



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

B-331564

November 25, 2019

Russell Vought
Acting Director
Office of Management and Budget

Mark Paoletta
General Counsel
Office of Management and Budget

Subject: *Office of Management and Budget—Withholding of Ukraine Security Assistance*

According to numerous press reports, in July 2019, the Office of Management and Budget (OMB) instructed the Department of State (State) and the Department of Defense (DOD) to delay almost \$400 million in military and security assistance funds for Ukraine. It is our practice to investigate withholdings of budget authority and to report to Congress when an agency fails to comply with the Impoundment Control Act's requirements.

The Impoundment Control Act operates on the premise that when Congress appropriates money to the executive branch, the President is required to obligate the funds. Pub. L. No. 93-344, title X, §§ 1001–1017, 88 Stat. 297, 332 (July 12, 1974), *classified at* 2 U.S.C. §§ 681–688; B-329092, Dec. 12, 2017. The President may impound funds—that is, withhold them from obligation—only under specified circumstances and only if the President follows procedures set forth in the Act. See 2 U.S.C. §§ 683–684. These procedures require the President to transmit a “special message” to Congress concerning the impoundment. *Id.* If the Comptroller General becomes aware of a possible impoundment for which the President has not transmitted a special message, the Comptroller General must report the impoundment to Congress. *Id.* § 686(a).

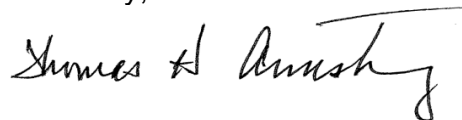
In accordance with our regular practice, the purpose of this letter is to seek additional facts and your legal views. GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO-06-1064SP (Washington, D.C.: Sept. 2006), *available at* www.gao.gov/products/GAO-06-1064SP. We would appreciate your responses to the following questions, together with supporting documentation:

1. Confirm that the Office of Management and Budget (OMB) was directed to withhold Department of State and Department of Defense security assistance funds from Ukraine, and, if so, provide the date on which OMB received this instruction.
2. Confirm the amounts and accounts of security assistance funding for Ukraine that OMB made unavailable for obligation. Provide the dates for which OMB made such amounts unavailable for obligation and provide copies of the revised apportionment schedules that made the funds in the affected accounts unavailable for obligation.
3. Provide the dates on which OMB reapportioned and made available for obligation the security assistance funding for Ukraine. Please provide copies of the revised apportionment schedules that made the funds in the affected accounts available for obligation.
4. Please explain why the funds were made unavailable for obligation, and include documentation supporting this rationale. Provide your legal views on whether OMB's actions were consistent with the Impoundment Control Act.
5. On September 27, 2019, Congress enacted a continuing resolution that rescinded and reappropriated certain unobligated balances in the Ukraine Security Assistance Initiative account.¹ Please provide the current apportionment schedule for these funds.

In order to fully consider your views, it is imperative that we receive your response to these questions, and any other information and documentation you believe to be relevant, by Monday, December 9, 2019.

If you have any questions, please contact Shirley A. Jones, Managing Associate General Counsel, at (202) 512-8156 or JonesSA@gao.gov, or Omari Norman, Assistant General Counsel for Appropriations Law, at (202) 512-8272 or NormanO@gao.gov. Thank you for your prompt attention to this matter.

Sincerely,



Thomas H. Armstrong
General Counsel

¹ Pub. L. No. 116-59, div. A, § 124, 133 Stat. 1093, 1098 (Sept. 27, 2019).