayward walked up the White House driveway just past 10 a.m., the company had agreed in principle to the fund. "The president knew when he walked in that we were amenable to the kind of proposal we had already agreed on in principle," a BP negotiator said.

Five days of preliminary talks between BP's hired lawyer, Jamie Gorelick, Associate Attorney General Thomas J. Perrelli, and White House counsel Robert Bauer had coalesced around the $20 billion figure.

But the talks—with about a half-dozen people on either side—stretched longer than expected. "A lot of the work was done before, but there were a lot of details," said White House Chief of Staff Rahm Emanuel in an interview. "Details matter."

Twice, the two sides retreated from talks in the West Wing's Roosevelt Room to consult privately: On BP's ability to appeal decisions made by the $20 billion fund's independent administrator, Kenneth Feinberg; and on how far BP would go to meet Mr. Obama's request that it also aid workers hurt by the drilling moratorium.

Both sides described the negotiations as businesslike. BP hired Ms. Gorelick, a former deputy attorney general in the Clinton administration, from the white-shoe law firm Wilmer Cutler Pickering Hale and Dorr LLP, in part because of her ties to Democratic lawyers including Mr. Bauer.

But there was one item barely discussed ahead of the meeting: assistance for workers hurt by the moratorium, which has forced 33 deepwater rigs to pull anchor. To drive home the request, the president had Mr. Bauer relay the request to Ms. Gorelick the day before, negotiators for both sides said.

At the meeting's start, Mr. Obama told the group of his concerns about those workers, most of whom did not work for BP.

When the president and vice president left the room, Ms. Gorelick told White House negotiators their legal position mandating BP's assistance to displaced workers was weak. White House officials conceded such workers may not be able to qualify for direct assistance under the $20 billion fund, a White House official in the room said.

A BP negotiator said the White House position was "half-hearted" and its negotiators quickly gave up. "You won't find many lawyers who will say when the government imposes a moratorium, it's the company's obligation to help the workers impacted," the BP adviser said.

The BP side was so confident that Ms. Gorelick suggested the two sides allow idled workers submit claims to Mr. Feinberg and let a court decide whether the company was liable.

A White House official said the administration believed it had grounds to push BP, but in the end, Mr. Bauer made an emotional appeal.

He called BP's move cynical and asked why the company was "lawyering" after it told Congress and the administration it wouldn't dink its financial responsibility.

In response to that appeal, BP's negotiators agreed to voluntarily add $100 million as "a goodwill gesture," one adviser said. The two sides didn't agree how that money would be distributed.

BP used the word "fund" to describe the separate pot of money. The White House called it a foundation. As of Friday afternoon, they still had a long way to go to structure the fund, said a member of the team working on final details.