



U.S. House of Representatives
COMMITTEE ON THE BUDGET
Washington, DC 20515

June 22, 2020

The Honorable Russell Vought
Acting Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Mr. Vought:

As we have previously discussed, it is your obligation as the Acting Director of the Office of Management and Budget (OMB) to ensure that OMB is adhering to the requirements of the Impoundment Control Act of 1974 (ICA) and fully respecting that the Constitution vests Congress with the power of the purse. To that end, I request your written commitment as Acting Director to follow the law in two specific areas where the Administration's past actions have caused avoidable uncertainty and disruption: (1) rescission proposals under the ICA and (2) the apportionment process.

First, in the final months of Fiscal Years 2018 and 2019, the Administration's reported plans to submit a special message requesting rescission of expiring international assistance appropriations and to withhold those funds until they expired at the end of the fiscal year created significant, bipartisan and bicameral concern. The Administration has now twice abandoned these reported plans in response to the strong opposition expressed by Congress. These rescission attempts have been disruptive to our collective bipartisan efforts to address national security risks to the United States.

I strongly urge the Administration to refrain from sending a rescission message to the Congress this year. You could allay these concerns now by assuring Congress and the American people that the Administration will not pursue this end-of-year end run around Congress again. In the event the Administration does plan to submit such a message and does not obtain Congressional approval for the rescission proposal, we remind you that you must ensure that the affected funds are prudently obligated, as required by law.¹

Second, OMB's use of the apportionment process to withhold enacted appropriations from agencies has also created significant concern. This includes OMB's actions in the final quarter

¹ Government Accountability Office, B-330330, *Impoundment Control Act—Withholding of Funds through Their Date of Expiration (for the Honorable Steve Womack and the Honorable John Yarmuth)*, Dec. 10, 2018, available at <https://www.gao.gov/assets/700/695889.pdf>.

of Fiscal Year 2019 involving apportionments withholding funds from the Defense Department for the Ukraine Security Assistance Initiative² and the series of August 2019 letter apportionments withholding funds from the State Department and U.S. Agency for International Development in 15 international assistance accounts. The apportionment authorities may not be used as a form of executive control or influence over agency functions and may not be used to withhold funds in violation of the ICA. Rather, they may only be exercised in the manner and for the purposes prescribed in the Antideficiency Act and in compliance with other appropriations and budget laws, including the ICA. None of those laws give the Executive Branch the unilateral power to invalidate duly enacted statutes through the apportionment process.

As Acting Director, you have an obligation to ensure that withholdings are not pursued again this year, and that the apportionments for appropriations release funds to agencies in time to be prudently obligated by the agencies. Indeed, in the case of expiring appropriations, the release of funds to the agencies for use in the upcoming final fiscal quarter is essential to preventing unlawful de facto rescissions and other violations of fiscal law.

I, therefore, ask that you respond to the House Budget Committee in writing, no later than July 1, 2020, confirming that OMB will not submit a special message requesting rescissions late this fiscal year, and that OMB will not attempt to hinder agencies' implementation of their expiring appropriations by withholding funds from agencies through the apportionment process or otherwise in their final fiscal quarter of availability.

I look forward to your responses, and thank you for your prompt attention to this important matter.

Sincerely,

John A. Yarmuth
Chairman

² Government Accountability Office, B-331564, *Office of Management and Budget—Withholding of Ukraine Security Assistance*, Jan. 16, 2020, available at <https://www.gao.gov/assets/710/703909.pdf>.