

House Budget Committee Investigation Exposes Trump Administration's Systemic Abuse of Executive Spending Authority

Report lays out timeline of Administration's violations, abuses as Committee fights to reassert Congress' power of the purse

Since taking office, President Trump and his Administration have shown a willingness to subvert our nation's laws for the President's own personal and political gain. The Trump Administration has methodically and purposefully undermined foundational budget laws and circumvented Congress, eroding the system of checks and balance central to our democracy.

Despite numerous legal decisions from the non-partisan Government Accountability Office (GAO), warnings from congressional leaders, and even the President's ultimate impeachment, the Trump Administration and the Office of Management and Budget (OMB) have continued their legally problematic efforts to gain control of federal spending and advance their own authoritarian view of executive power.

In the wake of these persistent attacks on Congress' constitutional power of the purse, House Budget Committee Chairman John Yarmuth has conducted critical oversight and introduced legislation to increase transparency and accountability, restore Congress' Article I spending authorities, protect taxpayer dollars from abuse, and safeguard our nation's separation of powers.

1. Over the past two years, the House Budget Committee has investigated the Trump Administration's ongoing abuse of the apportionment process, OMB's authority, and current law.

2. This report documents a pattern of troubling conduct by the executive branch, ranging from the politicization of standard budgetary processes, and the misuse of funds, to egregious violations of federal law. New documentation received by the House Budget Committee provides further evidence of systemic abuse under President Trump and OMB Director Russ Vought.

3. OMB's systemic rule breaking has shown an urgent need for congressional oversight of the executive branch and increased transparency. The House Budget Committee will use its findings to ensure our laws are strong enough to prevent and withstand executive abuse and Congress' authority is preserved.

TIMELINE



Summer 2018

It is reported that OMB plans to propose rescissions under the Impoundment Control Act of 1974 (ICA) as part of its efforts to cut international assistance funds previously provided by Congress and signed into law. Reports show OMB anticipated allowing funds to be effectively rescinded without the required congressional approval by withholding funds until they expired.



Dec. 2018 - Jan. 2019

The Trump Administration leads the government into partial shutdown and then violates bedrock law – the Antideficiency Act – by cherry-picking allowable activities during a lapse in appropriations ranging from regulatory review to tax refunds to National Parks operations.



Dec. 2018

GAO's legal decision reaffirms Congress' constitutional power of the purse and its central role in decisions to cancel appropriated funding. It finds that OMB's reported rescissions plan would be unlawful under the ICA.



Oct. 2018

Reps. John Yarmuth and Steve Womack request a decision from GAO on the legality of the Administration's reported rescissions plan.



Feb. 2019

President Trump declares a bogus "national emergency" to try to steal approximately \$6.725 billion in congressionally appropriated defense funding for construction of a border wall.



March 2019

Chairs Yarmuth, Lowey, Quigley and Roybal-Allard call on OMB to release documents and information detailing how the Trump administration plans to raid the previously appropriated funds, including specific funding sources and additional authorities. OMB did not fully comply with the request.



July 2019

A day after the President's controversial July 25th phone call with Ukrainian President Zelensky, OMB acts via apportionment to withhold funds for the Ukraine Security Assistance Initiative (USAI). This action was uncovered by the House Budget Committee following a document request investigating potential impoundments.



Aug. 2019

Duffey signs another letter apportionment that withholds approximately \$4 billion in State/USAID international aid, including \$26.5 million in Foreign Military Financing (FMF) funding from the FY18 appropriations act and \$115 million from the FY19 appropriations act for assistance to Ukraine.



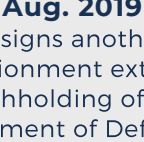
Aug. 2019

Michael Duffey, an OMB political appointee, is given apportionment authority for national security programs – authority that traditionally had been vested with career civil servants. The apportionment authority is never returned to the career official.



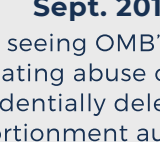
Aug. 2019

After it's reported that the Trump administration plans to submit a rescission package that would cancel more than \$4 billion in previously appropriated international aid without congressional approval by withholding funds until they expire, Chairman Yarmuth and Senate Budget Committee Ranking Member Bernie Sanders urge OMB not to impound funding.



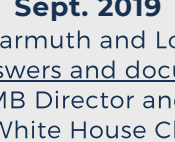
Aug. 2019

Duffey signs another apportionment extending the withholding of Department of Defense USAID funding until August 12, 2019 and a series of reapportionments extending the withholding until September 12.



Sept. 2019

After seeing OMB's escalating abuse of its Presidentially delegated apportionment authorities, Chairs Yarmuth and Lowey call on the Trump administration to end its blatant attempts to undermine Congress' power of the purse.



Sept. 2019

Chairs Yarmuth and Lowey seek answers and documents from OMB Director and Acting White House Chief of Staff Mick Mulvaney and Acting OMB Director Russell Vought on the withholding of funding for Ukraine and other international aid. OMB did not fully comply with the request.



Jan. 2020

GAO issues legal decision confirming that the Administration's withholding of USAID funding through the apportionment process violated the ICA.



Dec. 2019

President Trump is impeached.



Nov. 2019

In a precedent-breaking move, OMB instructs federal agencies to ignore GAO's legal decisions on the Antideficiency Act. OMB tells agencies not to comply with GAO's legal decisions on the Act or report violations to Congress unless OMB agrees.



Jan. 2020

As a result of the President continuously showing a complete disregard for our nation's foundational budget laws, Chairman Yarmuth announces he will introduce legislation to provide much needed reforms to strengthen our laws and protect Congress' constitutional power of the purse.



May 2020

In a four-page letter on Twitter, President Trump threatens to permanently stop funding the World Health Organization (WHO).



June 2020

Chairman Yarmuth requests written confirmation from OMB Director Vought that he will adhere to the requirements of the ICA and refrain from proposing end-of-year rescissions.



July 2020

In a non-response, OMB Director Vought fails to assure Chairman Yarmuth that OMB will not abuse the apportionment process.



June 2020

Chairs Yarmuth, Lowey, and Maloney press OMB and agencies to comply with GAO inquiries about the Administration's hold on funding for the World Health Organization (WHO).



June 2020

Chairman Yarmuth quietly transfers President Trump's executive order threatening to withhold federal support from state and local governments that the Administration views as "anarchist jurisdictions."



Aug. 2020

Chairman Yarmuth responds to President Trump's nonworkable executive actions that fail to deliver coronavirus relief for the American people and endanger funding for Social Security and Medicare.



Aug. 2020

After no assurances that OMB would follow the law, Chairs Yarmuth, Lowey, and Maloney send a letter to Russell Vought, Director of OMB, demanding documentation on the apportionment of appropriations in the remaining weeks of the fiscal year.



Aug. 2020

OMB and the White House quietly transfer apportionment authority away from all career officials, who have traditionally held the authority to political appointees.



Sept. 2020

Chairman Yarmuth responds to the White House's effort to hold state and local funds hostage amid a pandemic and the worst economic downturn since the Great Depression.



Sept. 2020

In a directive memo to OMB Director Vought and Attorney General Barr, President Trump orders officials to identify "anarchist jurisdictions" and move to cut off funding to a list of Democratic-led cities.



Aug. 2020

Chairman Yarmuth responds to the White House's push to sideline career officials in favor of political appointees who are "willing to put the President's personal agenda over our democratic institutions."



Sept. 2020

Chairman Yarmuth joins fellow House Committee Chairs to introduce the Protecting Our Democracy Act, which includes the Congressional Power of the Purse Act. This landmark reform package will help Congress reclaim its constitutional spending authority, prevent future presidential abuses, and restore our systems of checks and balances.



Oct. 2020

Reports surface warning that the White House is contemplating cutting millions of dollars in funding for an array of public health programs – amid a pandemic – in an effort to retaliate against so-called "anarchist jurisdictions."



Oct. 2020

OMB fails to fully comply with the August documentation request by Chairs Yarmuth, Lowey, and Maloney, but turns over some of the requested apportionments. The apportionments show OMB again withheld expiring funds via an apportionment footnote [1] – this time on accounts funding U.S. contributions to the WHO.

- **Like the apportionment footnote withholding USAID funds that GAO found violated the ICA and – in part – led to the impeachment of President Trump, this footnote:**
 - **Creates unlawful deferral issue** – Precludes expiring unobligated amounts from obligation by the Agency.[2]
 - **Policy motivated** – Holds foreign assistance appropriations hostage to align the use of funds with the President's priorities. GAO's decision on the USAID footnote emphasized that the ICA does not permit deferrals for policy reasons.
 - **Circumvents Congress and impedes State Department** – Withholds funds that had previously been made available for obligation through the apportionment process.

NEXT STEPS

Clearly, OMB was not deterred by the impeachment process or by GAO's decision that the use of an apportionment footnote to withhold international assistance was an unlawful impoundment. The most recent documents obtained by House leaders provides further evidence demonstrating systemic abuse under President Trump and OMB Director Russ Vought.

These findings affirm the need for reforms to ensure that no future president can abuse the powers of his or her office, as President Trump has done throughout his term in office.

The Founders knew that giving the power of the purse to Congress would protect against monarchical impulses and provide an important check on the executive branch. But our democracy is not self-effectuating – it takes work and a commitment to guard it against those who would undermine it, whether from overseas or within our borders – even from within our own White House.

As Congress works to strengthen the bedrock of our democracy and ensure our laws are strong enough to withstand a lawless president, the House Budget Committee will continue to provide much-needed oversight of our nation's spending and investigate potential violations of the apportionment process and key budget laws.

[1] For both the FY 2019/2020 and FY 2020 Department of State Contributions to International Organizations apportionments, there was a footnote placed on each account effective on August 19 (signed on August 18 by Michael Duffey) that withholds the full unobligated balance of the account. The footnote on each of the expiring accounts reads: "Resources unobligated as of the OMB approval date of this apportionment shall be available for obligation five calendar days after the Department of State provides OMB a written explanation of how such resources will be obligated consistent with the law and the President's priorities."

[2] It is our understanding based on consultations with the Executive Branch that these amounts were withheld from obligation from the Department of State from August 19th until approximately Wednesday, September 23rd.