



441 G St. N.W.
Washington, DC 20548

B-330045.3

July 3, 2018

The Honorable Michael R. Pence
President of the Senate

The Honorable Paul Ryan
Speaker of the House of Representatives

Subject: *Impoundment Control Act of 1974—Release of Withheld Amounts Due to Expiration of 45-day Period*

On May 8, 2018, pursuant to the Congressional Budget and Impoundment Control Act of 1974 (ICA),¹ President Trump transmitted to Congress a special message proposing rescissions from 38 appropriation accounts.² In accordance with our statutory duty, we submitted a letter to you on May 22 with our review of the special message. B-330045, May 22, 2018; see ICA § 1014(b), 2 U.S.C. § 685(b). The President submitted a supplementary special message on June 5.³ See ICA § 1014(c), 2 U.S.C. § 685(c). Consequently, we submitted a letter to you on June 18 pursuant to our statutory duty to notify Congress of any change in the information we submitted in our May 22 letter.⁴ B-330045.2, June 18, 2018; ICA § 1014(c), 2 U.S.C. § 685(c).

¹ Pub. L. No. 93-344, title X, § 1012, 88 Stat. 297, 333–34 (July 12, 1974), *classified at* 2 U.S.C. § 683.

² 164 Cong. Rec. H3832 (daily ed. May 8, 2018); 164 Cong. Rec. S2548 (daily ed. May 8, 2018); 83 Fed. Reg. 22525 (May 15, 2018).

³ 164 Cong. Rec. H4761 (daily ed. June 5, 2018); 164 Cong. Rec. S2990–S2991 (daily ed. June 5, 2018); 83 Fed. Reg. 27030 (June 11, 2018).

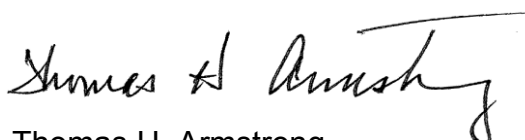
⁴ In addition, we noted in a May 24, 2018 letter to you that OMB had advised us that it had instructed the Department of Transportation to release the funds previously withheld from obligation under two rescission proposals. B-330045.1, May 24, 2018. In our May 22 letter, we had concluded that these two proposals were not consistent with section 1001(4) of the ICA, which provides that the Act does not supersede any provision of law that requires the obligation of budget authority or the making of outlays thereunder. 2 U.S.C. § 681(4); B-330045, at 10–11. Accordingly, we concluded that these amounts could not be withheld from obligation pending congressional consideration of the rescission proposal.

Where the President properly transmits a special message, an agency may withhold corresponding amounts from obligation for up to 45 calendar days of continuous congressional session. See ICA § 1012(b), 2 U.S.C. § 683(b). For the purposes of the ICA, continuity of a session of Congress is broken “only by an adjournment of the Congress *sine die*, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain.” ICA § 1011(5), 2 U.S.C. § 682(5). If Congress, within the 45-day period, does not complete action on a bill rescinding the budget authority, the budget authority proposed to be rescinded must be made available for obligation. ICA § 1012(b), 2 U.S.C. § 683(b).

Since May 8, Congress has not adjourned *sine die*, and neither House has adjourned for more than three days. Accordingly, the 45-day period expired on June 22, 2018. As of that day, Congress had not passed a bill enacting any of the President’s proposed rescissions, and thus the budget authority must be made available for obligation. We have contacted the agencies whose budget authority was affected by the rescission proposals and have confirmed that they have made the budget authority available for obligation, as required by section 1012(b) of the ICA.⁵ 2 U.S.C. § 683(b).

If you have any questions, please contact Julia C. Matta, Managing Associate General Counsel, at (202) 512-4023, or Omari Norman, Assistant General Counsel for Appropriations Law, at (202) 512-8272.

Sincerely,



Thomas H. Armstrong
General Counsel

⁵ We contacted some of these agencies prior to June 22 because the President’s June 5, 2018 supplementary message withdrew four rescission proposals. At that time, we contacted the agencies affected by these four proposals and confirmed that they were no longer withholding corresponding amounts from obligation. B-330045.2, at 2.

Consistent with usual practice, some of the amounts that are available for more than one fiscal year have been apportioned into future fiscal years. See OMB Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, § 120.13 (July 2017).