

EXTENSIONS OF REMARKS

CELEBRATING THE LIFE OF AMBASSADOR FELIX ROHATYN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Ms. PELOSI. Madam Speaker, I rise today to pay tribute to a man of vision and great intellect, whose life and legacy were marked by extraordinary achievements and a profound love for America: Ambassador Felix Rohatyn. From ushering New York City through economic crisis to proudly serving our nation as Ambassador to France to becoming a leading voice for building the infrastructure of America in a green way, Ambassador Rohatyn embodied the American spirit and helped build a brighter future for all Americans. His passing last December is a great official loss for our nation and a profound personal loss for all those privileged to call him a friend, counselor and loved one.

Felix Rohatyn was born in Vienna, Austria in 1928 to a prominent Jewish family. By 1935, he and his parents were forced to flee their home to escape the rise of Nazism, embarking on a years-long journey that eventually brought them to safety in the United States in 1942. His early experience as a refugee instilled in him a love for our bedrock American values of freedom, justice and economic opportunity for all, an appreciation that he honored throughout his life.

His professional success made him a sought-after economic expert and intellectual resource for countless public officials and leaders around the world. When New York City faced an unprecedented insolvency crisis in the 1970s, Felix Rohatyn's collaborative leadership skills brought together political and financial interests to make the difficult decisions needed to save the city. In the process, he made sure that the city invested in all its citizens, setting aside funding for schools, housing and public transportation to ensure a financially stable and prosperous future for millions of Americans.

Felix Rohatyn brought that same successful leadership, in addition to his fluency in French, to representing the United States as Ambassador to France. During his ambassadorship, he worked to strengthen the economic and cultural bonds between our nations, reaffirming an unbreakable friendship and partnership that dates back to the founding of our country.

It was always a privilege to have Ambassador Rohatyn meet with Members of Congress to discuss the most pressing issues facing our economy and our nation. His passionate advocacy for robust, climate change—resilient infrastructure made him a thoughtful advisor and effective Co-Chair of the bipartisan Commission on Public Infrastructure, helping Congress establish a framework to rebuild our nation and boost our economy in a sustainable, job-creating way.

After Superstorm Sandy in 2012, his forward-looking vision was essential to his serv-

ice as Co-Chair of the New York State 2100 Commission. The innovative strategies he helped develop have been critical in rebuilding devastated communities and will ensure the city is better prepared to meet the challenges posed by the worsening climate crisis.

America was blessed by the life and leadership of Ambassador Felix Rohatyn. May it be a comfort to his children, Pierre, Nicolas and Michael, his many grandchildren and the entire Rohatyn family that so many mourn their loss and pray for them at this sad time.

TRIBUTE TO FOSTENIA W. BAKER

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. CLYBURN. Madam Speaker, I rise today to pay tribute to the life and legacy of a tenacious and proud South Carolinian, who worked tirelessly her entire life to ensure her family's story was not forgotten. Earlier this month, we lost Dr. Fostenia W. Baker, a lifelong educator, family historian, and determined advocate. She will be sorely missed.

Fostenia Baker was a native of Florence, South Carolina, and she graduated from South Carolina State College (now University), which is also my alma mater. During her time as a student, I got to know Fostenia as my future wife Emily's roommate. There was always something different about Fostenia, but I didn't understand until much later the family history that made her demeanor stand out.

Fostenia, like many of our classmates, left South Carolina after graduation and earned a master's degree from City College of New York and a doctorate from George Washington University. She began her teaching career in the New York City Public Schools in 1970. Five years later, she returned to South Carolina to teach health education at Voorhees College and later served as a research fellow in the School of Epidemiology at the University of South Carolina. She remained in South Carolina, teaching education at Allen University and serving as a science instructor in Colleton County Schools in Walterboro, South Carolina.

In 1984, Dr. Baker was appointed instructor of education for the District of Columbia Department of Corrections in Washington, D.C. She went on to become an assistant professor of health education at Trinity College and later Howard University, both in Washington, D.C. Her final position from 1997 to 2005 was as instructor of science and health education in the Prince Georges County Public Schools in Hyattsville, Maryland.

Dr. Baker won numerous teaching awards including an Excellence Award as Health Education Chairperson for Prince Georges County Public Schools and the Innovative Professor Award at Howard University. She also published numerous articles in scientific journals and a book entitled *Women's Health, What Do You Know About It*.

In addition to her professional work, it was a personal family history that was her true passion. In 1897, her great uncle, Frazier B. Baker, was named the first Black Postmaster in Lake City, South Carolina. Immediately, he was threatened by the white community who didn't want him to serve in this important role. Postmaster Baker would not be deterred by their intimidation, and he performed his job with distinction despite constant torment. On February 22, 1898, the harassers make good on their promise to remove him from his post by firing upon the Baker family in their home. Frazier Baker and his infant daughter were killed in the attack, and the other five family members barely escaped.

Dr. Baker was determined to ensure that her great uncle's lynching would not be forgotten. She spent her life pursuing recognition for Postmaster Baker—writing a book of his life story and appearing in the documentary *An Outrage* that told the story of lynching in the American South.

She also contacted me to ask if Congress would name the Lake City Post Office in Postmaster Baker's honor. I decided to champion the effort and introduced legislation in 2018, that was co-sponsored by all members of the South Carolina delegation. It became law later that year.

On February 22, 2019, the 121st anniversary of Frazier Baker's murder, Fostenia Baker joined me in Lake City as we officially dedicated the Postmaster Frazier B. Baker Post Office. It was one of the proudest days in her life, and I was pleased to be there to share it with her.

Without her determination, Postmaster Baker's story may have continued to be lost to history. However, Fostenia's tremendous work has ensured that his story will endure. Her "bulldog tenacity" is a tribute to how one person can truly make a difference.

Madam Speaker, I ask that you and my colleagues join me in celebrating the life of Dr. Fostenia Baker. She is an inspiring example of a life well lived. Her legacy lives on in the students she taught and the lessons she has left for future generations by sharing her family's history.

RECOGNIZING THE LIFE OF MR. BUSTER DAVIS

HON. TRENT KELLY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. KELLY of Mississippi. Madam Speaker, I rise today to celebrate the life of Buster Davis, who passed away on Thursday, January 9th at the age of 93.

Buster was born on October 25, 1926, in Tishomingo County, Mississippi. He was a basketball legend at Belmont High School in Belmont, Mississippi, where he led the team to win two State Championships. After High School, Buster obtained a Bachelor of Science

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

from Mississippi State University, then received his Masters from the University of Mississippi before answering the call to serve our great nation in the United States Army during WWII.

On August 22, 1948, Buster married Billie Faye South, and they remained together for over 63 years. Buster's love for basketball brought him back to Belmont High School where he became a basketball coach. He also coached at both Kossuth High School in Corinth, Mississippi and Thrasher High School in Booneville, Mississippi. In 1962, Buster began coaching at Itawamba Junior College in Fulton, Mississippi, and led the team to multiple State Finals. He left his coaching career in 1975 and started his career with Davis Ford. He stayed with Ford for over 55 years.

Left to cherish his memory are his daughters: Pam Davis Horton of Birmingham, Alabama, and Patti Davis Bennett of Fulton, Mississippi; his grandchildren, great-grand children, as well as many friends and extended family members.

Buster's life was one of service, grace, love for his family, and community. He will be greatly missed by all who he encountered.

TRIBUTE TO THE SPITZER SPACE TELESCOPE

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. SCHIFF. Madam Speaker, I rise today to honor a National Aeronautics and Space Administration (NASA) mission managed by the Jet Propulsion Laboratory (JPL), the Spitzer Space Telescope. After 16 years of discovering hidden truths of our Universe, Spitzer will be retired on January 30, 2020.

Designed to study the cold, old and dusty, Spitzer was launched in August of 2003 and used its sensitive sensors to study infrared light emitted by celestial bodies and cosmic objects from our own solar system to the furthest reaches of the Universe. Spitzer returned data on space phenomena from asteroids to the most distant galaxies ever detected whose light was emitted 13.4 billion years ago when the universe was less than 5 percent of its current age. It discovered the largest ring around Saturn made of dust particles, identified the first Buckyballs in space, found distant blackholes and mapped out our Milky Way with unprecedented clarity. Spitzer gave us a view beyond the gas and dust clouds to study the youngest stars and the ingredients to create planets, comets and other components of our solar system.

As with many NASA missions, the telescope operated much longer than expected and has a long list of accomplishments beyond the mission's original science goals. Undoubtedly, one of Spitzer's greatest discoveries was seven Earth-size planets in around the star TRAPPIST-1. Spitzer enabled scientists to study exoplanets and identify atmospheric molecules, temperature variations, and wind speed.

As Spitzer is safely retired in deep space orbit far from Earth, the legacy of the mission will be continued by the James Webb Space Telescope, which will also conduct infrared astronomy based on Spitzer's pioneering and

trailblazing work in infrared light. The massive amount of data collected by Spitzer has been used in over 8,700 scientific publications and its data will continue to be available to the scientific community around the world for future research.

I have great appreciation and pride for the countless personnel that have worked to ensure that Spitzer operated with precision, from design to data analysis, that allowed Spitzer to study the Universe with infrared light. The numerous discoveries made move us closer to shedding light on the profound mysteries of our Universe. I ask all members to join me in honoring the achievements of the Spitzer Space Telescope and the hard-working individuals and organizations that made Spitzer's mission so successful.

CONGRATULATING DR. JEAN G. CHAMPOMMIER ON HIS RETIREMENT

HON. JUDY CHU

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Ms. JUDY CHU of California. Madam Speaker, I rise today to congratulate Dr. Jean G. Champommier on his retirement from a distinguished career in community organizing and social work. He has dedicated his life to creating programs that improve the lives of those in underserved communities throughout Los Angeles County.

Dr. Champommier began his career in social work during the 1960s when he took on a field-work placement at the Kennedy Child Study Center in Santa Monica. Through this position, he worked with children with developmental disabilities and their families, solidifying his passion for helping his neighbors and his community.

Since 1983, Dr. Champommier has served as the Executive Director, and later President/CEO, of Alma Family Services. This agency provides communities throughout Los Angeles County with multilingual and multicultural services, including helping families and individuals cope with substance abuse, emotional difficulties, and developmental challenges. Through his role at Alma, he expanded the agency's first contract with the Los Angeles County Department of Mental Health and oversaw Alma's growth as a provider of community-integrated social programs. During his tenure, Alma has added social rehabilitation programs for child abuse, gang prevention and reduction programs, and has grown to 16 sites throughout Los Angeles County. In 2015, Dr. Champommier was appointed by County Supervisor Hilda Solis to Los Angeles' Public Health Commission. Eventually serving as chair of the Commission, he supervised the Public Health Department's programs and made recommendations to the Board of Supervisors to ensure that community input was heard in matters of public health.

Dr. Champommier's impact stretches outside his field work and into the classroom. He has taught courses in child welfare and community organization at UC Santa Barbara, Cal State Northridge, and Cal State L.A., and has also been an instructor in social work for USC and UCLA. Additionally, he has coordinated conferences on youth empowerment and farm labor for UC Santa Barbara Extension.

Dr. Champommier's career demonstrates his admirable dedication and service to his community. I thank him for his 40 years of contributions to Los Angeles and wish him nothing but the best in retirement.

IN HONOR OF JOHN ROBERT MILLER

HON. BRETT GUTHRIE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. GUTHRIE. Madam Speaker, I rise today to honor the service of World War II veteran John Robert Miller of Barren County, Kentucky.

After growing up in Freedom, Kentucky, John Robert volunteered for the Army when he was just eighteen years old in June 1941. He served in the Pacific theater until World War II concluded in 1945. During his Army service, John Robert rose to the rank of technical sergeant in an artillery unit, and he witnessed General Douglas MacArthur stepping off the landing craft to make his triumphant return to the Philippines.

Following his service in the Army, John Robert became a fixture in the Barren County community. He married his wife Christine in 1945, and they were married for 67 years until her death in 2013. John Robert was a farmer with hogs, corn, and tobacco, and he also worked as a crop insurance adjuster. John Robert served as a Magistrate on the Barren County Fiscal Court for three years, and he has served as an Election Commissioner since 1993. In 2016, John Robert was awarded the Patriot Award by Barren County Veteran's Association, and he was inducted into the Alumni Hall of Honor for Barren County Schools.

I thank John Robert for his service to our country and to our community.

RECOGNIZING LEXI RODRIGUEZ FOR BEING NAMED THE 2019-2020 GATORADE ILLINOIS VOLLEYBALL PLAYER OF THE YEAR

HON. CHERI BUSTOS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mrs. BUSTOS. Madam Speaker, I rise today to recognize Lexi Rodriguez, a junior from Sterling High School, who was named the 2019-2020 Gatorade Illinois Volleyball Player of the Year.

Lexi led the Golden Warriors to a 36-6 record and a second win at Class 3A State Championships this year. Showing her dedication to sports, she also took part of this season to help Team USA win a gold medal at the FIVB Girls U18 World Championships in Egypt. In addition, she is a three-year class president and a youth volleyball coach. As a former athlete, I commend her for her determination and attitude. Lexi is an example of the importance of dedication and a strong work ethic. I am proud to see her represent Sterling so well throughout the state and the country with her talent and passion.

It is because of student leaders such as Lexi that I am especially proud to serve Illinois' 17th Congressional District. Madam

Speaker, I would like to again formally congratulate Lexi Rodriguez on being named the 2019–2020 Gatorade Illinois Volleyball Player of the Year.

NEVER AGAIN EDUCATION ACT

SPEECH OF

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 27, 2020

Mr. ENGEL. Madam Speaker, I rise to speak in favor of H.R. 943, the Never Again Education Act.

Monday, we recognized International Holocaust Remembrance Day, which marks 75 years since the liberation of the Auschwitz death camp. The Holocaust is a crime without parallel. And how we deal with its memory defines us as a people and as a country.

As we look back at one of the darkest chapters in history, it is also our duty to look forward.

Antisemitism is on the rise and hatred and intolerance seem to spread unchecked. This cannot stand. As we honor the memory of those who came before us, we must recommit ourselves to securing a bright future for the next generation.

To ensure this, we must continue to educate younger generations on the atrocities of the Holocaust and how it could occur. That is why I strongly support H.R. 943. It is critical that the Department of Education provide the funds needed for schools to implement Holocaust education programs into their curriculum, so students understand the history of the Holocaust. I urge the Senate to pass this bill immediately.

PERSONAL EXPLANATION

HON. TRENT KELLY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. KELLY of Mississippi. Madam Speaker, I was unable to vote on January 28, 2020 due to National Guard obligations.

Had I been present, I would have voted NAY on Roll Call No. 25, NAY on Roll Call No. 26, and YEA on Roll Call No. 27.

RECOGNIZING JOHN JOHNSON ON HIS RETIREMENT FROM THE HOUSE ARMED SERVICES COMMITTEE

HON. ADAM SMITH

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. SMITH of Washington. Madam Speaker, on behalf of the House Armed Services Committee, I rise to honor and express gratitude to Mr. John Johnson for his illustrious career serving his country upon his retirement. Known as JJ to his friends and family, his long career is marked with distinction and praise from his colleagues who consider him an exemplary patriot and an embodiment of what it means to dedicate one's life to service.

Born in Georgetown, South Carolina, Mr. Johnson's service to our country started in 1969 when he joined the U.S. Air Force. He served in the prestigious Air Force Honor Guard and, later, in the Air Force Legislative Liaison Office at the Pentagon, rising to the rank of Senior Master Sergeant. After 20 years of service, Mr. Johnson retired from the Air Force but chose to stay in Washington to join the Capitol Hill Police Department, where he served for another 20 years. During his four decades of service, he supported over 100 Congressional Delegation trips and served in every Presidential Inauguration since President Nixon.

In 2009, Mr. Johnson retired from the Capitol Police but again chose to serve the public by joining the House Armed Services Committee. Over the past decade, he has supported the Committee with all hearings, meetings, and events. He has been an instrumental part of the committee's staff and although he kept a low profile, his impact is deeply felt and is a testament to his invaluable work and contribution. His presence will be sorely missed by his many colleagues who consider him a close friend, mentor, and inspiration.

Madam Speaker, it is with great pleasure that I recognize and thank John Johnson for his many years of service to this country and the House Armed Services Committee. I wish him a happy retirement, to be enjoyed with his friends and family.

CELEBRATING THE 10TH ANNIVERSARY OF NAPERVILLE FIRE STATION 10

HON. BILL FOSTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. FOSTER. Madam Speaker, I rise today to recognize the 10th anniversary of Naperville Fire Station 10. Opened in 2010, Fire Station 10 has allowed the Naperville Fire Department (NFD) to provide greater service to the citizens of Southwestern Naperville. It is also the first fire station in Naperville to receive a leadership in Energy and Environmental Design (LEED) certification, reflecting the NFD's commitment to sustainable decision-making.

The NFD provides fire protection for more than 146,000 people and employs 200 full-time personnel. I would like to thank the Naperville Fire Department and all Naperville emergency service workers for the lifesaving work they do for our community.

WHY IMPOUNDMENT CONTROL ACT MATTERS

SPEECH OF

HON. JOHN A. YARMUTH

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 2020

Mr. YARMUTH. Madam Speaker, I include in the RECORD the Government Accountability Office's January 16, 2020 legal opinion finding that the Trump Administration's Office of Management and Budget violated the Impoundment Control Act of 1974 by withholding foreign aid. I am submitting this in the RECORD

to help inform the public of the Administration's systematic disregard of Congress' constitutional authority, separation of powers principles, and the Impoundment Control Act.

GAO DECISION

Matter of: Office of Management and Budget—Withholding of Ukraine Security Assistance.

File: B-331564.

Date: January 16, 2020.

DIGEST

In the summer of 2019, the Office of Management and Budget (OMB) withheld from obligation funds appropriated to the Department of Defense (DOD) for security assistance to Ukraine. In order to withhold the funds, OMB issued a series of nine apportionment schedules with footnotes that made all unobligated balances unavailable for obligation. Faithful execution of the law does not permit the President to substitute his own policy priorities for those that Congress has enacted into law. OMB withheld funds for a policy reason, which is not permitted under the Impoundment Control Act (ICA). The withholding was not a programmatic delay. Therefore, we conclude that OMB violated the ICA.

DECISION

In the summer of 2019, OMB withheld from obligation approximately \$214 million appropriated to DOD for security assistance to Ukraine. See Department of Defense Appropriations Act, 2019, Pub. L. No. 115-245, div. A, title IX, §9013, 132 Stat. 2981, 3044-45 (Sept. 28, 2018). OMB withheld amounts by issuing a series of nine apportionment schedules with footnotes that made all unobligated balances for the Ukraine Security Assistance Initiative (USAI) unavailable for obligation. See Letter from General Counsel, OMB, to General Counsel, GAO (Dec. 11, 2019) (OMB Response), at 1-2. Pursuant to our role under the ICA, we are issuing this decision. Congressional Budget and Impoundment Control Act of 1974, Pub. L. No. 93-344, title X, §1015, 88 Stat. 297, 336 (July 12, 1974), codified at 2 U.S.C. §686. As explained below, we conclude that OMB withheld the funds from obligation for an unauthorized reason in violation of the ICA. See 2 U.S.C. §684. We also question actions regarding funds appropriated to the Department of State (State) for security assistance to Ukraine.

OMB removed the footnote from the apportionment for the USAI funds on September 12, 2019. OMB Response, at 2. Prior to their expiration, Congress then rescinded and reappropriated the funds. Continuing Appropriations Act, 2020, Pub. L. No. 116-59, div. A, §124(b), 133 Stat. 1093, 1098 (Sept. 27, 2019).

In accordance with our regular practice, we contacted OMB, the Executive Office of the President, and DOD to seek factual information and their legal views on this matter. GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO-06-1064SP (Washington, D.C.: Sept. 2006), available at www.gao.gov/products/GAO-06-1064SP; Letter from General Counsel, GAO, to Acting Director and General Counsel, OMB (Nov. 25, 2019); Letter from General Counsel, GAO, to Acting Chief of Staff and Counsel to the President, Executive Office of the President (Nov. 25, 2019); Letter from General Counsel, GAO, to Secretary of Defense and General Counsel, DOD (Nov. 25, 2019).

OMB provided a written response letter and certain apportionment schedules for security assistance funding for Ukraine. OMB Response (written letter); OMB Response, Attachment (apportionment schedule). The Executive Office of the President responded to our request by referring to the letter we had received from OMB and providing that

the White House did not plan to send a separate response. Letter from Senior Associate Counsel to the President, Executive Office of the President, to General Counsel, GAO (Dec. 20, 2019). We have contacted DOD regarding its response several times. Letter from General Counsel, GAO, to Secretary of Defense and General Counsel, DOD (Dec. 10, 2019); Telephone Conversation with Deputy General Counsel for Legislation, DOD (Dec. 12, 2019); Telephone Conversation with Office of General Counsel Official, DOD (Dec. 19, 2019). Thus far, DOD officials have not provided a response or a timeline for when we will receive one.

BACKGROUND

For fiscal year 2019, Congress appropriated \$250 million for the Ukraine Security Assistance Initiative (USAI). Pub. L. No. 115-245, §9013, 132 Stat. at 3044-45. The funds were available “to provide assistance, including training; equipment; lethal assistance; logistics support, supplies and services; sustainment; and intelligence support to the military and national security forces of Ukraine.” *Id.* §9013, 132 Stat. at 3044. The appropriation made the funds available for obligation through September 30, 2019. *Id.*

DOD was required to notify Congress 15 days in advance of any obligation of the USAI funds. *Id.* §9013, 132 Stat. at 3045. In order to obligate more than fifty percent of the amount appropriated, DOD was also required to certify to Congress that Ukraine had taken “substantial actions” on “defense institutional reforms.” John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, div. A, title XII, 1246, 132 Stat. 1636, 2049 (Aug. 13, 2018) (amending National Defense Authorization Act for Fiscal Year 2016, Pub. L. No. 114-92, div. A, title XII, §1250, 129 Stat. 726, 1068 (Nov. 25, 2015)). On May 23, 2019, DOD provided this certification to Congress. Letter from Under Secretary of Defense for Policy, to Chairman, Senate Committee on Foreign Relations (May 23, 2019) (DOD Certification) (noting that similar copies had been provided to the congressional defense committees and the House Committee on Foreign Affairs). In its certification, DOD included descriptions of its planned expenditures, totaling \$125 million. *Id.*

On July 25, 2019, OMB issued the first of nine apportionment schedules with footnotes withholding USAI funds from obligation. OMB Response, 1-2. This footnote read:

“Amounts apportioned, but not yet obligated as of the date of this reapportionment, for the Ukraine Security Assistance Initiative (Initiative) are not available for obligation until August 5, 2019, to allow for an interagency process to determine the best use of such funds. Based on OMB’s communication with DOD on July 25, 2019, OMB understands from the Department that this brief pause in obligations will not preclude DOD’s timely execution of the final policy direction. DOD may continue its planning and casework for the Initiative during this period.” *Id.*; see *id.*, Attachment.

On both August 6 and 15, 2019, OMB approved additional apportionment actions to extend this “pause in obligations,” with footnotes that, except for the dates, were identical to the July 25, 2019 apportionment action. *Id.*, at 2 n. 2. OMB approved additional apportionment actions on August 20, 27, and 31, 2019; and on September 5, 6, and 10, 2019. *Id.* The footnotes from these additional apportionment actions were, except for the dates, otherwise identical to one another. *Id.*, Attachment. They nevertheless differed from those of July 25 and August 6 and 15, 2019, in that they omitted the second sentence that appeared in the earlier apportionment actions regarding OMB’s understanding

that the pause in obligation would not preclude timely obligation. *Id.* The apportionment schedule issued on August 20 read as follows:

“Amounts apportioned, but not yet obligated as of the date of this reapportionment, for the Ukraine Security Assistance Initiative (Initiative) are not available for obligation until August 26, 2019, to allow for an interagency process to determine the best use of such funds. DOD may continue its planning and casework for the Initiative during this period.” *Id.*, Attachment. The apportionment schedules issued on August 27 and 31, 2019; and on September 5, 6, and 10, 2019 were identical except for the dates. *Id.* On September 12, 2019, OMB issued an apportionment that removed the footnote that previously made the USAI funds unavailable for obligation. OMB Response, at 2; *id.*, Attachment. According to OMB, approximately \$214 million of the USAI appropriation was withheld as a result of these footnotes. OMB Response, at 2. OMB did not transmit a special message proposing to defer or rescind the funds.

DISCUSSION

At issue in this decision is whether OMB had authority to withhold the USAI funds from obligation. The Constitution specifically vests Congress with the power of the purse, providing that “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.” U.S. Const. art. I, §9, cl. 7. The Constitution also vests all legislative powers in Congress and sets forth the procedures of bicameralism and presentment, through which the President may accept or veto a bill passed by both Houses of Congress, and Congress may subsequently override a presidential veto. *Id.*, art. I, §7, cl. 2, 3. The President is not vested with the power to ignore or amend any such duly enacted law. See *Clinton v. City of New York*, 524 U.S. 417, 438 (1998) (the Constitution does not authorize the President “to enact, to amend, or to repeal statutes”). Instead, he must “faithfully execute” the law as Congress enacts it. U.S. Const., art. II, §3.

An appropriations act is a law like any other; therefore, unless Congress has enacted a law providing otherwise, the President must take care to ensure that appropriations are prudently obligated during their period of availability. See B-329092, Dec. 12, 2017 (the ICA operates on the premise that the President is required to obligate funds appropriated by Congress, unless otherwise authorized to withhold). In fact, Congress was concerned about the failure to prudently obligate according to its Congressional prerogatives when it enacted and later amended the ICA. See generally, H.R. Rep. No. 100-313, at 66-67 (1987); see also S. Rep. No. 93-688, at 75 (1974) (explaining that the objective was to assure that “the practice of reserving funds does not become a vehicle for furthering Administration policies and priorities at the expense of those decided by Congress”).

The Constitution grants the President no unilateral authority to withhold funds from obligation. See B-135564, July 26, 1973. Instead, Congress has vested the President with strictly circumscribed authority to impound, or withhold, budget authority only in limited circumstances as expressly provided in the ICA. See 2 U.S.C. §§681-688. The ICA separates impoundments into two exclusive categories—deferrals and rescissions. The President may temporarily withhold funds from obligation—but not beyond the end of the fiscal year in which the President transmits the special message—by proposing a “deferral.” 2 U.S.C. §684. The President may also seek the permanent cancellation of funds for fiscal policy or other reasons, in-

cluding the termination of programs for which Congress has provided budget authority, by proposing a “rescission.” 2 U.S.C. §683.

In either case, the ICA requires that the President transmit a special message to Congress that includes the amount of budget authority proposed for deferral or rescission and the reason for the proposal. 2 U.S.C. §§683-684. These special messages must provide detailed and specific reasoning to justify the withholding, as set out in the ICA. See 2 U.S.C. §§683-684; B-237297.4, Feb. 20, 1990 (vague or general assertions are insufficient to justify the withholding of budget authority). The burden to justify a withholding of budget authority rests with the executive branch.

There is no assertion or other indication here that OMB intended to propose a rescission. Not only did OMB not submit a special message with such a proposal, the footnotes in the apportionment schedules, by their very terms, established dates for the release of amounts withheld. The only other authority, then, for withholding amounts would have been a deferral.

The ICA authorizes the deferral of budget authority in a limited range of circumstances: to provide for contingencies; to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or as specifically provided by law. 2 U.S.C. §684(b). No officer or employee of the United States may defer budget authority for any other purpose. *Id.*

Here, OMB did not identify—in either the apportionment schedules themselves or in its response to us—any contingencies as recognized by the ICA, savings or efficiencies that would result from a withholding, or any law specifically authorizing the withholding. Instead, the footnote in the apportionment schedules described the withholding as necessary “to determine the best use of such funds.” See OMB Response, at 2; Attachment. In its response to us, OMB described the withholding as necessary to ensure that the funds were not spent “in a manner that could conflict with the President’s foreign policy.” OMB Response, at 9.

The ICA does not permit deferrals for policy reasons. See B-237297.3, Mar. 6, 1990; B-224882, Apr. 1, 1987. OMB’s justification for the withholding falls squarely within the scope of an impermissible policy deferral. Thus, the deferral of USAI funds was improper under the ICA.

When Congress enacts appropriations, it has provided budget authority that agencies must obligate in a manner consistent with law. The Constitution vests lawmaking power with the Congress. U.S. Const., art. I, §8, cl. 18. The President and officers in an Administration of course may consider their own policy objectives as they craft policy proposals for inclusion in the President’s budget submission.

See B-319488, May 21, 2010, at 5 (“Planning activities are an essential element of the budget process.”). However, once enacted, the President must “take care that the laws be faithfully executed.” See U.S. Const., art. II, §3. Enacted statutes, and not the President’s policy priorities, necessarily provide the animating framework for all actions agencies take to carry out government programs. *Louisiana Public Service Commission v. FCC*, 476 U.S. 355, 374 (1986) (“[A]n agency literally has no power to act . . . unless and until Congress confers power upon it.”); *Michigan v. EPA*, 268 F.3d 1075, 1081 (D.C. Cir. 2001) (a federal agency is “a creature of statute” and “has no constitutional or common law existence or authority, but only those authorities conferred upon it by Congress”).

Faithful execution of the law does not permit the President to substitute his own policy priorities for those that Congress has enacted into law. In fact, Congress was concerned about exactly these types of withholdings when it enacted and later amended the ICA. See H.R. Rep. No. 100-313, at 66-67 (1987); see also S. Rep. No. 93-688, at 75 (1974) (explaining that the objective was to assure that “the practice of reserving funds does not become a vehicle for furthering Administration policies and priorities at the expense of those decided by Congress”).

OMB asserts that its actions are not subject to the ICA because they constitute a programmatic delay. OMB Response, at 7, 9. It argues that a “policy development process is a fundamental part of program implementation,” so its impoundment of funds for the sake of a policy process is programmatic. *Id.*, at 7. OMB further argues that because reviews for compliance with statutory conditions and congressional mandates are considered programmatic, so too should be reviews undertaken to ensure compliance with presidential policy prerogatives. *Id.*, at 9. OMB’s assertions have no basis in law. We recognize that, even where the President does not transmit a special message pursuant to the procedures established by the ICA, it is possible that a delay in obligation may not constitute a reportable impoundment. See B-329092, Dec. 12, 2017; B-222215, Mar. 28, 1986. However, programmatic delays occur when an agency is taking necessary steps to implement a program, but because of factors external to the program, funds temporarily go unobligated. B-329739, Dec. 19, 2018; B-291241, Oct. 8, 2002; B-241514.5, May 7, 1991. This presumes, of course, that the agency is making reasonable efforts to obligate. B-241514.5, May 7, 1991. Here, there was no external factor causing an unavoidable delay. Rather, OMB on its own volition explicitly barred DOD from obligating amounts.

Furthermore, at the time OMB issued the first apportionment footnote withholding the USAI funds, DOD had already produced a plan for expending the funds. See DOD Certification, at 4-14. DOD had decided on the items it planned to purchase and had provided this information to Congress on May 23, 2019. *Id.* Program execution was therefore well underway when OMB issued the apportionment footnotes. As a result, we cannot accept OMB’s assertion that its actions are programmatic.

The burden to justify a withholding of budget authority rests with the executive branch. Here, OMB has failed to meet this burden. We conclude that OMB violated the ICA when it withheld USAI funds for a policy reason.

FOREIGN MILITARY FINANCING

We also question actions regarding funds appropriated to State for security assistance to Ukraine. In a series of apportionments in August of 2019, OMB withheld from obligation some foreign military financing (FMF) funds for a period of six days. These actions may have delayed the obligation of \$26.5 million in FMF funds. See OMB Response, at 3. An additional \$141.5 million in FMF funds may have been withheld while a congressional notification was considered by OMB. See E-mail from GAO Liaison Director, State, to Staff Attorney, GAO, *Subject: Response to GAO on Timeliness of Ukraine Military Assistance* (Jan. 10, 2020) (State’s Additional Response). We have asked both State and OMB about the availability of these funds during the relevant period. Letter from General Counsel, GAO, to Acting Director and General Counsel, OMB (Nov. 25, 2019); Letter from General Counsel, GAO, to Secretary of State and Acting Legal Adviser, State (Nov. 25, 2019). State provided us with

limited information. E-mail from Staff Attorney, GAO, to Office of General Counsel, State, *Subject: RE: Response to GAO on Timeliness of Ukraine Military Assistance* (Dec. 18, 2019) (GAO’s request for additional information); E-mail from GAO Liaison Director, State, to Assistant General Counsel for Appropriations Law, GAO, *Subject: Response to GAO on Timeliness of Ukraine Military Assistance* (Dec. 12, 2019) (State’s response to GAO’s November 25, 2019 letter); State’s Additional Response. OMB’s response to us contained very little information regarding the FMF funds. See generally OMB Response, at 2-3.

As a result, we will renew our request for specific information from State and OMB regarding the potential impoundment of FMF funds in order to determine whether the Administration’s actions amount to a withholding subject to the ICA, and if so, whether that withholding was proper. We will continue to pursue this matter.

CONCLUSION

OMB violated the ICA when it withheld DOD’s USAI funds from obligation for policy reasons. This impoundment of budget authority was not a programmatic delay.

OMB and State have failed, as of yet, to provide the information we need to fulfill our duties under the ICA regarding potential impoundments of FMF funds. We will continue to pursue this matter and will provide our decision to the Congress after we have received the necessary information.

We consider a reluctance to provide a full-some response to have constitutional significance. GAO’s role under the ICA—to provide information and legal analysis to Congress as it performs oversight of executive activity—is essential to ensuring respect for and allegiance to Congress’ constitutional power of the purse. All federal officials and employees take an oath to uphold and protect the Constitution and its core tenets, including the congressional power of the purse. We trust that State and OMB will provide the information needed.

THOMAS H. ARMSTRONG,
General Counsel.

PERSONAL EXPLANATION

HON. KAY GRANGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Ms. GRANGER. Madam Speaker, I was unable to attend votes due to circumstances beyond my control.

Had I been present, I would have voted YEA on Roll Call No. 23; YEA on Roll Call No. 24; NAY on Roll Call No. 25; NAY on Roll Call No. 26; and YEA on Roll Call No. 27.

PERSONAL EXPLANATION

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Ms. SÁNCHEZ. Madam Speaker, on Roll Call Number 23, On motion to suspend the rules and pass H.R. 943, To authorize the Secretary of Education to award grants to eligible entities to carry out educational programs about the Holocaust, and for other purposes, I was unavoidably detained and missed the vote.

Had I been present, I would have voted YEA.

I was also unavoidably detained for Roll Call Number 24, On motion to suspend the rules and pass H.R. 4704 to direct the Director of the National Science Foundation to support multidisciplinary research on the science of suicide, and to advance the knowledge and understanding of the issues that may be associated with several aspects of suicide including intrinsic and extrinsic factors related to areas such as wellbeing, resilience, and vulnerability.

Had I been present, I would have voted YEA.

PERSONAL EXPLANATION

HON. DOUG COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. COLLINS of Georgia. Madam Speaker, on Monday, January 27, 2020, I was absent from the vote series due to my attendance at a funeral in Georgia.

Had I been present, I would have voted YEA on Roll Call No. 23, and YEA on Roll Call No. 24.

KOBE BRYANT

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Ms. LEE of California. Madam Speaker, I rise today heartbroken upon hearing of the sudden passing of Kobe Bryant, his daughter Gianna, and occupants Christina Mauser, Keri Altobelli, John Altobelli, Alyssa Altobelli, Payton Chester, Sarah Chester, and Ara Zobayan.

Kobe was an inspirational leader, advocate, athlete and father. He inspired people from across the world to strive for greatness, to be the best, and to invoke what he called, the Mamba Mentality.

Kobe not only inspired the people of California but the entire world. From his incredibly difficult jump shots, to his selfless charitable efforts, Kobe always worked hard to stand up for what he believed in and to be a great father to four beautiful girls whom he loved.

This unimaginable tragedy has rocked this world and left many hurt. Kobe Bryant finished his NBA career among the best to have ever played the game.

His legacy will live on forever and we must come together to support the entire Bryant family and all the families affected through this tragedy.

WHY IMPOUNDMENT CONTROL ACT MATTERS

SPEECH OF

HON. JOHN A. YARMUTH

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 2020

Mr. YARMUTH. Madam Speaker, I include in the RECORD the December 10, 2018 Government Accountability Office’s decision confirming Congress’ power of the purse by concluding that, while the Impoundment Control

Act does, under limited circumstances, allow the President to withhold money for up to 45 congressional session days, the President cannot freeze the money for so long that it can no longer be used. I am submitting this in the RECORD to help inform the public of the Administration's systematic disregard of Congress' constitutional authority, separation of powers principles, and the Impoundment Control Act.

GAO, U.S. GOVERNMENT
ACCOUNTABILITY OFFICE,
December 10, 2018.

Subject: Impoundment Control Act—Withholding of Funds through Their Date of Expiration

Hon. STEVE WOMACK,
Chairman, Committee on the Budget,
House of Representatives.

Hon. JOHN YARMUTH,
Ranking Member, Committee on the Budget,
House of Representatives.

This responds to your request for our legal opinion regarding the scope of the authority provided under the Impoundment Control Act of 1974 (ICA) to withhold budget authority from obligation pending congressional consideration of a rescission proposal. Pub. L. No. 93-344, title X, 88 Stat. 297, 332 (July 12, 1974), amended by Pub. L. No. 100-119, title II, §§ 206, 207, 101 Stat. 754, 785 (Sept. 29, 1987), classified at 2 U.S.C. §§ 681-688; Letter from Representative Steve Womack, Chairman, and Representative John Yarmuth, Ranking Member, House Committee on the Budget, to Comptroller General (Oct. 31, 2018). Under limited circumstances, the ICA allows the President to withhold amounts from obligation for up to 45 calendar days of continuous congressional session. See ICA, § 1012(b); 2 U.S.C. § 683(b). At issue here is whether the Act allows such a withholding of a fixed-period appropriation scheduled to expire within the prescribed 45-day period to continue through the date on which the funds would expire.

As discussed below, we conclude that the ICA does not permit the withholding of funds through their date of expiration. 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. The Constitution vests in Congress the power of the purse, and Congress did not cede this important power through the ICA. Instead, the terms of the ICA are strictly limited. The ICA permits only the temporary withholding of budget authority and provides that unless Congress rescinds the amounts at issue, they must be made available for obligation. The President cannot rely on the authority in the ICA to withhold amounts from obligation, while simultaneously disregarding the ICA's limitations. In accordance with our regular practice, we contacted the Office of Management and Budget (OMB) for its legal views on this matter. GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO-06-1064SP (Washington, D.C.: Sept. 2006), available at www.gao.gov/products/GAO-06-1064SP; Letter from General Counsel, GAO, to General Counsel, OMB (Nov. 1, 2018). In response, OMB provided its legal analysis. Letter from General Counsel, OMB, to General Counsel, GAO (Nov. 16, 2018) (Response Letter).

BACKGROUND

The Constitution specifically vests Congress with the power of the purse, providing that “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.” U.S. Const., art. I, § 9,

cl. 7. The Constitution also vests all legislative powers in Congress and sets forth the procedures of bicameralism and presentment, through which the President may accept or veto a bill passed by both houses of Congress and Congress may subsequently override a presidential veto. *Id.*, art. I, § 7, cl. 2, 3. The procedures of bicameralism and presentment form the only mechanism for enacting federal law. See *INS v. Chadha*, 462 U.S. 919, 951 (1983) (“[T]he prescription for legislative action in Art. I, § 1, 7, represents the Framers’ decision that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered, procedure.”). The Constitution also vests Congress with power to make all laws “necessary and proper” to implement its constitutional authorities.

U.S. Const., art. I, § 8, cl. 18. To that end, Congress has enacted several permanent statutes that govern the use of appropriations, including the Antideficiency Act, which provides that agencies may incur obligations or make expenditures only when sufficient amounts are available in an appropriation.

31 U.S.C. § 1341. Because agencies may incur obligations only in accordance with appropriations made by law, and because the Constitution vests all lawmaking power in Congress, only appropriations duly enacted through the constitutional processes of bicameralism and presentment authorize agencies to incur obligations or make expenditures. The Presentment Clauses allow the President to veto an appropriations bill before it becomes law. See Art. I, § 7, cl. 2, 3. However, the Constitution provides no mechanism for the President to invalidate a duly enacted law. Instead, the Constitution requires the President to “take Care that the Laws be faithfully executed.” U.S. Const., art. II, § 3; see also *Clinton v. City of New York*, 524 U.S. 417, 438 (1998) (the Constitution does not authorize the President “to enact, to amend, or to repeal statutes”).

An appropriation is a law like any other; therefore, unless Congress has enacted a law providing otherwise, the President must take care to ensure that appropriations are prudently obligated during their period of availability. See B-329092, Dec. 12, 2017 (noting that the ICA operates on the premise that the President is required to obligate funds appropriated by Congress, unless otherwise authorized to withhold). An “impoundment” is any action or inaction by an officer or employee of the federal government that precludes obligation or expenditure of budget authority. GAO, *A Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP (Washington, D.C.: Sept. 2005), at 61. The President has no unilateral authority to withhold funds from obligation. See B-135564, July 26, 1973. The ICA, however, allows the President to impound budget authority in limited circumstances. The President may temporarily withhold funds from obligation—but not beyond the end of the fiscal year—by proposing a “deferral.” ICA, § 1013; 2 U.S.C. § 684. The President may also seek the permanent cancellation of funds for fiscal policy or other reasons, including the termination of programs for which Congress has provided budget authority, by proposing a “rescission.” ICA, § 1012; 2 U.S.C. § 683. When the President transmits a special message proposing a rescission of budget authority (a rescission proposal) in accordance with the ICA, amounts proposed for rescission may be impounded (that is, withheld from obligation) for a period of 45 calendar days of continuous congressional session. See ICA, § 1012; 2 U.S.C. § 683. The Act states that such amounts “shall be made available for obligation unless, within the prescribed 45-day pe-

riod, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved.” ICA, § 1012(b); 2 U.S.C. § 683(b). Section 1017 of the ICA establishes expedited procedures to facilitate Congress’s consideration of a rescission bill during the 45-day period. ICA, § 1017; 2 U.S.C. § 688. This opinion focuses on the withholding of amounts pursuant to a rescission proposal.

DISCUSSION

The ICA authorizes the President to withhold funds from obligation under limited circumstances. At issue here is whether the ICA allows the withholding of a fixed-period appropriation, pursuant to the President’s transmission of a rescission proposal, to continue through the date on which the funds would expire.

POWERS GRANTED BY THE ICA ARE LIMITED

To interpret the ICA, we begin with the text of the statute and give ordinary meaning to statutory terms, unless otherwise defined. *Sebelius v. Cloer*, 569 U.S. 369, 376 (2013); *BP America Production Co. v. Burton*, 549 U.S. 84, 91 (2006). Section 1012(b) states that funds proposed to be rescinded “shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded” Use of the conjunction “unless” denotes that the clause that follows provides an exception to the rule that precedes the term. See *American Heritage Dictionary* (4th ed. 2009) (defining “unless” as “except on the condition that” and “except under the circumstances that”). Further, “shall,” in the context of a statute, generally means “must.” *Ballentine’s Law Dictionary* (3d ed. 2010) (defining shall as “the equivalent of ‘must,’ where appearing in a statute”). See also *Western Minnesota Municipal Power Agency v. FERC*, 806 F.3d 588, 592 (D.C. Cir. 2015) (“shall give preference” was a mandatory directive to the commission); *Drummond Coal Co. v. Watt*, 735 F.2d 469, 473 (11th Cir. 1984) (noting “‘shall’ is a mandatory, not permissive form”). The phrase “shall be made available” thus constitutes a mandatory directive that funds proposed for rescission be made available for obligation, and the term “unless” denotes the single exception to this requirement.

The text of section 1012(b) then provides that the only mechanism that permits budget authority to be permanently withheld is Congress’s completion of action on a rescission bill within the 45-day period.

An appropriation is available to incur new obligations only during its period of availability, which, for a fixed-period appropriation, is a finite period of time. See 31 U.S.C. § 1551(a)(3). See also 31 U.S.C. §§ 1501, 1502 (obligation of a fixed-period appropriation must correspond to the *bona fide* needs of the appropriation’s period of availability and must be executed before the end of such period). For example, an agency may use a one-year appropriation to obligate the government for expenses properly chargeable to that year, or may use a multiple-year appropriation to obligate the government for expenses properly chargeable to that multiple-year period. But the government may not incur obligations against such appropriations after the relevant time frame, as the budget authority’s period of availability would have ended.

Immediately after the period of availability for obligation of a fixed-period appropriation ends, the budget authority is “expired” and no longer available to incur new obligations. *Glossary*, at 23 (defining expired budget authority). See also 18 Comp. Gen. 969 (1939). An expired account is only available to record, to adjust, and to liquidate obligations properly chargeable to that account

during the account's period of availability. 31 U.S.C. §1553(a). Notably, the permissible uses of an expired appropriation relate back to obligations incurred during the period of availability of the funds and do not constitute new obligations themselves.

The plain language of section 1012(b) provides that absent Congress's completion of action on a rescission bill rescinding all or part of amounts proposed to be rescinded within the prescribed 45-day period, *such amounts must be made available for obligation*. The authority to withhold is not severable from the provision's requirement regarding the release of the funds. Indeed, the provision permits a temporary withholding of budget authority, and otherwise requires its availability for obligation in all other circumstances. As budget authority is available to incur obligations only during its period of availability, implicit in the ICA's requirement under section 1012(b) that budget authority be "made available for obligation" is that such budget authority must not be expired. Because a fixed-period appropriation is current only for a definite period of time, section 1012(b) of the ICA requires that if Congress does not enact a rescission bill, the appropriation must be made available for obligation during that finite period. After this finite period has ended, the appropriation is expired and cannot be available for new obligations.

Consequently, the ICA does not permit budget authority proposed for rescission to be withheld until its expiration simply because the 45-day period has not yet elapsed. A withholding of this nature would be an aversion both to the constitutional process for enacting federal law and to Congress's constitutional power of the purse, for the President would preclude the obligation of budget authority Congress has already enacted and did not rescind. For example, consider a situation where fiscal year budget authority is withheld pursuant to a special message submitted less than 45 days before the end of the fiscal year and where, upon conclusion of the 45-day period, Congress has not completed action on a corresponding rescission bill. An interpretation of section 1012(b) that would permit the withholding of such budget authority for the duration of the 45-day period would result in the expiration of the funds during that period. The expired amounts then could not be made available for obligation despite Congress not having completed action on a bill rescinding the amounts, as expired appropriations are not available for obligation. The ICA represents an agreement between the legislative and executive branches, whereby the President may withhold budget authority for a limited period during which Congress may consider the corresponding proposal to rescind the amounts using expedited procedures. The expiration of these amounts would frustrate the design of the ICA, as it would contravene the plain meaning of section 1012(b), which requires that amounts not rescinded during this period of *consideration* be "made available for obligation."

Regardless of whether the 45-day period for congressional consideration provided in the ICA approaches or spans the date on which funds would expire, section 1012(b) requires that budget authority be made available in sufficient time to be prudently obligated. The amount of time required for prudent obligation will vary from one program to another. In some programs, prudent obligation may require hours or days, while others may require weeks or months. We have previously signaled that the consequence of an unenacted rescission proposal should be the full and prudent obligation of the budget authority. B-115398, Aug. 27, 1976. In 1976, the President submitted a special message for which the 45-day period would end on September 29, 1976, leaving one day to obligate

appropriations that were withheld. *Id.* We noted this one-day period could be insufficient to prudently obligate the funds. *Id.* We found the timing of the proposal "particularly troublesome" as it could "operate to deny to the Congress the expected consequence of its rejecting a rescission proposal—the full and prudent use of the budget authority." *Id.*

We have drawn similar conclusions concerning deferrals under the ICA. In such cases we have noted that deferred funds must be released in sufficient time to allow them to be prudently obligated. See B-216664, Apr. 12, 1985 (emphasizing that deferral, under the President's sixth special message for fiscal year 1985, of amounts scheduled to expire should not extend beyond the point at which the funds could be prudently obligated). See also 54 Comp. Gen. 453 (1974) (recognizing that a deferral of budget authority that "could be expected with reasonable certainty to lapse before [it] could be obligated, or would have to be obligated imprudently to avoid that consequence" constitutes a de facto rescission, and must be reclassified as a rescission proposal).

The legislative history of the ICA supports this construction of section 1012(b). During consideration of the report of the committee of conference on H.R. 7130, 93rd Cong. (1974), which was ultimately enacted into law as the ICA, members recognized that affirmative congressional action is required for a rescission of funds under the language of section 1012. Senator Sam J. Ervin, Jr., the sponsor of a related bill, stated regarding section 1012:

"[The purpose] is to provide an orderly method by which differences of opinion may be reconciled between the President and Congress in respect to the amounts of appropriations sought . . . The recommendation of the President that an appropriation be eliminated or reduced *in and of itself would have no legal effect whatsoever*. In other words, for it to become effective, both Houses of Congress, by a majority vote, would have to take action either eliminating the appropriation or reducing the appropriation . . . I might say that the 45-day provision is placed in the bill for the purpose of spurring speedy congressional action, but with recognition of the fact that Congress cannot deprive itself of any other power it has under the Constitution."

120 Cong. Rec. 20,473 (June 21, 1974) (statement of Sen. Ervin) (emphasis added). As one member stated succinctly when discussing similar language: "the impoundment fails unless Congress acts affirmatively." 119 Cong. Rec. 15,236 (May 10, 1973) (statement of Sen. Roth) (debating S. 373, which would have required an impoundment to cease within 60 days unless it had been ratified by Congress). See also H.R. Conf. Rep. No. 93-1101, at 76 (1974); S. Conf. Rep. No. 93-924, at 76 (1974) ("Unless both Houses of Congress complete action on a rescission bill within 45 days, the budget authority shall be made available for obligation.").

Congress considered bill language under which an impoundment would have continued indefinitely unless Congress took specific action to affirmatively *disapprove* of the impoundment. H.R. 8480, 93rd Cong. (1973) (providing that an impoundment "shall cease if within [60] calendar days of continuous session after the date on which the message is received by the Congress the specific impoundment shall have been disapproved by either House . . ." (emphasis added)). However, Congress did not enact such language. Instead, Congress enacted legislation under which an impoundment becomes permanent only if Congress enacts appropriate legislation through the processes of bicameralism and presentment.

Under the Constitution, the President must take care to execute the appropriations

that Congress has enacted. Though the ICA permits the President to withhold amounts from obligation under limited circumstances, the amounts are permanently rescinded only if Congress takes affirmative legislative action through the constitutional processes of bicameralism and presentment. One must read the ICA as a whole. The Act outlines a process, and affords the President limited authority to withhold appropriated amounts while Congress expedites its consideration of the President's legislative proposal to rescind the already enacted appropriations. It would be an abuse of this limited authority and an interference with Congress's constitutional prerogatives if a President were to time the withholding of expiring budget authority to effectively alter the time period that the budget authority is available for obligation from the time period established by Congress in duly enacted appropriations legislation. It would be inimical to the ICA and to its constitutional underpinnings for the executive to avail itself of the withholding authority in the ICA, but to ignore the remainder of the process. See generally B-330376, Nov. 30, 2018 (citing *NROC v. Abraham*, 355 F.3d 179, 205 (2d Cir. 2004)) (finding that agencies "cannot have it both ways," claiming both the benefit of adhering to a statutory provision, while simultaneously arguing that the requirements of the provision do not apply). Therefore, amounts proposed for rescission must be made available for prudent obligation before the amounts expire, even where the 45-day period for congressional consideration provided in the ICA approaches or spans the date on which funds would expire; the requirement to make amounts available for obligation in this situation prevails over the privilege to temporarily withhold the amounts. OMB asserts that the ICA does not preclude an impoundment from persisting through the date on which amounts would expire. Response Letter, at 2.

Specifically, OMB relies on the purported silence of section 1012 with regard to the President's ability to propose rescissions under the ICA late in the fiscal year, as compared to the language in section 1013, which governs the deferral of budget authority. *Id.* In particular, section 1013 states that a deferral "may not be proposed for any period of time extending beyond the end of the fiscal year in which the special message proposing the deferral is transmitted to the House and the Senate[.]" and also provides that the provisions of the section, which necessarily includes this proscription, do not apply to amounts proposed for rescission under section 1012. ICA, §§1013(a), (c); 2 U.S.C. §§684(a), (c). According to OMB, these distinctions demonstrate that section 1012 does not require the President to make withheld budget authority available for obligation before the end of the fiscal year. Response Letter, at 1. Under OMB's rationale, the ICA grants the President authority to withhold funds for the entire 45-day period, even if such withholding would result in the expiration of impounded balances.

We disagree with OMB's position. As a practical matter, OMB's interpretation of the ICA would grant the President unilateral authority to rescind funds that are near expiration by altering the time period that the budget authority is available for obligation from the time period established in existing law. Suppose the President were to transmit a special message less than 45 days before amounts are due to expire. In OMB's view, an impoundment could continue through the funds' date of expiration—at which point the funds would no longer be available for new obligations. Therefore, fiscal year funds proposed for rescission in a special message late

in the fiscal year, even if not legally rescinded by the enactment of legislation, would be effectively rescinded if Congress takes no action at all. In OMB's view, only through affirmative legislative action could Congress prevent the rescission of funds that the President proposes for rescission in a special message transmitted close to the date on which the funds would expire. OMB's reading of the ICA would preempt the congressional process by which the budget authority's period of availability was established, fundamentally ceding Congress's power of the purse to the President.

This interpretation would contradict the plain meaning of section 1012, which, by its terms, requires that amounts not rescinded through a rescission bill be made available for obligation. As previously discussed, this requirement that amounts be made available for obligation already limits the time frame during which such amounts may be permissibly withheld; there is no need in section 1012 for language that specifically prohibits amounts from being withheld beyond the end of the fiscal year.

In addition, the legislative history of the ICA indicates that the distinctions between section 1012 and section 1013, on which OMB relies, do not carry the implications that OMB suggests. See 120 Cong. Rec. at 20,473 (statements of Sen. Ervin and Sen. McClellan) (discussing distinction between deferral and rescission proposals). Unlike a rescission proposal, through which the President seeks the permanent cancellation of budget authority and may temporarily withhold amounts pending congressional consideration, the ultimate objective of a deferral proposal is a temporary withholding only. Section 1013 was crafted to govern this temporary withholding of budget authority and, thus, specifies that amounts may not be withheld beyond the end fiscal year. See *id.* In contrast, section 1012 limits withholding to the prescribed 45-day period, absent Congress's completion of a bill rescinding the amounts proposed for rescission. Neither does section 1013(c), which provides that the provisions of section 1013 do not apply to rescission proposals submitted under section 1012, support OMB's position that there is no restriction on when the President may submit a rescission proposal. Rather, section 1013(c) was intended to clarify that any action that would seek the permanent cancellation of budget authority must be governed by the more stringent provisions of section 1012. See *id.* (statement of Sen. Ervin) ("Any action or proposal which results in a permanent withholding of budget authority must be proposed under section 1012. Section 1013(c) specifically provides that section 1013 does not apply to cases to which section 1012 applies. Only temporary withholding may be proposed under section 1013 . . .").

Through the ICA, Congress did not grant the President the extraordinarily broad rescissions authority that OMB asserts. Indeed, the ICA grants the President no authority whatsoever to rescind funds. The Act allows the President to transmit legislative proposals for rescission to Congress, while granting the President authority to withhold the funds for limited periods of time while Congress considers the proposals. Congress considered, and did not enact, language that would have granted the President authority to propose rescissions that would take permanent effect if Congress took no action. Instead, as we discussed above, under the ICA only Congress may rescind budget authority.

Under the Constitution, Congress enacts laws, and the President must take care to faithfully execute the terms of those laws, including appropriations acts. Within this framework, Congress enacted the ICA, which granted the President strictly circumscribed

authority to temporarily withhold funds from obligation. The overarching constitutional framework of the executive and legislative powers, as well as the statutory text and legislative history of the ICA, provide no basis to construe the ICA as a mechanism by which the President may, in effect, unilaterally shorten the availability of budget authority by transmitting strategically-timed special messages. Rather, amounts proposed for rescission must be made available for prudent obligation before the amounts expire, even where the 45-day period for congressional consideration in the ICA approaches or spans the date on which the funds would expire.

PRIOR OPINIONS

We have previously considered situations in which the President transmitted special messages concerning amounts that were near their date of expiration. We have intimated that in such a situation, the President may withhold the budget authority from obligation for the duration of the 45-day period, and that Congress must take affirmative action to prevent the withheld funds from expiring. See, e.g., B-115398, Dec. 15, 1975. In some instances we have simply noted that funds may expire, without stating whether the funds were properly withheld or reporting that they must be made available for obligation. See, e.g., B-115398, Aug. 27, 1976. See also B-220532, Sept. 19, 1986 (reclassifying deferral as rescission proposal, recognizing potential for funds to expire before being able to be obligated for intended purpose). As we explain below, in light of Supreme Court precedent and subsequent amendments to the ICA, we overrule these prior opinions.

In the President's second special message for fiscal year 1976, submitted on July 26, 1975, he included two rescission proposals of budget authority scheduled to expire on September 30, 1975. B-115398, Aug. 12, 1975. In our review of the special message, we stated that these amounts would lapse nearly a month before expiration of the 45-day period, B-115398, Aug. 12, 1975, and, in a subsequent report on the status of funds, confirmed the amounts had in fact lapsed during the 45-day period, B-115398, Dec. 15, 1975. In our report on the status of the funds, we stated that "having to wait 45 days of continuous session before it can be determined that a proposed rescission has been rejected is a major deficiency of the [ICA]." B-115398, Dec. 15, 1975. We offered that Congress should have an affirmative means within the Act to address scenarios such as this, by, for example "changing the Act to allow a rescission resolution as is now allowed for deferrals, or changing the Act to prevent funds from lapsing where the 45-day period has not expired." *Id.* We stated that with respect to the two rescission proposals, "Congress was unable, under the Act, to reject the rescission in time to prevent the budget authority from lapsing." *Id.* When the ICA was enacted, it required deferred funds to be made available if either house of Congress passed an "impoundment resolution" disapproving of the deferral. Pub. L. No. 93-344, §1013(b) (prior to 1987 amendment). In 1975, we suggested that Congress create an analogous process to enable rejection of a rescission proposal. B-115398, Dec. 15, 1975. However, our statement predated *INS v. Chadha*, 462 U.S. 919, in which the Supreme Court held a one-house veto provision to be unconstitutional because it was an exercise of legislative power that circumvented the procedures of bicameralism and presentment. The deferral provision in the ICA was later eliminated in the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987. Pub. L. No. 100-119, title II, §206.

Our 1975 opinions are based on the premise that Congress could amend the ICA to pro-

vide Congress with a unilateral mechanism to reject a rescission proposal. In addition to *Chadha*, other Supreme Court decisions also have resoundingly invalidated this premise. See *Clinton*, 524 U.S. 417, 438-41; *Chadha*, 462 U.S. at 951-58. As the Court made clear in *Clinton*, the Constitution vests the President with authority to "initiate and influence legislative proposals." 524 U.S. at 438 (emphasis added). A rescission proposal is one such legislative proposal. The rescission proposal does not have the force of law: "[t]here is no provision in the Constitution that authorizes the President to enact, to amend, or to repeal statutes." *Id.*

Because bicameral passage by Congress is necessary for the President's proposal to become law, no congressional action is necessary to invalidate the President's proposal. Without affirmative congressional action, the President's proposal remains just that: a proposal. Our 1975 opinions intimate that, under some circumstances, congressional inaction on a rescission proposal can be tantamount to affirmative congressional action to enact the rescission proposal. This interpretation would, in effect, give the President power to amend or to repeal previously enacted appropriations merely by calibrating the timing of the submission of a special message. This interpretation is clearly contrary to the Supreme Court's rulings in *Chadha* and *Clinton*. See 524 U.S. at 448-49; 462 U.S. at 951-58. Therefore, we overrule our prior inconsistent opinions.

CONCLUSION

The terms of the ICA are strictly limited. They vest in the President limited authority to propose a rescission of budget authority and to withhold such budget authority from obligation for a limited time period during which Congress may avail itself of expedited procedures to consider the proposal. However, the statutory text and legislative history of the ICA, Supreme Court case law, and the overarching constitutional framework of legislative and executive powers provide no basis to construe the ICA as a mechanism by which the President may, in effect, unilaterally shorten the availability of budget authority by transmitting rescission proposals shortly before amounts are due to expire.

To dedicate such broad authority to the President would have required affirmative congressional action in legislation, not congressional silence. See, e.g., B-303961, Dec. 6, 2004 (declining to interpret a general "notwithstanding" clause to imply a waiver of the Antideficiency Act without indication that Congress intended to relinquish its "strongest means" to enforce its power of the purse). To paraphrase the Supreme Court, Congress does not alter the fundamental details of its constitutional power of the purse through vague terms or ancillary provisions—"it does not, one might say, hide elephants in mouseholes." See *Whitman v. American Trucking Ass'ns*, 531 U.S. 457, 468 (2001) (declining to interpret a statute in a manner inconsistent with its plain meaning). A construction of the ICA that would permit the withholding of funds proposed for rescission through their date of expiration would be precisely this elephant.

Though the ICA permits the President to withhold amounts from obligation under limited circumstances, the amounts are rescinded only if Congress takes affirmative legislative action through the constitutional processes of bicameralism and presentment. Therefore, amounts proposed for rescission must be made available for prudent obligation before the amounts expire, even where the 45-day period for congressional consideration in the ICA approaches or spans the

date on which the funds would expire. We overrule prior inconsistent GAO opinions.

Sincerely,

THOMAS H. ARMSTRONG,
General Counsel.

50TH ANNIVERSARY OF SAINT
ELMO VILLAGE

HON. KAREN BASS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Ms. BASS. Madam Speaker, on May 25, 2019, Saint Elmo Village celebrated 50 years as an artist colony that has worked to bring art into the everyday lives of young and old in the heart of Los Angeles. I congratulate all of the past and present residents, teachers, neighbors and supporters. I also commend its community of citizens for using their powers of creativity and artistic expression to create an oasis of beauty in Mid-City.

Saint Elmo Village was founded in 1969 by painter Rozzell Sykes, once featured in *Life* magazine, and his artist nephew Roderick Sykes, who hoped to use a small group of bungalows in the 4800 block of St. Elmo Drive to enhance the neighborhood and to further their artistic visions. Their goals: to capitalize on a thriving art scene in Southern California; construct a space to nurture urban and African American artists; and to prove that everyone has creative talents.

The Village continued to gain prestige, with the Sykes receiving numerous public art commissions and international recognition for their work, specifically in painting and photography. Soon enough, Saint Elmo welcomed resident artists to expand the diversity and types of pieces created at the Village.

With creativity at its core, Saint Elmo Village consistently emphasizes the inclusive aspects of art-making. Now under the leadership of executive director Jacqueline Sykes, the organization holds workshops and art showings tailored to the idea that all people can be creative.

Community engagement stands as a cornerstone of the Village's mission. St. Elmo offers a creative space for locals and hosts art classes, festivals, and numerous educational enrichment programs to spread love for art in the Mid-City neighborhood.

Guided by a singular phrase, "Do What You Love—Love What You Do" Saint Elmo Village has spent a half-century enriching Los Angeles. I congratulate Saint Elmo Village on its host of accolades, and I look forward to another half century of memorable milestones.

RECOGNIZING LISA WILLIAMS OF
COLLEYVILLE, TEXAS FOR HER
OUTSTANDING WORK

HON. KENNY MARCHANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. MARCHANT. Madam Speaker, I rise today to recognize Lisa Williams for her tireless devotion to helping victims of human trafficking overcome the many challenges they face. As a distinguished leader in the non-profit community, Lisa has been working to

counter the tragic effects of child abuse and sexual exploitation since she founded Circle of Friends: Celebrating Life, Inc. in 1999.

From the outset, Circle of Friends has collaborated with various stakeholders to fundraise and create awareness about the systemic issues that human trafficking presents to communities across the country. Under Lisa's guidance, other programs were established to further this goal, such as Living Water for Women, Living Water for Girls and the Living Water Learning Resource Center. Through these channels, Lisa has focused on providing services that are based on proven intervention and rehabilitative strategies, such as creating spaces for safe refuge, delivering therapeutic treatments, and facilitating educational and career opportunities for victims of sexual trafficking.

For over twenty years, Lisa's work has enabled women and children to heal by way of an extensive network of support services. Her efforts will continue through the Circle of Friends Impact Legacy Scholarship Fund, a dollar-for-dollar, matched endowment that is administered by the Century Challenge at Boston University. The Circle of Friends scholarship fund will empower survivors of adverse sexual experiences to pursue an education and achieve self-sufficiency.

Ms. Williams's philanthropic endeavors have undoubtedly served as a beacon of hope to many. Madam Speaker, it is a pleasure to recognize the remarkable work that Lisa has produced in support of human trafficking victims. I ask all my distinguished colleagues to join me in recognizing Lisa Williams for her distinguished years of service.

PERSONAL EXPLANATION

HON. DOUG COLLINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. COLLINS of Georgia. Madam Speaker, on Tuesday, January 28, 2020, I was absent from the vote series due to commitments in my district.

Had I been present, I would have voted NAY on Roll Call No. 25, NAY on Roll Call No. 26, and YEA on Roll Call No. 27.

WHY IMPOUNDMENT CONTROL ACT
MATTERS

SPEECH OF

HON. JOHN A. YARMUTH

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 2020

Mr. YARMUTH. Madam Speaker, I include in the RECORD the December 2019 House Budget Committee report outlining the timeline of actions taken by the Office of Management and Budget (OMB), the seemingly unprecedented step of stripping career officials of their normal role in the apportionment process, and how the OMB's actions hindered agencies' ability to obligate funds by the end of the fiscal year. I am submitting this in the RECORD to help inform the public of the Administration's systematic disregard of Congress' constitutional authority, separation of powers principles, and the Impoundment Control Act.

On September 27, House Budget Chairman John Yarmuth (KY-03) and House Appropriations Chairwoman Nita Lowey (NY-17) sent a letter to the Trump administration expressing "serious concerns" that recent actions taken by the Office of Management and Budget (OMB) constitute unlawful impoundments and are an abuse of the authority delegated to OMB to apportion appropriations. As part of the committees' efforts to ensure Congress maintains the power of the purse, as established in the Constitution, the Chairs requested documents and answers regarding OMB's involvement in the withholding of foreign aid, including nearly \$400 million in crucial security assistance funding for Ukraine.

The committees received a partial production from OMB, however, OMB failed to meet the committees' deadlines and has not provided the bulk of the documents.

SUMMARY

After careful review of the materials provided to the committees, the Chairs have become more concerned that the apportionment process has been abused to undermine Congress's constitutional power of the purse. Specifically:

1. The timeline of actions taken by OMB (as seen in the provided apportionments, which are legally binding documents) suggest a pattern of abuse of the apportionment process, OMB's authority, and current law.

2. OMB took the seemingly unprecedented step of stripping career officials of their normal role in the apportionment process and instead vesting a political appointee with that authority. This is a troubling deviation from long-standing procedures.

3. OMB's actions may have hindered agencies' ability to prudently obligate funds by the end of the fiscal year in violation of the Impoundment Control Act of 1974 (ICA), possibly creating backdoor rescissions.

TIMELINE

June 19, 2019: OMB asserts in our documents that they first inquired with the Department of Defense about the Ukraine Security Assistance Initiative (USAI).

July 18, 2019: OMB admits in our documents (and it has been reported) that they notified an interagency working group, which included DoD and the State Department, about an instruction to withhold all funds for Ukraine security assistance.

July 25, 2019 at 6:44pm ET: the first apportionment withholding \$250 million in DoD funding for USAI until August 5, 2019, is signed by an OMB career official. OMB confirms in our documents that this is the first written apportionment action and states that USAI funds were not made available to DoD until September 12.

August 3, 2019: a letter apportionment signed by Michael Duffey (the OMB political appointee) withholds State/USAID foreign aid, including \$26.5 million in Foreign Military Financing (FMF) funding from the FY18 appropriations act for assistance to Ukraine. The apportionment responsibility for these accounts is not returned to the career official for the remainder of the fiscal year.

August 6, 2019 at 2:22pm ET: Michael Duffey (the OMB political appointee) signs an apportionment withholding the DoD funding for USAI until August 12, 2019. The apportionment responsibility for this account is not returned to the career official for the remainder of the fiscal year.

August 9, 2019: The House (majority) and Senate (minority) Appropriations Committees write to OMB and the White House warning the Trump administration that the August 3 letter apportionment for State/USAID foreign aid may constitute an illegal impoundment of funds and urging the administration to adhere to the law and obligate

the withheld funding. Duffey signs another letter apportionment for State/USAID foreign aid, continuing to withhold the funding withheld by the August 3 Letter by releasing only about 2% of funds each day, preventing the normal spending of these funds. (DoD USAI funds continue to be withheld.)

August 19, 2019: The House (majority) and Senate (minority) Budget Committees write to OMB and the White House urging the administration to respect Congress's constitutional authority and to comply with appropriations law and the ICA, in particular as it applies to the State/USAID foreign aid withheld by Duffey.

August 29, 2019: Duffey signs another letter apportionment for the State/USAID foreign aid, continuing to withhold remaining funding previously withheld by the August 3 and August 9 letters by releasing 25% of the funds each Sunday between September 1 and September 22, preventing the normal spending of these funds. (DoD USAI funds continue to be withheld.)

September 11, 2019: A letter was sent to Congress (dated September 11, 2019) by the State Department notifying the agency's intent to obligate the \$141.5 million in FMF funding for Ukraine. Following notification, the funds were held for an additional period before being released by OMB on September 27 (\$115 million from the FY19 appropriations act) and September 30 (\$26.5 million from the FY18 appropriations act) through apportionments also signed by Duffey.

September 12, 2019: Subsequent actions by Duffey extended the DoD USAI withholding until September 12.

September 18, 2019: The House Budget and Appropriations Committees write to OMB expressing concerns over the agency's abuse of its apportionment authorities and questions its compliance with the Antideficiency Act and the Impoundment Control Act of 1974.

September 27, 2019: The House Budget and Appropriations Committees write to OMB requesting answers and documents related to the withholding of Ukraine aid, State and USAID funds, and possible abuses of the apportionment process.

September 30, 2019: The fiscal year ends. Preliminary and public reporting from State and USAID indicates that significant amounts of the withheld FMF funding were not obligated before that deadline. Additionally, a portion of the \$250 million DoD USAI funding was not obligated. The 2019 Continuing Resolution (P.L. 116-59) extended the deadline to obligate any and all of the remaining USAI funding by a full year; preliminary and public reporting from DoD indicates that amount totaled \$35.2 million.

NEXT STEPS

Although the committees only received a partial production of the requested materials, OMB's responses and documentation to date confirm that the apportionment process has been misused to withhold Congressionally enacted appropriations. Increased transparency and accountability for the apportionment process would serve both Congress and the public.

As the committees consider legislative proposals and reforms to rein in OMB's abuse of its apportionment responsibilities (especially in the context of the Impoundment Control Act of 1974 and the annual appropriations acts), these findings—and the pending document requests—are key.

CONGRATULATING LIZ PAUGH ON HER RETIREMENT

HON. DANIEL MEUSER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. MEUSER. Madam Speaker, it is with great respect and appreciation that I rise today to honor Liz Paugh of Lebanon, who is retiring from the United States Department of Veterans Affairs after serving our nation's incredible veterans for over 30 years.

Ms. Paugh began her career on December 11, 1989 at the Lebanon VA Medical Center in the Nutrition and Food Service Department. While serving in this role, she took great care to ensure Veterans meals fit of their diet and any medical needs. After, she was promoted to oversee Ingredient Control at the Lebanon VA. 20 years after her career began at the Lebanon VA, she accepted a position in Network Contracting Office 4 as a Purchasing Agent where she continued to support the Lebanon VA in a different capacity, through administrative contracting support. Throughout her long and distinguished career, Ms. Paugh faithfully provided heartfelt service to our Veterans.

Although she is culminating an impressive and impactful career, I am confident that as she begins this new chapter, she will continue to be a positive influence and a dedicated member of our great community.

On behalf of the U.S. House of Representatives and the citizens of Pennsylvania's Ninth Congressional District, I ask my colleagues to join me in congratulating Ms. Paugh on her retirement and thank her for her many years of dedicated service to our Veterans and our great nation.

PERSONAL EXPLANATION

HON. JEFFERSON VAN DREW

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. VAN DREW. Madam Speaker, I was not present for the only vote series on January 28, 2020.

Had I been present, I would have voted NAY on Roll Call No. 25, Previous Question on H. Res. 811; NAY on Roll Call No. 26, H. Res. 811; and YEA on Roll Call No. 27, H.R. 4331.

HONORING JIM LYALL

HON. KEVIN HERN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. KEVIN HERN of Oklahoma. Madam Speaker, I rise to honor the First District of Oklahoma's January Veteran of the Month, Jim Lyall.

A sergeant in the United States Army, Mr. Lyall honorably served our country in the Vietnam conflict. Throughout his time in the military, Mr. Lyall earned the National Defense Service Medal, the Vietnam Campaign Medal, the Vietnam Service Medal, an Army Com-

mendation with Valor, the Good Conduct Medal, the Combat Infantryman Badge, and he received a Citation for Valor on September 27, 1968. Mr. Lyall's courageous and valorous service in the name of freedom is truly honorable.

Following his departure from the military, Jim became a tireless servant for the veterans of northeastern Oklahoma. Currently, he serves as the Veterans Outreach Coordinator for the Community Food Bank of Eastern Oklahoma, ensuring that those who have served our country have access to meals. Mr. Lyall also currently sits on the Board of Directors for the Coffee Bunker, a Tulsa non-profit, that seeks to meet veterans "where they are" and help them transition to family and community life following their service.

Before his retirement in 2017, Jim served at the Community Service Council beginning in 1980, retiring as the Associate Director. Mr. Lyall helped spearhead many of the programs that help to make the Community Service Council a premier service organization in Oklahoma and, in spite of his retirement, remains active with the Council. He currently serves as a Resource Member for the Community Service Council and is active in their Oklahoma Veteran Alliance program.

Jim Lyall lives a life of unmatched dedication, sacrifice, and service to our great nation. He answered the call to defend freedom across the globe and sacrificed whatever was necessary in the name of that noble cause. He continues to serve our country, community, and his fellow veterans at a high level on a daily basis. It is my honor to recognize Jim Lyall as the 1st Congressional District of Oklahoma's January Veteran of the Month.

WHY IMPOUNDMENT CONTROL ACT MATTERS

SPEECH OF

HON. JOHN A. YARMUTH

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 28, 2020

Mr. YARMUTH. Madam Speaker, I include in the RECORD the letter to the Office of Management and Budget questioning the Trump Administration for declaring bogus national emergencies to usurp funds Congress appropriated for military construction and counter-narcotic initiatives to use for the President's border wall. I am submitting this in the RECORD to help inform the public of the Administration's systematic disregard of Congress' constitutional authority, separation of powers principles, and the Impoundment Control Act.

MARCH 8, 2019.

The Hon. RUSSELL VOUGHT, Acting Director,

Office of Management and Budget.

DEAR ACTING DIRECTOR VOUGHT: The President's announcement to spend up to \$6.725 billion in additional funding for construction of a border wall or barrier came at the end of bipartisan negotiations on an agreed-to funding level of \$1.375 billion for Fiscal Year (FY) 2019 for border security. The executive action plan further specified that the \$6.725 billion would be used sequentially as follows: \$601 million from the Treasury Forfeiture Fund, up to \$2.5 billion under the Department of Defense funds transferred for Support for

Counterdrug Activities (10 U.S.C. §284), and up to \$3.6 billion reallocated from Department of Defense military construction projects under the President's declaration of a national emergency (10 U.S.C. §2808). However, important budgetary details of the plan have not yet been provided, including the specific funding sources and additional authorities that would be used and the programs, projects, and activities from which funds would be diverted.

As the Article I branch, it is essential that Congress remains at the center of funding decisions, especially decisions that Congress has spent considerable time debating and negotiating. We have significant concerns with the Administration's plan, and we are frustrated by the lack of transparency from the Administration. Congress should receive adequate information to consider the use of the \$6.725 billion referenced in the President's executive action plan. The executive action plan also needs to be considered in the context of fast-approaching deadlines for a budget resolution and decisions about the discretionary cap levels for the appropriations process, as well as for Article I equities more broadly. To that end, we request that you provide the following documents and information:

1. All documents prepared for or relating to meetings about or decisions by the Office of Management and Budget (OMB) Director, Acting Director, Deputy Director, Associate Director(s), Deputy Associate Director(s), or any other OMB or White House official or staff concerning the President's executive action plan to use up to \$6.725 billion to build a border wall, including statements of conclusions and background materials, received or produced by OMB in relation to inter-agency meetings or discussions relating to the President's executive action plan.

2. All documents relating to the budgetary details of the President's executive action plan to use up to \$6.725 billion to build a border wall, including information on all affected appropriations and Treasury Appropriation Fund Symbols (TAFS) by fiscal year and by program, project, or activity.

3. All documents since January 20, 2017 relating to any OMB Budget Data Request or any other OMB request to agencies to identify funding available to build a border wall or to otherwise fund border security or counterdrug activities at the border.

4. All documents relating to the authorized, planned, or intended use of the \$6.725 billion prior to any consideration or determination that such amounts may be used instead to build a border wall, including all documents relating to:

a. The authorized, planned, or intended use of the "first tranche" of approximately \$242 million to be expended under the Treasury Forfeiture Fund (TFF);

b. The authorized, planned, or intended use of the "second tranche" of approximately \$359 million to be expended under the TFF;

c. The authorized, planned, or intended use of the approximately \$2.5 billion under the Department of Defense funds transferred for Support for Counterdrug Activities under 10 U.S.C. §284;

d. The authorized, planned, or intended use of the approximately \$3.6 billion reallocated from the Department of Defense military construction projects under the President's declaration of a national emergency pursuant to 10 U.S.C. §2808.

5. Any documents, including any guidance or instructions to agencies, relating to the de-obligation of funds, delay in obligation or expenditure, or any other change in the rate of obligation and expenditure involving the potential or planned use of such funds to carry out the President's executive action plan.

6. All documents relating to any spend plan for any appropriation account affected or relevant to the President's executive action plan to use up to \$6.725 billion to build a border wall, including documents exchanged between or among OMB and the Department of Defense, the Department of Homeland Security, or the Department of the Treasury.

7. All documents relating to each apportionment and reapportionment for FY 2019, including department or agency requests to OMB, for each affected or relevant TAFS related to the President's executive action plan. This also includes all apportionment and reapportionment documentation for any TAFS from which funds would be contributed, to which funds would be contributed, from which transfers would be made, to which transfers would be made, in which transfers or reprogrammings would occur, or that is otherwise relevant in tallying (a) the "\$601 million" amount described by the Administration from the TFF; (b) the "up to \$2.5 billion" amount described by the Administration pursuant to 10 U.S.C. 284; and (c) the "up to \$3.6 billion" amount described by the Administration pursuant to 10 U.S.C. 2808.

8. All documents relating to the legal or programmatic basis upon which OMB apportionments or reapportionments any TAFS to carry out the President's executive action plan, including any Administration legal opinion(s) prepared in whole or in part by, or in consultation with, OMB, the Department of Defense, the Department of Homeland Security, the Department of the Treasury, the Department of Justice, the National Security Council, or the White House Counsel's Office.

9. All documents relating to the potential, planned, or completed obligations or outlays incurred for each appropriation and TAFS or any other budget execution steps to carry out the President's executive action plan or in anticipation of potential use related to the plan.

10. All other documents relating to the President's executive action plan, including documents relating to (a) the Department of Homeland Security's identification of priorities for potential construction of a border wall and the relation to supporting the use of the armed forces, in accordance with 10 U.S.C. 2808; (b) the Department of Homeland Security's request of support from the Department of Defense pursuant to 10 U.S.C. 284 and any response from the Department of Defense; and (c) any contractual awards or modifications or any other changes to contracting to carry out the President's executive action plan.

While the President has issued a national emergency proclamation, our committees are still responsible for performing their constitutional oversight responsibilities. As such, given the speed with which we believe the Administration may be acting in response to the emergency proclamation, we request that you produce the requested documents and information no later than March 22, 2019.

We appreciate your time and attention to this urgent matter.

Sincerely,

JOHN YARMUTH,
Chairman, House Committee on the Budget.

MIKE QUIGLEY,
Chairman, House Appropriations Committee, Subcommittee on Financial Services and General Government.

NITA M. LOWEY,

Chairwoman, House Appropriations Committee.

LUCILLE ROYBAL-ALLARD,
Chairwoman, House Appropriations Committee Subcommittee on Homeland Security.

RESPONDING TO COMMITTEE DOCUMENT REQUESTS

In responding to the document request, please apply the instructions and definitions set forth below:

INSTRUCTIONS

1. In complying with this request, you should produce all responsive documents in unredacted form that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you.

2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committees.

3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.

4. Each document should be produced in a form that may be copied by standard copying machines.

5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committees' request to which the document responds.

6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced.

7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.

8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.

9. The Committees request electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), you should immediately consult with Committees' staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for above.

10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or

control, or was placed in the possession, custody, or control of a third party.

11. If any document responsive to this request was, but no longer is, in your possession, custody or control, state:

a. how the document was disposed of;
b. the name, current address, and telephone number of the person who currently has possession, custody or control over the document;

c. the date of disposition;
d. the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.

12. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.

13. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

14. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

15. All documents should be Bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.

16. Four sets of documents should be delivered, one set to the majority staff and one set to the minority staff. The Committee on the Budget majority set should be delivered to the majority staff in * * *, and the Committee on the Budget minority set should be delivered to the minority staff in * * *. The Appropriations Committee majority set should be delivered to the majority staff in * * *, and the Appropriations Committee minority set should be delivered to the minority staff in * * *. You should consult with Committee staff regarding the method of delivery prior to sending any materials.

17. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide a log containing the following information concerning every such document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; (e) the relationship of the author and addressee to each other; and (f) any other description necessary to identify the document and to explain the basis for not producing the document. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

(a) Any objections or claims of privilege are waived if you fail to provide an explanation of why full compliance is not possible and a log identifying with specificity the ground(s) for withholding each withheld document prior to the request compliance date.

(b) In complying with the request, be apprised that (unless otherwise determined by the Committees) the Committees do not recognize: any purported non-disclosure privileges associated with the common law in-

cluding, but not limited to, the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.

(c) Any assertion by a request recipient of any such non-constitutional legal bases for withholding documents or other materials, shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Committees (or the chairs of the Committees, if authorized) has consented to recognize the assertion as valid.

18. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committees or identified in a privilege log provided to the Committees.

DEFINITIONS

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail ("e-mail"), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, power point presentations, spreadsheets, and work sheets. The term "document" includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto.

2. The terms "and" and "or" should be construed broadly and either conjunctively or disjunctively as necessary to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders.

3. The terms "referring" or "relating," with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

4. The term "border wall" means a contiguous, physical wall or other similarly secure, contiguous, and impassable physical barrier along the contiguous land border between the United States and Mexico, including all points of entry, including the wall described in Executive Order 13767 (Jan. 25, 2017) and the Administration Fact Sheet entitled "President Donald J. Trump's Border Security Victory."

5. The term "President's executive action plan" means and refers to the plan to build

a border wall announced by the Administration involving up to approximately \$6.725 billion that would be used sequentially as follows: \$601 million from the Treasury Forfeiture Fund, up to \$2.5 billion under the Department of Defense funds transferred for Support for Counterdrug Activities (10 U.S.C. §284), and up to \$3.6 billion reallocated from Department of Defense military construction projects under the President's declaration of a national emergency (10 U.S.C. §2808).

6. The term "Administration" means and refers to any department, agency, division, office, subdivision, entity, official, administrator, employee, attorney, agent, advisor, consultant, staff, or any other person acting on behalf or under the control or direction of the Executive Branch.

7. "You" or "your" means and refers to you as a natural person and the United States and any of its agencies, offices, subdivisions, entities, officials, administrators, employees, attorneys, agents, advisors, consultants, staff, contractors, or any other persons acting on your behalf or under your control or direction; and includes any other person(s) defined in the document request letter.

PERSONAL EXPLANATION

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. SENSENBRENNER. Madam Speaker, due to a previously scheduled engagement, I was physically absent from the House of Representatives on January 27, 2020. On that day, I missed 2 recorded votes. Had I been present, I would have voted as follows: on Roll Call No. 23 on the Passage of H.R. 943, I would have voted Yea, and on Roll Call No. 24 on the Passage of H.R. 4704, I would have voted Yea.

HONORING THE SERVICE OF CHIEF WARRANT OFFICER DOUGLAS ENGLER

HON. MARK E. GREEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Mr. GREEN of Tennessee. Madam Speaker, I rise today to recognize Chief Warrant Officer Douglas Engler for his distinguished career in service to this nation.

Over the course of more than three decades in the United States Army, Chief Douglas Engler has demonstrated exceptional skill, unwavering bravery, and valor in defense of freedom. As a helicopter pilot with the 160th Special Operations Aviation Regiment, the elite unit tasked with helicopter support of special operations forces, Chief Engler has flown over 2,500 combat missions in every major U.S. conflict since Operation Desert Storm.

Chief Engler's intrepid leadership played a crucial role in many key engagements and operations, most notably Operation Neptune Spear. Engler served first as one of four key planners for this daring nighttime raid to take out Osama bin Laden, America's most wanted terrorist. During the mission, he served as the flight lead for the strike force, for which he

was awarded his second Silver Star—the U.S. military's third-highest combat decoration. Englen's adept piloting through mountainous terrain enabled the strike force to approach bin Laden's compound undetected and take out the man responsible for the deadliest terrorist attack in human history.

Englen's exploits in defense of the country have resulted in his admittance into the Army Aviation Association of America Aviation Hall of Fame—an honor he shares with accomplished Army Aviators, including his fellow Night Stalker Michael Durant and numerous Medal of Honor recipients. Prior to retirement, Mr. Englen was noteworthy for being the most decorated Army Aviator on active duty. Doug Englen is a hero to heroes.

It is altogether fitting that we honor Chief Englen as he concludes a remarkable career marked by his steadfast commitment to duty and country. He leaves the 160th SOAR with two Silver Stars, one Distinguished Service Medal, three Distinguished Flying Crosses, two Legions of Merit, two Bronze Stars, and eight Air Medals. On behalf of the United States Congress, I wish to commend Chief Englen for his faithful service to our nation, and I congratulate him on the occasion of his retirement from the United States Army.

SUPPORT FOR NO BAN ACT AND PREVENTING FUTURE DISCRIMINATORY BANS

HON. SHEILA JACKSON LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 29, 2020

Ms. JACKSON LEE. Madam Speaker, let me offer my appreciation and thanks to Congresswoman TLAIB of Michigan for anchoring an important special order on the National Origin-Based Antidiscrimination for Non-immigrants Act or "No Ban Act," legislation which terminates the Trump Administration's so-called Muslim Ban and prevents future discriminatory bans.

As a senior member of the committees on the Judiciary and on Homeland Security, and the vice-Chair of Congressional Progressive Caucus, and the Chair of the Congressional Pakistan Caucus and the Congressional Nigeria Caucus, I am proud to support the No Ban Act because it broadens Section 202(a) of the Immigrant and Nationality Act to include a nondiscrimination provision which includes protection from religious discrimination and applies to all individuals traveling to the United States.

Specifically, the No Ban Act ensures that this nondiscrimination provision applies to non-immigrant visas, entry into the United States, or the approval or revocation of any immigration benefit.

The legislation mandates that restrictions or suspensions entry must be supported by reliable and compelling evidence and that it is tailored to the specified purpose and requires the consultation and input of the Secretary of State and Secretary of Homeland Security when suspending or restricting entry under Section 212(f).

The No Ban Act preserves the President's ability to use this authority when the Secretary of State determines, based on credible facts, that entry should be suspended or restricted to

address specific acts that undermine the security or public safety of the United States or of human rights or of democratic processes or institutions or endangers international stability.

These permissible uses of Section 212(f) have been employed by previous Democratic and Republican presidents.

The No Ban Act requires specific evidence supporting the use of Section 212(f), including evidence that is connected with the duration of the suspension or restriction and requires that the suspension or restriction must be narrowly tailored to address a compelling governmental interest, using the least restrictive means possible.

Waivers for class-based restrictions and suspensions must be considered and the bill provides that there is a rebuttable presumption in favor of family-based and humanitarian waivers.

The bill repeals the unilateral executive actions and three Muslim ban executive orders and presidential proclamations that have harmed the Muslim American community and damaged our standing in the world.

I also approve the legislation's repeal of the Trump executive order that instituted extreme vetting for refugees, as well as an asylum presidential proclamation that abused the Section 212(f) authority.

Another salutary aspect of the bill is that it ensures there will be congressional consultation and periodic reporting for any future use of Section 212(f) to ensure that Congress has data on visa applications and refugee admissions to conduct critical oversight.

If a briefing is not provided within 48 hours and updated every 30 days thereafter, the emergency suspension or action will terminate absent congressional action.

Finally, the No Ban Act requires backward-looking reporting on how each of the executive orders and presidential proclamations was implemented to ensure a complete reckoning.

Given the harm created by the Muslim Ban upheld by the Supreme Court in its 5–4 decision in *Trump v. Hawaii*, 585 U.S. —, No. 17–965 (June 26, 2018), is it any wonder that the NO BAN Act enjoys broad support from nearly 400 civil rights, faith-based, and community organizations, as well as the legal community, the ACLU, the National Immigration Law Center, the NAACP, the Leadership Conference on Civil and Human Rights, Church World Service, Amnesty International, and the International Refugee Assistance Project.

It is useful to review how we got to this point.

During the 2016 presidential campaign, then-candidate Donald Trump pledged at a political rally in Mount Pleasant, South Carolina that, if elected, he would ban Muslims from entering the United States and was "calling for a total and complete shutdown of Muslims entering the United States."

On January 27, 2017, as President, Trump signed Executive Order No. 13,769 (EO–1), which, among other things, suspended entry for 90 days of foreign nationals from seven countries identified by Congress or the Executive as presenting heightened terrorism-related risks, which was immediately challenged and enjoined nationwide by a federal district court.

Rather than continuing to litigate the matter, the government announced that it would revoke that order and issue a new one.

On March 6, 2017, President Trump issued Executive Order No. 13,780 (EO–2), section

2(c) of EO–2 of which directed that entry of nationals from six of the seven countries designated in EO–1 be suspended for 90 days from the effective date of the order, citing a need for time to establish adequate standards to prevent infiltration by foreign terrorists.

Section 6(a) of that executive order directed that applications for refugee status and travel of refugees into the United States under the United States Refugee Admissions Program (USRAP) be suspended for 120 days from the effective date "to review the adequacy of USRAP application and adjudication procedures" and section 6(b) suspended the entry of any individual under USRAP once 50,000 refugees have entered the United States in fiscal year 2017.

On June 14, just before Section 2(c) of EO–2 was by its terms set to expire, President Trump issued a memorandum to Executive Branch officials declaring the effective date of each enjoined provision of EO–2 to be the date on which the injunctions in these cases "are lifted or stayed with respect to that provision." The government sought review in both cases, making arguments both on the merits of the cases and on procedural issues.

On September 24, 2017, the President issued a Proclamation restricting travel to the United States by citizens from eight countries, which along with the previous executive orders was struck down by the Ninth Circuit before the United States Supreme Court granted certiorari and reversed the lower court by the narrow 5–4 margin.

Let me share a story of how the President's Muslim Ban affects people in real life, living in the real world, one of whom lived in my congressional district.

A few days after the first Muslim Ban was issued on January 27, 2017, I got a call to go to the George Bush Intercontinental Airport in my district.

ICE had detained a Katy High School student from Jordan following President Trump's immigration ban.

His name was Mohammad Abu Khadra.

He was detained in Houston at the airport and then spirited away to Chicago when he returned from his native country a day after President Donald Trump issued his immigration ban.

He was an innocent child who had gone home to renew the documents that allowed him to be in America.

They had expired after he spent a few months living in the United States with his older brother.

Mohammad Abu Khadra was just a young man who wanted to come to the United States, as many others do.

The teenager looked every bit the part of an increasingly diverse America, with hair cut stylishly short on the sides and long on top, wearing a slim-fitting shirt, buttoned up to the collar, with rolled-up jeans and a big, blue wristwatch.

His 37-year-old brother had lived in America for five years at the time.

Mohammad had been taking courses in English as a second language.

When Mohammad came to Texas on a tourist visa a few months prior, he had no trouble and had the documents required.

When he returned to renew his paperwork, he was doing exactly what was required of him.

Landing back again in Houston, however, Mohammad had been swept up needlessly in

Trump's ban which does not even include Jordan, a longtime ally of the United States.

They pulled him aside and kept asking him, "What are you doing? Where are you going? What is your business?"

The questions continued for a scared young boy thousands of miles away from home without counsel.

Mohammad told the truth about what he was doing while in the States.

At some point during the questioning, Mohammad told authorities that he was enrolled in school.

Enrolling in public school is a violation of his visa, but we do not ask students their status in the school system in Harris County.

He was taking only ESL courses—something he perhaps had not been able to explain.

Authorities held Mohammad, questioned him without counsel and then sent him to Chicago to a detention center for an undetermined amount of time.

This is a 16-year-old boy, and this should not have happened to him.

He was a minor, the case moved from the Department of Homeland Security to Health and Human Services, which eventually released him.

The Muslim Ban was the first separation of children from their families and turned out to be a harbinger of the cruelties and inhumanities to come.

That is why we need to pass H.R. 2214, the No Ban Act.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate of February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place and purpose of the meetings, when scheduled and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, January 30, 2020 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

FEBRUARY 4

10 a.m.

Committee on Commerce, Science, and Transportation

Subcommittee on Transportation and Safety

To hold hearings to examine stakeholder perspectives on trucking in America.

SH-216

FEBRUARY 5

9:30 a.m.

Committee on Veterans' Affairs

To hold hearings to examine the VA MISSION Act, focusing on the implementation of the Community Care Network.

SR-418

Commission on Security and Cooperation in Europe

To hold hearings to examine the power and purpose of parliamentary diplomacy, focusing on inter-parliamentary initiatives and the United States contribution.

CHOB-210

10 a.m.

Committee on Commerce, Science, and Transportation

To hold hearings to examine athlete safety and the integrity of U.S. Sport.

SH-216

Committee on Environment and Public Works

To hold an oversight hearing to examine the Fish and Wildlife Service.

SD-406

Committee on Finance

To hold hearings to examine the nominations of Kipp Kranbuhl, of Ohio, to be an Assistant Secretary of the Treasury, Sarah C. Arbes, of Virginia, to be an Assistant Secretary of Health and Human Services, and Jason J. Fichtner, of the District of Columbia, to be a Member of the Social Security Advisory Board.

SD-215