



March 29, 2021

Honorable John Yarmuth
Chairman
Committee on the Budget
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Yarmuth:

We are requesting you immediately convene the House Committee on the Budget to hold a hearing on President Biden’s withholding of appropriated funds passed by Congress and signed into law for border wall construction. This action is an abuse of the Executive Branch’s authorities and appears in violation of the Impoundment Control Act of 1974 (ICA).

On January 20, 2021, President Biden issued a Proclamation to terminate the emergency declaration at the southern border and direct the U.S. Department of Homeland Security to:

“pause immediately the obligation of funds related to construction of the southern border wall” and
“pause work on each construction project on the southern border wall.”¹

As a result of this Proclamation, the Office of Management and Budget (OMB) immediately froze funds previously appropriated by Congress for this purpose. This executive action and the Biden Administration’s posture regarding immigration policies has caused a national security, humanitarian, and public health crisis at our southern border.

In January 2020, the Government Accountability Office (GAO) issued a legal opinion finding:

“[f]aithful execution of the law does not permit the President to substitute his own policy priorities for those that Congress has enacted into law.”²

Under this standard, President Biden’s direction to halt funds for the border wall would constitute an illegal impoundment of congressionally appropriated funds.

¹ Proclamation on the Termination Of Emergency With Respect To The Southern Border Of The United States And Redirection Of Funds Diverted To Border Wall Construction, January 20, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/proclamation-termination-of-emergency-with-respect-to-southern-border-of-united-states-and-redirection-of-funds-diverted-to-border-wall-construction/>.

² U.S. Government Accountability Office, Decision “Matter of: Office of Management and Budget – Withholding of Ukraine Security Assistance,” January 16, 2020, <https://www.gao.gov/assets/b-331564.pdf>, p. 7.

In the 116th Congress, under your Chairmanship, this Committee was extremely active in oversight of the Executive Branch regarding the ICA and annual appropriations acts. The Committee's Oversight Plan for the 116th Congress specifically called for:

“...ongoing oversight of OMB's implementation of budget submission, control, execution, and enforcement procedures under the...Congressional Budget Act of 1974.”³

Consistent with the Committee's Oversight Plan in the 116th Congress, you conducted oversight efforts of the Trump Administration's implementation of federal spending provided by appropriations acts, including numerous document requests to OMB and initiating a Committee investigation.⁴ Additionally, you repeatedly raised concerns regarding the Administration's actions and ICA compliance, including delivering a special order speech stating your intent to introduce legislation to “protect Congress' power of the purse.”⁵

You also held a hearing examining “Congress' Power of the Purse and the Rule of Law.”⁶ During this hearing you stated:

“[f]or Congress to...fulfill its constitutional responsibility to control how the people's tax dollars are spent, we must reassert Congress' control over spending and ensure we are the ones holding the purse strings. Increasing transparency and accountability will enable Congress to provide the oversight of the executive branch.”⁷

The Budget Committee's Oversight Plan for the 117th Congress is even more specific on the Committee's oversight role, stating:

“[this] Committee will continue its efforts to strengthen Congress's power of the purse” in addition to “assessing OMB's legal authorities to manage federal spending, including the Impoundment Control Act of 1974.”⁸

Given this increased emphasis on oversight of the ICA, we assume, at a minimum, you will execute similar efforts to pursue transparency and accountability consistently and thoroughly from the Executive Branch as it pertains to the ICA.

³ Committee on the Budget, U.S. House of Representatives, “Oversight Plan of the Committee on the Budget for the 116th Congress House of Representatives,” 2019.

⁴ House Committee on the Budget Report, “House Budget Committee Investigation Exposes Trump Administration's Systemic Abuse of Executive Spending Authority,” November 20, 2020, <https://budget.house.gov/OMB-Abuse>.

⁵ Chairman John Yarmuth, Floor Remarks Outlining Administration's Systemic Lawbreaking,” January 28, 2020, <https://budget.house.gov/news/press-releases/chairman-yarmuth-floor-remarks-outlining-administration-s-systemic-lawbreaking>.

⁶ House Committee on the Budget Hearing, “Protecting Congress' Power of the Purse and the Rule of Law,” Wednesday, March 11, 2020, Protecting Congress' Power of the Purse and the Rule of Law | House Budget Committee Democrats.

⁷ House Committee on the Budget, “Hearing in Protecting Congress' Power of the Purse and the Rule of Law,” Serial No. 116-25, <https://www.govinfo.gov/content/pkg/CHRG-116hhrg41966/pdf/CHRG-116hhrg41966.pdf>.

⁸ Committee on the Budget, U.S. House of Representatives, “Oversight Plan of the Committee on the Budget for the 117th Congress House of Representatives,” 2021.

It is therefore this Committee's obligation to conduct an immediate hearing on President Biden's decision to abandon billions of tax dollars authorized by Congress to secure our border. This is necessary to ensure taxpayer dollars are being spent as directed by Congress. We are enclosing a letter from 71 Members of Congress including the Ranking Members of the House Committees on Homeland Security and Appropriations, joining 40 Senators calling for a GAO investigation into this matter.⁹

We assume you are just as concerned now about this executive action as you were in the 116th Congress. The only thing that has changed is the new resident of 1600 Pennsylvania Avenue. We look forward to your prompt hearing notice to discuss this crucial matter.

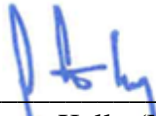
Sincerely,



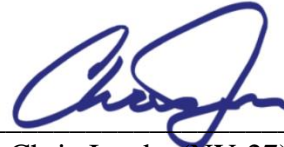
Jason Smith
Republican Leader
House Committee on the Budget



Lloyd Smucker (PA-11)
Member of Congress
House Committee on the Budget



Trent Kelly (MS-01)
Member of Congress
House Committee on the Budget



Chris Jacobs (NY-27)
Member of Congress
House Committee on the Budget



Tom McClintock (CA-04)
Member of Congress
House Committee on the Budget



Michael C. Burgess, M.D. (TX-26)
Member of Congress
House Committee on the Budget



Glenn Grothman (WI-06)
Member of Congress
House Committee on the Budget



Earl L. "Buddy" Carter (GA-01)
Member of Congress
House Committee on the Budget

⁹ House Letter to Government Accountability Office, March 23, 2021, <https://republicans-homeland.house.gov/wp-content/uploads/2021/03/3-23-2021-Co-Request-Letter-GAO-Wall-Construction-71-Members-FINAL.pdf>



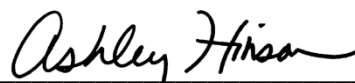
Ben Cline (VA-06)
Member of Congress
House Committee on the Budget



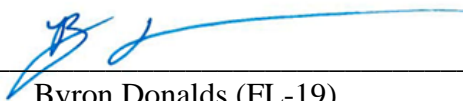
Bob Good (VA-05)
Member of Congress
House Committee on the Budget



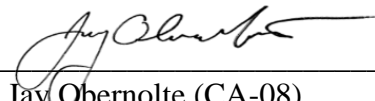
Lauren Boebert (CO-03)
Member of Congress
House Committee on the Budget



Ashley Hinson (IA-01)
Member of Congress
House Committee on the Budget



Byron Donalds (FL-19)
Member of Congress
House Committee on the Budget



Jay Obernolte (CA-08)
Member of Congress
House Committee on the Budget



Randy Feenstra (IA-04)
Member of Congress
House Committee on the Budget

[Enclosure]

cc: The Honorable Robert Fairweather, Acting Director, Office of Management and Budget
The Honorable Shalanda Young, Deputy Director, Office of Management and Budget

Congress of the United States
Washington, DC 20515

March 23, 2021

The Honorable Gene Dodaro
Comptroller General
U.S. Government Accountability Office
441 G St. NW
Washington, DC 20548

Dear Comptroller General Dodaro,

We are writing to be added as co-requesters of a March 17, 2021 letter, signed by 40 United States Senators, requesting the Government Accountability Office's investigation and legal opinion on the actions of the Biden Administration to suspend border wall construction and to order a freeze of funds provided by Congress for that purpose, which we believe violated the Impoundment Control Act.

We have spoken with the appropriate staff for the lead requestor and have received approval to join the request. Please contact Emily Trapani on the Committee on Homeland Security at Emily.Trapani@mail.house.gov if you have any questions about this request.

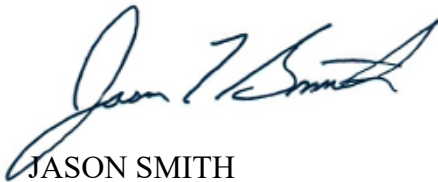
Sincerely,



JOHN KATKO
Ranking Member
House Committee on Homeland Security



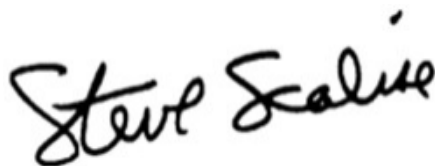
KAY GRANGER
Ranking Member
House Committee on Appropriations



JASON SMITH
Ranking Member
House Committee on Budget



KEVIN MCCARTHY
Member of Congress



STEVE SCALISE
Member of Congress

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DAN SULLIVAN
United States Senator



MIKE LEE
United States Senator



JOSH HAWLEY
United States Senator



RON JOHNSON
United States Senator



CLAY HIGGINS
Member of Congress



MICHAEL GUEST
Member of Congress



DAN BISHOP
Member of Congress



JEFF VAN DREW
Member of Congress



RALPH NORMAN
Member of Congress



MARIANNETTE MILLER-MEEKS
Member of Congress



DIANA HARSHBARGER
Member of Congress



ANDREW S. CLYDE
Member of Congress

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CARLOS A. GIMENEZ
Member of Congress



JAKE LATURNER
Member of Congress



PETER MEIJER
Member of Congress



KAT CAMMACK
Member of Congress



AUGUST PFLUGER
Member of Congress



ANDREW GARBARINO
Member of Congress



HAROLD ROGERS
Member of Congress



ROBERT B. ADERHOLT
Member of Congress



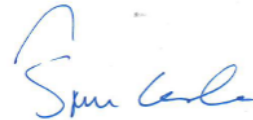
MIKE SIMPSON
Member of Congress



JOHN CARTER
Member of Congress



KEN CALVERT
Member of Congress



TOM COLE
Member of Congress



MARIO DIAZ-BALART
Member of Congress



STEVE WOMACK
Member of Congress

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JEFF FORTENBERRY
Member of Congress



CHARLES FLEISCHMANN
Member of Congress



DAVID P. JOYCE
Member of Congress



ANDY HARRIS, M.D.
Member of Congress



MARK AMODEI
Member of Congress



CHRIS STEWART
Member of Congress



STEVEN PALAZZO
Member of Congress



DAVID G. VALADAO
Member of Congress



DAN NEWHOUSE
Member of Congress



JOHN MOOLENAAR
Member of Congress



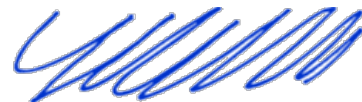
JOHN RUTHERFORD
Member of Congress



BEN CLINE
Member of Congress



GUY RESCHENTHALER
Member of Congress



MIKE GARCIA
Member of Congress

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ASHLEY HINSON
Member of Congress



TONY GONZALES
Member of Congress



TOM MCCLINTOCK
Member of Congress



GLENN GROTHMAN
Member of Congress



CHRIS JACOBS
Member of Congress



MICHAEL C. BURGESS, M.D.
Member of Congress



EARL "BUDDY" CARTER
Member of Congress



RANDY FEENSTRA
Member of Congress



TEDD BUDD
Member of Congress



ANTHONY GONZALEZ
Member of Congress



CHRISTOPHER H. SMITH
Member of Congress



MO BROOKS
Member of Congress



BARRY MOORE
Member of Congress



ANDY BIGGS
Member of Congress

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BURGESS OWENS
Member of Congress



SCOTT DESJARLAIS, M.D.
Member of Congress



MICHAEL CLOUD
Member of Congress



MIKE ROGERS
Member of Congress



DAN CRENSHAW
Member of Congress



MATT ROSENDALE
Member of Congress



BRIAN BABIN, D.D.S
Member of Congress



DOUG LAMALFA
Member of Congress



DARRELL ISSA
Member of Congress



RICK W. ALLEN
Member of Congress



BOB GOOD
Member of Congress



JAIME HERRERA BEUTLER
Member of Congress