September 2, 2025

Dear Speaker Johnson

 House Minority Leader Jeffries

 Senate Majority Leader Thune

 Senate Minority Leader Schumer

 Senate Appropriations Chair Collins

 Senate Appropriations Vice Chair Murray

 House Appropriations Chairman Cole

 House Appropriations Ranking Member DeLauro

On August 28, 2025, President Trump submitted to Congress a Special Message proposing to rescind $4.9 billion from foreign assistance programs. Based on materials on the Office of Management and Budget (OMB) website, OMB Director Russell Vought describes this proposal as a so-called “pocket rescission”, asserting that the President, under the Impoundment Control Act (ICA), has the authority to unilaterally cancel funding if Congress fails to act within 45 days of continuous session. OMB appears prepared to use that purported justification to freeze duly enacted appropriations until they expire or can no longer be prudently obligated.[[1]](#footnote-1)

The Government Accountability Office (GAO) already has explained, in an opinion dated December 10, 2018, that Director Vought cannot rely on the ICA to justify withholding funds long enough for them to expire without congressional action.[[2]](#footnote-2) GAO has stated that, “The statutory text and legislative history of the ICA, Supreme Court case law, and the overarching constitutional framework of the legislative and executive powers provide no basis to interpret the ICA as a mechanism by which the President may unilaterally abridge the enacted period of availability of a fixed-period appropriation.”

Director Vought’s attempt to do so anyway threatens to fracture the centuries-old process of careful compromises that underlies the passage of laws making appropriations and, consequently, heightens the risk of a government shutdown.

For decades, presidents of both parties have properly proposed funds for rescission under the ICA’s procedures.[[3]](#footnote-3) But by proposing to rescind funds that are set to lapse in fewer than 45 days—and by outlining a plan to withhold these funds until they expire—Director Vought has both laid the groundwork for an illegal pocket rescission and effectively eliminated Congress’s role in the process Congress established to preserve its own authority over the nation’s purse strings.[[4]](#footnote-4)

Vought has described pocket rescissions as a way to “bank . . . savings, *without the bill actually being passed.*”[[5]](#footnote-5) But the Supreme Court has made clear that the only way to amend a law is for Congress to pass and the president to sign another one: “[t]here is no provision in the Constitution that authorizes the President to enact, to amend, or to repeal statutes.”[[6]](#footnote-6) Withholding funds through their date of expiration, and thus effectively amending the laws making these appropriations, is simply a different name for an unconstitutional line item veto.

The ICA does not alter this principle. Indeed, Congress passed the ICA to *affirm* its plenary authority over federal spending, not to cede it to the executive branch. In establishing a collaborative, interbranch process for reducing federal spending, Congress set forth in the ICA particular procedures for each branch’s respective role: The president gives Congress information about proposed funding cuts and permits the president to temporarily withhold those funds—that is, to maintain the outstanding balances—while Congress relies on that information to review, debate, and ultimately decide which rescissions, if any, to include in a bill. Because a rescission bill becomes law only after it is passed by both houses of Congress and signed by the president, inaction by Congress under the ICA merely maintains the status quo. That is, absent congressional action, after 45 days the president must execute the law as it was enacted.

Congress recently participated in this process after Director Vought recommended that the President ask Congress to rescind money for foreign aid and public broadcasting.[[7]](#footnote-7) Members of Congress spent weeks reviewing the potential cuts, even calling Director Vought to testify before the Senate Appropriations Committee to ask him questions about the targeted programs, long-term effects of funding changes, other ongoing impoundments, and OMB’s plan for future rescission proposals. After 45 days of intense public and legislative debate, Congress agreed to pass a law rescinding a subset of the funds the president had proposed for rescission.[[8]](#footnote-8)

In stark contrast, President Trump’s August 28 proposal and his plan to withhold funds through their date of expiration effectively removes Congress from this process. The unobligated balances for the funding at issue—which typically remain unchanged during Congress’s consideration of the rescission proposal—will plummet to zero after September 30, leaving Congress nothing to discuss, debate, or vote on with regard to a rescission of those funds. Congress’s inaction thus will no longer maintain the status quo: Rather, to preserve the same previously enacted funding levels, Congress will need to affirmativelypass bicameral and bipartisan legislation to reappropriate the expired funding, a task not contemplated by the ICA and that will face significant obstacles in light of ongoing negotiations over fiscal year 2026 spending bills.

A “rescission,” as OMB’s definition recognizes, requires legislative action.[[9]](#footnote-9) The executive has no authority to unilaterally terminate previously appropriated funding. Director Vought’s attempt to classify the August 28 proposal as a “rescission” thus undercuts the text and purpose of the ICA, renders effectively meaningless the collaborative executive-legislative framework set forth in that law, and further impedes Congress’s duty to responsibly legislate and to fund the government. We urge you to vigorously contest President Trump’s attempt to usurp Congress’s exclusive power of the purse.

We urge the bipartisan leadership of the Congress and the Appropriations Committees to promptly express their shared view that this “pocket rescission” proposal is not legal, so that the funds can be obligated pursuant to law.

Sincerely,

Charles Kieffer

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G. William Hoagland

*Republican Staff Director, Senate Budget Committee (1985-2004)*

*Director of Budget and Appropriations, Senate Majority Leader Bill Frist (2004-2007)*

J. Keith Kennedy

*Majority Staff Director, Senate Appropriations Committee (1981-1987, 1995-1997, 2005-2006)*

*Minority Staff Director, Senate Appropriations Committee (1987-1995)*

Jim Dyer

*Clerk and Staff Director, House Appropriations Committee (1995-2005)*

Stephen Bell

*Staff Director, Senate Budget Committee (1981-1986)*

Thomas Kahn

*Staff Director, House Budget Committee (1997-2016)*

Sean O’Keefe

*Clerk, Senate Appropriations Defense Subcommittee (1981-1989)*

*Comptroller and Chief Financial Officer, Defense Department (1989-1992)*

*Deputy Director, Office of Management and Budget (2001)*

Sheila Burke

*Chief of Staff, Senate Majority Leader Bob Dole (1986-1996)*

*Deputy Staff Director, Senate Finance Committee (1982-1984)*

Charlie Houy

Staff Director, Senate Appropriations Committee (2009-2013)

Scott Gudes

Staff Director, Senate Budget Committee, (2005-2007), Professional Staff Member House Appropriations Foreign Operations (2003), Clerk, Senate Appropriations CJS Subcommittee (1995-1998) and Professional Staff Defense Subcommittee (1986-1990)

1. August 28, 2025 [↑](#footnote-ref-1)
2. *See* GAO, B-330330, Impoundment Control Act—Withholding of Funds through Their Date of Expiration (Dec. 10, 2018), [https://www.gao.gov/products/b-330330](https://protect.checkpoint.com/v2/r01/___https%3A//www.gao.gov/products/b-330330___.YzJ1OnByb3RlY3RkZW1vY3JhY3k6YzpnOjVjYWIyNDk3MWFhMmRkMDU5NWY4Nzg3NzBjMzg3NGE2Ojc6YzZmMzoyMzMzZDE1NDAzN2Y2ZDU2ZjBjYWUwMDFkZjUwZjRlYmIxOThmNDgwZDk2ZGU1ZGZkODU3MGIzZWQzY2I3OWEyOnA6VDpG) (“). [↑](#footnote-ref-2)
3. GAO, B-330828, Updated Rescission Statistics, Fiscal Years 1974–2020 (July 16, 2020), [https://www.gao.gov/assets/710/708190.pdf](https://protect.checkpoint.com/v2/r01/___https%3A//www.gao.gov/assets/710/708190.pdf___.YzJ1OnByb3RlY3RkZW1vY3JhY3k6YzpnOjVjYWIyNDk3MWFhMmRkMDU5NWY4Nzg3NzBjMzg3NGE2Ojc6ZGVkZjplNzUzMTc1NDk5MmI4YjUxNjU1ODE3Y2JiYzY0NmE0NTI1YmFhZDNiYmE5ZGNkMzdhY2ZhNzAyOTdlYTQxNGEwOnA6VDpG). [↑](#footnote-ref-3)
4. U.S. Const. art. I, § 9, cl. 7. [↑](#footnote-ref-4)
5. Jennifer Scholtes, *White House floats new funding trick — and GOP lawmakers grimace*, Politico (June 20, 2025), [https://www.politico.com/news/2025/06/20/pocket-rescissions-white-house-funding-trick-00410444](https://protect.checkpoint.com/v2/r01/___https%3A//www.politico.com/news/2025/06/20/pocket-rescissions-white-house-funding-trick-00410444___.YzJ1OnByb3RlY3RkZW1vY3JhY3k6YzpnOjVjYWIyNDk3MWFhMmRkMDU5NWY4Nzg3NzBjMzg3NGE2Ojc6NDI2YzplNTc0NmM2ZGE5ZDA2ZjVhZjAxZTE4MGE0OTlhODUzOWZkOGI1OTVhMDU1MGIzZDBmOWFiMWJjODVhNjc3NTRjOnA6VDpG). [↑](#footnote-ref-5)
6. *Clinton v. City of New York*, 524 U.S. 417, 438 (1998).

 [↑](#footnote-ref-6)
7. 90 Fed. Reg. 24298, 24298 (June 9, 2025). [↑](#footnote-ref-7)
8. Rescissions Act of 2025, Pub. L. No. 119-28, 139 Stat. 467 (2025); *A Review of the President’s Special Message of June 3, 2025*, Senate Committee on Appropriations (June 25, 2025), [https://www.appropriations.senate.gov/hearings/a-review-of-the-presidents-special-message-of-june-3-2025](https://protect.checkpoint.com/v2/r01/___https%3A//www.appropriations.senate.gov/hearings/a-review-of-the-presidents-special-message-of-june-3-2025___.YzJ1OnByb3RlY3RkZW1vY3JhY3k6YzpnOjVjYWIyNDk3MWFhMmRkMDU5NWY4Nzg3NzBjMzg3NGE2Ojc6YzQ5ODoyODQ2NWJjNjlmMmU3MDYxNTAyMjMxZmVhYTg2ZDMyNzA5MTMyYTRlNmYxNzQyMTY0Yjk2OTcxNjExNjQxM2FlOnA6VDpG). [↑](#footnote-ref-8)
9. OMB, Circular No. A-11: Preparation, Submission, and Execution of the Budget § 20.3 (July 2024) (defining rescission). [↑](#footnote-ref-9)